



International Sugar Organization

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INTERNATIONAL SUGAR COUNCIL

**C(21)02
(Revised)
(English only)
28 June 2021**

NEGOTIATIONS FOR A PARTIAL REVIEW OF ISA, 1992

At the special Administrative Committee meeting of 4 May 2021, it was agreed that the draft implementation calendar in Document C(21)02 of 20 April 2021 was acceptable in principle and that final consideration would be given at the next Administrative Committee on 17 June 2021, in order to refer it to Council at its 18 June 2021 meeting.

Previously, at their meeting of 27 November 2020 Council decided (ISC-Decisions-57 no.12):

"to approve the text of the amendments on the proposed reforms of Articles 1, 25, 32, 33 and 34 of the International Sugar Agreement, 1992 contained in document C(20)12 of 23 October 2020."

Council also decided at their meeting of 18 June 2021 (ISC-Decisions-58 no.5):

"to include the Brazilian proposal in the package of reforms to be subject to the article 44 process, using the revised wording specified in MEMO(20)85 Updated on 11 June 2021, as read by the Executive Director."

The timetables as per document C(19)07 have been revised (Appendix I) to try to reflect Members' concerns regarding the time required to complete their individual constitutional processes.

Members have already agreed that any reform of the existing agreement (ISA, 1992) would be enacted under article 44. It should be noted that a decision whether to extend the current agreement is required before 31 December 2021.

Article 44 of the ISA 1992 (Appendix II) permits amendments to be made to the Agreement and specifies the requirements for such an amendment to be incorporated into ISA 1992. However, the Agreement does not specify the procedures to be followed to table the amendment and there is no process defined within the Administrative Rules, so the following timeline is proposed for Members' approval.

APPENDIX I – Article 44 process

Activity	Forum/Timeline	Dates
a. Circulate communications received from EU and Brazil which relate to additional draft proposed amendments	ISO Secretariat	6 Apr 2021 completed
b. Circulate revised draft timetable for the negotiating process	ISO Secretariat	20 Apr 2021 completed
c. Review potential additional draft proposed amendments and revised draft timetable for the negotiating process, and to agree to circulate this to Members	Special Administrative Committee	4 May 2021 completed
d. Circulate potential additional proposed amendments and revised draft timetable for the negotiating process to Members	ISO Secretariat	7 May 2021 completed
e. Members to approve potential additional proposed amendments and revised timetable for the negotiating process	Council	18 Jun 2021 completed
f. Members to approve an extension to ISA, 1992 (to be confirmed 26 November 2021)		completed
g. Members to conduct consultations with their capitals		by Nov 2021
h. Members to conduct Special Vote to initiate Article 44 process in accordance with this timetable	Council	26 Nov 2021
i. Members to fix a time after which each Member shall notify the depositary of its acceptance of the amendments (e.g. 365 days – <i>to be agreed by Council</i>)		
The following activities depend on a positive vote accepting amendment		
j. Members to obtain approval for the amendments in accordance with their constitutional procedures	Up to 365 days after Council meeting	25 Nov 2022
k. Members to provide depositary notification of acceptance of the amendments	Within 180 days after obtaining approval	30 Jun 2023
A. The following steps depend on receiving sufficient notifications		
l. The amendments become effective – only if the depositary has received notifications of acceptance from Members holding <u>at least two thirds</u> of the total votes	At least 100 days ^{(1),(2)} after Depositary notified	31 Oct 2023
m. Members on behalf of whom notification of acceptance of the amendments has not been made shall cease to be Parties to this Agreement	At least 100 days ^{(1),(2)} after Depositary notified	31 Oct 2023
n. Members to approve revised distribution of votes and ISO Budget for 2024 and an extension to ISA, 1992	Council	1 Dec 2023
o. Revised ISA, 1992 plus changes to Membership, votes and contributions come into effect		1 Jan 2024
B. The following steps occur if insufficient notifications received		
p. Amendments do NOT become effective, and ISA 1992 remains unchanged – only if the depositary has received notifications of acceptance from Members holding <u>less than</u> two thirds of the total votes	At least 100 days ⁽¹⁾ after Depositary notified	31 Oct 2023

Notes:

1. *this deadline may be extended by Council in a Special Vote.*
2. *for practical purposes it is recommended that the amendments would come into effect on **1 January 2024** having been ratified before the Council meeting of November 2023 at which the 2024 Budget would be approved. Changes to Membership, votes and contributions would also come into effect on **1 January 2024**.*

The wording of Article 44 of ISA 1992 is reproduced below.

Article 44 - Amendment

1. The Council may, by special vote, recommend to the Members an amendment of this Agreement. The Council may fix a time after which each Member shall notify the depositary of its acceptance of the amendment. The amendment shall become effective 100 days after the depositary has received notifications of acceptance from Members holding at least two thirds of the total votes of all Members under article 11 as determined under article 25, or on such later date as the Council may have determined by special vote. The Council may fix a time within which each Member shall notify the depositary of its acceptance of the amendment and, if the amendment has not become effective by such time, it shall be considered withdrawn. The Council shall provide the depositary with the information necessary to determine whether the notifications of acceptance received are sufficient to make the amendment effective.
2. Any Member on behalf of which notification of acceptance of an amendment has not been made by the date on which such amendment becomes effective shall, as of that date, cease to be Party to this Agreement, unless such Member has satisfied the Council that acceptance could not be secured in time owing to difficulties in completing its constitutional procedures and the Council decides to extend for such Member the period fixed for acceptance. Such Member shall not be bound by the amendment before it has notified its acceptance thereof.

Article 2 - Definitions

For the purpose of this Agreement:

4. "**Special vote**" means a vote requiring at least two thirds of the votes cast by Members present and voting, on condition that these votes are cast by at least two thirds of the number of Members present and voting.