

ITTA, 1994 RENEGOTIATION HIGHLIGHTS: TUESDAY, 24 JANUARY 2006

Negotiations at the UN Conference on the Negotiation of the Successor Agreement to the International Tropical Timber Agreement, 1994 (ITTA, 1994), Fourth Part moved forward in achieving agreement on a number of key issues. Delegates met all day in two working groups. Working Group I (WGI) managed to secure agreement on the Preamble and articles on Decisions and Recommendations of the Council and Special Vote. Working Group II (WGII) discussed finance articles, agreed on reference to special vote in numerous articles, and broke into a contact group on entry into force.

WORKING GROUP I

DECISIONS AND RECOMMENDATIONS OF THE COUNCIL: This article was approved after the EC withdrew a proposal to include in all references to special vote that "Council shall make best efforts to first reach consensus." Chair Attah, supported by the EC, SWITZERLAND and the US, suggested moving this text to an article on Distribution of Votes. The US proposed that "Council may adjust the minimum percentage required for a special vote by consumer members if it deems it necessary," noting that this refers only to Consumers. This remained bracketed, pending Producer caucusing.

Delegates agreed to replace "absent consensus" by "if consensus is not reached." WGI also decided to include "in accordance with Article 12 (Decisions and Recommendations of the Council) after "special vote" in order to clear all text in which "special vote" remained bracketed.

ADMISSION OF OBSERVERS: Chair Attah suggested that "Council may invite any member of the UN, which is not a party to ITTA or any organizations referred to in Articles 15 (Cooperation and Coordination with other Organizations), 20 (Special Account) and 29 (Statistics, Studies and Information) interested in the activities of the Organization to attend as observers the sessions of the Council." He then clarified, at the request of SWITZERLAND, that Article 15 includes civil society participation. After proposals by the US, CHINA, HONDURAS, INDONESIA, the CONGO and TOGO, to delete mention of Article 20 and 29 were accepted, and the text was agreed.

PREAMBLE: BRAZIL, for Producers, favored maintaining reference in the Preamble to the need for "enhanced" and "predictable" financial resources from a broad donor community to help to achieve the Agreement's Objectives. Delegates agreed to the text.

OBJECTIVES: On providing new and additional financial resources, Chair Attah suggested "broad donor" rather than "wider Consumer donor" community. The EC, NORWAY and SWITZERLAND, opposed by BRAZIL, for Producers, INDONESIA, MALAYSIA, PAPUA NEW GUINEA and

TOGO, suggested deleting this paragraph since there is reference to financial resources in the Preamble and in Article 20 (Special Account). The US suggested adding at the end of the paragraph "with a view to promoting the adequacy and predictability of funding as provided for in Article 20 of this Agreement." Chair Attah requested delegates to further consult.

On enhancing capacity of "Producer" members to achieve the Agreement's Objectives, CHINA, EGYPT and NEPAL, opposed by BRAZIL, for Producers, suggested deleting "Producer." The US highlighted the importance of enhancing the capacity of all "members," not just Producer members. The EC preferred not to open discussion in this paragraph. Chair Attah established a small contact group to try to reach agreement on this matter.

On including reference to certification, BRAZIL, for Producers, proposed "encouraging information sharing for a better understanding of transparent and voluntary mechanisms such as certification to promote sustainable management of tropical forests and assisting members with their efforts in this area without prejudice to members' rights under other international agreements, in particular those related to trade." NORWAY noted the general non-discrimination clause in the article on Non-Discrimination. The US said the wording would narrow the scope of the Objectives. INDIA noted that accepting certification required great compromise among Producers, while MALAYSIA stressed that reference to certification could prejudice other trade agreements. Chair Attah urged delegates to not open text, unless changes have been accepted by all parties. He asked the UNCTAD legal advisor about the implications of including "without prejudice," as per the Producers' proposal, and about whether this created a problem for Consumers or weakened the article on non-discrimination. The Legal Advisor replied that that article is clear, specific and applies to all parties of the agreement, and that including it in individual sessions was not necessary. Chair Attah established a small contact group to discuss the issue.

SESSIONS OF COUNCIL: In considering the frequency and location of sessions, on a provision that Council shall ensure the availability of sufficient funds to cover costs, BRAZIL, for Producers, suggested adding "including by empowering the Executive Director (ED) to seek funds from other sources." The EC suggested that Council shall "seek" to ensure availability of funds, and with the US, preferred "requesting" rather than "empowering" the ED. INDONESIA suggested replacing "requesting" by "authorizing," and, opposed by SWITZERLAND, favored deleting "to cover costs." JAPAN, opposed by the US, preferred sufficient "resources" rather than "funds." The US proposed that resources be mobilized "as necessary." COTE D'IVOIRE emphasized the need to make funds available for special sessions. Answering the CONGO, the US said that the ED could be requested to seek funding for special sessions by asking for voluntary contributions from Consumer members or other sources.

Chair Attah proposed that “in considering the frequency and location of its sessions, the Council shall seek to ensure the availability of sufficient funds.” Delegates agreed to the text.

Chair Attah, supported by GABON, MALAYSIA, for Producers, and NORWAY, suggested that “as a general rule, the Council shall hold at least one regular session a year.” JAPAN and SWITZERLAND preferred deleting “at least” to limit the number of sessions. Chair Attah asked delegates, particularly the US, SWITZERLAND and the EU, to seek compromise language. After informal consultations, Chair Attah proposed support for “at least one regular session per year.” BRAZIL and INDIA expressed support. JAPAN favored “one regular” while MALAYSIA preferred “at least one.”

MEMBERSHIP BY INTERGOVERNMENTAL ORGANIZATIONS (IGOs): VENEZUELA favored “states and any IGO” rather than “governments.” SURINAME and the EC noted that Venezuela’s proposal would affect many articles that make reference to “governments.” Chair Attah noted that the current wording: provides for a broad definition of “governments;” is consistent with other commodity agreements; and was approved by the Legal Advisor. He encouraged acceptance of this text. The US asked for more time to consider the implications of Venezuela’s proposal. Chair Attah established a contact group on this issue.

WORKING GROUP II

ADMINISTRATIVE ACCOUNT: Chair Blaser introduced a contact group’s compromise text describing the Administrative Account and assessment of contributions to it. On the description of the Account, delegates agreed that costs shall include “basic administrative costs such as salaries and benefits, installation costs, and official travel” and “operational costs such as those related to communications and outreach, expert meetings convened by Council, and preparation and publication of studies and assessments” pursuant to articles on policy work; statistics, studies and information; and annual report and review.

On assessment of contributions, the Chair proposed replacing four alternative texts with a contact group compromise text. Delegates approved the contact group’s sub-paragraph calling for equal sharing of basic administrative costs. For operational costs, the compromise text proposed a 25-75 ratio between Producer and Consumer contributions, respectively, capped at “xx”% of the administrative costs. BRAZIL, for Producers, preferred a 20-80 ratio proposed by President Paranhos in the contact group on Monday, 23 January. To this, the EC responded with support for a 30-70 ratio. BRAZIL, for Producers, raised their earlier proposal for a 10-90 ratio, upon which SWITZERLAND called for further consideration of his original proposal of 40-60. All these proposed ratios for contributions for operational costs were reinserted in brackets.

The EC highlighted links between sub-paragraphs on a cap and on differentiated shares for Producers and Consumers, noting that if the cap were increased to 20% then the sharing ratio should remain at 30-70. BRAZIL, supported by INDONESIA, preferred a 20-80 ratio and deletion of language on capping. Chair Blaser cautioned against going backwards. INDONESIA, MEXICO and the US supported JAPAN’s proposal for a 50% cap, with the US and INDONESIA expressing openness to a compromise at 40%. The EC cautioned that even 40% would be unacceptable. CAMEROON urged greater compromise. NEW ZEALAND, supported by the EC, noted that Council can raise limits under the article. Delegates deleted references to the more extreme ratios (10-90 and 40-60). Chair Blaser postponed further discussion of this article. CHINA proposed alternative text on using the ratio applied to Producer members for assessment of developing Consumer country contributions. This was not discussed.

The contact group’s compromise text also contained a sub-paragraph, based on a Producers’ proposal, that Council “shall strive to establish a ratio” between the costs in this article and the funding allocated for approved pre-projects, projects and activities. The EC preferred that Council “review on a

regular basis” the contributions of the administrative budget and the voluntary account to the operation of the Organization. BRAZIL, for Producers, preferred their original text to “strive for a maximum ratio of 1/5” between administrative costs and voluntary funding. These two alternative texts were bracketed. BRAZIL, for Producers, broadened this call for Council to “strive to establish a maximum ratio of 1/5” between the entire Administrative Account and voluntary funding.

Delegates approved language from the ITTA, 1994 that assessments would be “calculated without regard to the suspension of any member’s voting rights or redistribution of votes resulting therefrom.”

Upon a query from CHINA, Chair Blaser introduced a proposed compromise paragraph from the contact group, to replace a Japanese proposal differentiating between OECD and non-OECD Consumer members for the calculation of assessments. The proposed text reads that “no member state shall be assessed more than 20% of the Administrative Account in its respective member category;” otherwise, “the excess shall be reallocated to other members of their respective member category.” CHINA and JAPAN supported the proposed text. SWITZERLAND opposed it as benefiting China and Japan uniquely at the expense of other countries. The EU opposed both this and the original Japanese proposal.

SPECIAL VOTE: Delegates agreed that Council decisions shall be taken “by special vote, in accordance with Article 12” (Decisions and Recommendations by the Council) on all outstanding areas in articles referring to: establishing or dissolving committees and subsidiary bodies; relief from obligations; amendments to the Agreement; exclusion of members for breach of obligations; and duration, extension and termination of the Agreement. On terminating sponsorship of any pre-project or project, SWITZERLAND, supported by the EC, CONGO, CAMEROON, JAPAN and BRAZIL, for Producers, favored deciding by either consensus or simple majority vote. MALAYSIA, with MEXICO, cautioned that terminating a project may be very disruptive. In response to CAMEROON, Chair Blaser confirmed that the “special vote” provision was included in the ITTA, 1994. INDONESIA asked for more carrots to encourage project implementation. COTE D’IVOIRE called for improvement on the ITTA, 1994. After informal consultations, MALAYSIA accepted deletion of “special vote” if “appropriate measures” were broadened to include “suspension or” termination of Council sponsorship. This was agreed.

SIGNATURE, RATIFICATION, ACCEPTANCE AND APPROVAL: The UNCTAD Legal Advisor suggested that the Agreement be opened for signature on 3 April 2006, which allows the depositary eight weeks to prepare documentation.

ENTRY INTO FORCE: Chair Blaser introduced text that de-links accession criteria from voting, since voting distribution is undecided. MEXICO, supported by INDONESIA and MALAYSIA, but opposed by SWITZERLAND and the NETHERLANDS, called for returning to the text of the ITTA, 1994. The US pointed out that this would involve determining distribution of votes as listed in the Annexes of ITTA, 1994. GHANA called for informal consultations and Chair Blaser appointed a contact group to report back on Wednesday, 25 January.

IN THE CORRIDORS

Delegates are beginning to see the light at the end of the tunnel. While some complex issues remain to be resolved, such as the assessment of mandatory contributions, many delegates note that some elements in the new ITTA, such as the thematic programmes sub-account, already represent a giant step forward over the 1994 version. Delegates on both sides of the aisle noted that this concept can serve several interests, by lowering transaction costs, loosening the purse strings of individual donors who might otherwise fund only specific earmarked projects, increasing the possibility for funding broader multilateral projects, and, as a result, generally raising the possibility of more donor interest in the ITTO.