

SUMMARY OF THE UN CONFERENCE FOR THE NEGOTIATION OF A SUCCESSOR AGREEMENT TO THE INTERNATIONAL TROPICAL TIMBER AGREEMENT, 1994, FOURTH PART: 16-27 JANUARY 2006

The fourth round of the United Nations Conference for the Negotiation of a Successor Agreement to the International Tropical Timber Agreement, 1994 (ITTA, 1994) convened at the Palais des Nations in Geneva, Switzerland, from 16-27 January 2006. The Conference, held under the auspices of the United Nations Conference on Trade and Development (UNCTAD), managed to reach agreement on the difficult issues that eluded consensus during the first three rounds of negotiations, including on financial arrangements and the scope of the Agreement and adopted the ITTA, 2006 on Friday, 27 January.

Over 180 governments, international organizations and an intergovernmental body negotiated outstanding text from the final working document that resulted from the third part of the UN Conference (TD/TIMBER.3/L.6). After a relatively uneventful first week, negotiations kicked into high gear with a sense of urgency, derived from the fact that the current Agreement will expire at the end of this year.

As the deadline rapidly approached, both Consumers and Producers of tropical timber managed to achieve consensus on an Agreement that reflects the evolving nature of the Organization and the international dialogue on forest issues. With the new Agreement established, both camps are breathing a sigh of relief, confident that project work can continue without an interruption in funding. A champagne reception did much to wash away the cloud of tension that had permeated discussions towards the end of the second week. The Agreement will be opened for signature on 3 April 2006, and all hope for an early entry into force.

A BRIEF HISTORY OF THE UN CONFERENCE AND THE ITTA

The International Tropical Timber Agreement (ITTA) was negotiated under UNCTAD's auspices to: provide an effective framework for cooperation and consultation between countries producing and consuming tropical timber; promote the expansion and diversification of international trade in

tropical timber and the improvement of structural conditions in the tropical timber market; promote and support research and development to improve forest management and wood utilization; and encourage development of national policies for sustainable utilization and conservation of tropical forests and their genetic resources and for maintaining ecological balance in the regions concerned.

The ITTA was adopted on 18 November 1983, and entered into force on 1 April 1985. It remained in force for an initial period of five years and was extended twice for three-year periods. The Agreement was renegotiated during 1993-1994. The successor agreement, ITTA, 1994, was adopted on 26 January 1994, and entered into force on 1 January 1997. It contains broader provisions for information sharing, including non-tropical timber trade data, allows for consideration of non-tropical timber issues as they relate to tropical timber, and includes the Year 2000 Objective to enhance members' capacity to implement a strategy for achieving exports of tropical timber and timber products from sustainably managed sources by the year 2000. The ITTA, 1994 also established the Bali Partnership Fund to assist producing members in achieving the Year 2000 Objective. Initially concluded for three years, the ITTA, 1994 was extended twice for three-year periods and is scheduled to expire on 31 December 2006.

The ITTA, 1983 established the International Tropical Timber Organization (ITTO), headquartered in Yokohama, Japan, which provides a framework for tropical timber producer and consumer

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countries to discuss, exchange information and develop policies on issues relating to international trade in, and utilization of, tropical timber and the sustainable management of its resource base. The ITTO also administers assistance for related projects. The ITTO has 59 members divided into two caucuses: producer countries (33 members) and consumer countries (26 members). The ITTO's membership represents 90 percent of world trade in tropical timber and 80 percent of the world's tropical forests. The highest authority of the ITTO is the International Tropical Timber Council (ITTC), which consists of all ITTO members and meets twice per year. The ITTC performs, or arranges for the performance of, all functions necessary to carry out the provisions of the ITTA, 1994.

WORKING GROUP ON THE PREPARATIONS FOR NEGOTIATING A SUCCESSOR AGREEMENT TO THE ITTA, 1994: The Working Group met in Bern, Switzerland, from 7-11 April 2003. Participants reviewed responses by ITTO member countries on various aspects of the negotiation of a successor agreement to ITTA, 1994, including: the new agreement's scope; the organization, duration and frequency of Council sessions; issues related to the Secretariat's work; funding mechanisms; and arrangements for the Preparatory Committee. It also considered new and emerging issues relevant to the ITTC and ITTO's relationship with other international organizations.

PREPCOM I: Immediately following the 34th session of the ITTC, PrepCom I convened in Panama City, Panama, from 20-21 May 2003, to begin preparing a draft working document to be used as the basis for the negotiations on the successor agreement to the ITTA, 1994.

INTERSESSIONAL WORKING GROUP ON PREPARATIONS FOR NEGOTIATING A SUCCESSOR AGREEMENT TO THE ITTA, 1994: The Intersessional Working Group on preparations for negotiating a successor agreement to the ITTA, 1994 convened in Curitiba, Brazil, from 25-29 August 2003. The working group, *inter alia*: assessed the distribution and role of conifers in international trade; reviewed ITTO work on non-timber forest products (NTFPs) and non-timber forest values (NTFVs); assessed the extent to which NTFPs, environmental services and NTFVs are covered in the ITTA, 1994, and how these could be strengthened in the successor agreement; proposed preambular language for the successor agreement; developed a list of overarching objectives and definitions; and prepared a work plan for PrepCom II.

PREPCOM II: Immediately following ITTC-35, delegates met in Yokohama, Japan, from 10-12 November 2003, for PrepCom II. Over the course of the three-day PrepCom, delegates reviewed the successor agreement draft working document with a view to clarifying its elements, posing questions and presenting their views on the text. Delegates produced a final draft working document to serve as the basis for negotiations at the UN Conference for the Negotiation of a Successor Agreement to the ITTA, 1994.

UN CONFERENCE FOR THE NEGOTIATION OF A SUCCESSOR AGREEMENT TO ITTA, 1994, FIRST PART: The UN Conference for the Negotiation of a Successor Agreement to the ITTA, 1994, First Part, met at the Palais des Nations in Geneva, Switzerland, from 26-30 July 2004, under the auspices of UNCTAD. Throughout the week, delegates based

their discussions on the working document (TD/TIMBER.3/4), which contained all articles of the ITTA, 1994 alongside the corresponding articles of the negotiating text of the successor agreement. Working Group I addressed the Preamble, Chapter I (Objectives), Chapter II (Definitions), Chapter III (Organization and Administration), and Chapter IV (International Tropical Timber Council). Working Group II addressed Chapter V (Privileges and Immunities), Chapter VI (Finance), Chapter VII (Operational Activities), Chapter VIII (Relationship with the Common Fund for Commodities), Chapter IX (Statistics, Studies and Information), Chapter X (Miscellaneous), and Chapter XI (Final Provisions). Two contact groups, one established by each working group, met intermittently throughout the week to discuss some of the successor agreement's more contentious issues. Since negotiators were unable to reach a final agreement, they decided that the negotiation would reconvene in Geneva, Switzerland, in February 2005. The main areas of disagreement involved the financial structure of the new agreement and its objectives. Some members sought a limited number of broad objectives, while others sought to list specific objectives. On finance, the main issue of contention was the addition of an assessed Work Programme Account.

UN CONFERENCE FOR THE NEGOTIATION OF A SUCCESSOR AGREEMENT TO ITTA, 1994, SECOND PART: The UN Conference for the Negotiation of a Successor Agreement to the ITTA, 1994, Second Part, convened at the Palais des Nations in Geneva, Switzerland, from 14-18 February 2005. During the week, delegates discussed numerous proposals to resolve issues from the first part of the UN Conference, but were unable to reach agreement on a number of cross-cutting proposals on the new agreement's scope and financial arrangement.

UN CONFERENCE FOR THE NEGOTIATION OF A SUCCESSOR AGREEMENT TO ITTA, 1994, THIRD PART: The UN Conference for the Negotiation of a Successor Agreement to the ITTA, 1994, Third Part, convened at the Palais des Nations in Geneva, Switzerland, from 27 June to 1 July 2005. Although delegates made some progress resolving outstanding issues, and reached agreement on over twenty articles, they were unable to reach agreement on core elements: the agreement's scope, objectives, financial arrangements, and voting calculations.

REPORT OF THE CONFERENCE

Amb. Carlos Antonio da Rocha Paranhos, President of the UN Conference, opened the session on Monday, 16 January 2006, highlighting outstanding issues such as distribution of votes, illegal logging, and requirements for the future agreement to enter into force. He cautioned against making new proposals and suggested building upon the final working paper from ITTA-3 (TD/TIMBER.3/L.6).

President Paranhos noted that delegates had previously adopted the agenda (TD/TIMBER.3/8) and rules of procedure (TD/TIMBER.3/2). He highlighted the previous appointment of Austria, Cameroon, Indonesia, Mexico and the US to the Credentials Committee. He recognized Jürgen Blaser (Switzerland) as Vice-President of the Conference, Vice-Chair of the Committee of the Whole (COW), and Chair of Working

Group II (WGII), and Alhassan Attah (Ghana) as Chair of Working Group I (WGI). Noting that the present ITTA expires at the end of 2006, Lakshmi Puri, UNCTAD, highlighted the importance of flexibility for reaching agreement at this session. The European Commission (EC) expressed hope that this session would lead to a new agreement with a structure consistent with the previous agreement.

NEGOTIATION OF A SUCCESSOR AGREEMENT TO ITTA, 1994

Consistent with previous rounds of negotiations, ITTA-4 negotiations were primarily accomplished through the two working groups. Using the final working document that emerged from ITTA-3 (TD/TIMBER.3/L.4), WGI addressed the Preamble, Chapter I (Objectives), Chapter II (Definitions), Chapter III (Organization and Administration), Chapter IV (International Tropical Timber Council), and Chapter V (Privileges and Immunities). WGII discussed Chapter VI (Finance), Chapter VII (Operational Activities), Chapter VIII (Statistics, Studies and Information), Chapter IX (Miscellaneous), and Chapter X (Final Provisions). Delegates also met periodically in joint working group sessions to discuss cross-cutting issues and progress made in the two working groups. Significant progress was made through small, issue-specific contact groups.

The following report summarizes the final agreement (TD/TIMBER.3/L.9), and describes the negotiations that led to its current formulation, noting where agreement had already been achieved at previous sessions.

PREAMBLE: The Preamble contains 20 clauses addressing: the importance of the multiple benefits provided by forests, NTFPs and environmental services; the role of good governance in achieving sustainable forest management; the need to improve the standard of living and working conditions within the forest sector; and the need for enhanced and predictable financial resources to achieve the objectives of the Agreement.

On “the importance of the multiple economic, environmental and social benefits provided by forests,” including “timber and non-timber products and ecological services,” India, opposed by Mexico, Switzerland, Togo and the US, suggested deleting “ecological services.” Mexico proposed keeping “ecological services” or “environmental services.” Brazil opposed using the term “ecological services” anywhere in the text, but was open to using “environmental services” in areas other than the Preamble and Objectives. Malaysia objected to both terms. The US observed that this is a hortatory statement and would not affect the scope of the agreement. Brazil, on behalf of the Producers, favored using “environmental services,” as long as it was mentioned “in the context of sustainable forest management (SFM).” Delegates agreed to use the term “environmental services.”

On the need to improve standards of living and working conditions within the forest sector, Norway agreed to withdraw its proposed inclusion of “peoples” after “indigenous,” but wanted to retain reference to the International Labor Organization (ILO) with respect to improving working conditions. After further debate, Norway proposed, and delegates

agreed to, text that takes into account relevant internationally recognized principles on these matters and relevant ILO Conventions and instruments.

After lengthy discussion on the issue of including language on certification and voluntary market-based mechanisms, delegates agreed to delete reference to this text.

Brazil, for Producers, called for preambular text “recognizing the need for higher levels of financial resources which are adequate, predictable and available from a wider ITTO consumer donor community to achieve the objectives of this agreement.” Norway suggested deleting “ITTO.” Switzerland, supported by Brazil and the EU, proposed discussing the issue together with articles on the Special Account and the Bali Partnership Fund. Brazil noted Producers’ preference for retaining this text in both the Preamble and Objectives. The EC, supported by Switzerland, agreed to maintain this clause but only in the Preamble. The final text reads that “further recognizing the need for enhanced and predictable financial resources from a broad donor community to help achieve the objectives of this Agreement.”

Final Text: The Preamble, *inter alia*:

- Recognizes the importance of multiple economic, environmental and social benefits provided by forests, including timber and NTFPs and environmental services in the context of SFM;
- Recognizes the importance of collaboration among members, international organizations, the private sector and civil society, including indigenous and local communities and other stakeholders in promoting SFM and for improving forest law enforcement and promoting trade from legally harvested timber;
- Recognizes the need for increased investment in SFM, including through reinvesting revenues generated from forests including from timber-related trade; and
- Recognizes the need for enhanced and predictable financial resources from a broad donor community to help achieve the objectives of this Agreement.

CHAPTER I. OBJECTIVES

Objectives (Article 1): This article contains a chapeau that describes two overarching objectives and lists 19 clauses in order to achieve such objectives.

In the chapeau, India requested deletion of reference to “ecological services” and “legally harvested” timber. Indonesia, supported by Switzerland, Japan, and the US, requested maintenance of language on legally harvested timber, and this was agreed. Switzerland recalled that the current reference to “ecological services” is a compromise and is necessary in order to reflect ITTO’s evolution. Suriname, opposed by the US, preferred language maintaining the Organization’s focus on timber trade. Brazil, for Producers, proposed deleting “taking into account the contribution of non-timber forest products and ecological services” and inserting language mentioning “environmental services in the context of SFM” in another paragraph. After informal consultation, delegates agreed to delete text on “taking into account the contribution of NTFPs and ecological services” from the chapeau.

On contributing to the process of sustainable development, the EU, supported by Norway, Indonesia and Suriname, suggested adding a reference to poverty reduction. The US suggested

replacing “reduction” with “alleviation,” to which delegates agreed to a paragraph saying “contributing to sustainable development and to poverty alleviation.”

The US proposed new language on “encouraging information sharing on the use of voluntary market based mechanisms, such as certification, to promote trade in tropical timber from sustainably managed forests.” 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.” India noted that accepting reference to certification required great compromise among Producers, while Malaysia stressed that reference to certification could prejudice other trade agreements. Delegates agreed to text “encouraging information sharing for better understanding of voluntary mechanisms such as, *inter alia*, certification, to promote SFM of tropical forests, and assisting members with their efforts in this area.”

After informal consultations, delegates agreed to a paragraph saying “strengthening the capacity of members to improve forest law enforcement and governance, and address illegal logging and related trade in tropical timber.”

On the issue of strengthening capacity of members for collection, processing and dissemination of statistics on their trade in timber, delegates agreed to remove reference to improving forest law enforcement and governance.

On “encourage members to develop national policies aimed at sustainable utilization and conservation of timber-producing forests and their genetic resources,” Mexico, responding to Cameroon’s concerns regarding the term “genetic resources,” proposed adding “as defined in the Convention on Biological Diversity.” Switzerland proposed, opposed by Venezuela and Colombia, to include “genetic resources” without reference to other treaties. Delegates decided to delete reference to “genetic resources.” Despite objection by the EC and Indonesia, reference to “maintaining ecological balance” was retained. The final text says that “encouraging members to develop national policies aimed at sustainable utilization and conservation of timber producing forests and their genetic resources and maintaining ecological balance, in the context of the tropical timber trade.”

On “developing and contributing towards mechanisms for the provision of new and additional financial resources,” Norway, supported by Switzerland, suggested deleting this phrase since it already appears in the Preamble. Malaysia, for Producers, favored keeping both references. 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 (Special Account) of this Agreement.” Delegates finally approved the objective of “Developing and contributing towards mechanisms for the provision of new and additional financial resources with a view to promoting the adequacy and predictability of funding and expertise needed to enhance the capacity of producer members to attain the objectives of this Agreement.

On promoting understanding of the contribution of NTFPs and environmental services, delegates discussed Switzerland’s proposal to add “with the aim of enhancing the capacity of members to develop strategies for achieving increased revenues from the forests.” Indonesia cautioned against broadening the scope of the agreement beyond tropical forests. Switzerland suggested limiting it to sustainable management of “tropical” forests. Brazil, for Producers, offered a compromise, adding reference to the contribution of both NTFPs and environmental services to the sustainable management of tropical forests with the aim of enhancing the capacity of Producer members to develop strategies and cooperating with relevant institutions and processes to this end. The US, supported by Egypt and the EC, noted that since the section refers to tropical forests, limiting it to Producers may unnecessarily exclude a developing Consumer country like China. After informal consultations, Brazil announced a consensus in the Producers’ Group on “enhancing the capacity of Producer members to develop strategies to strengthen such contributions in the context of SFM and cooperating with relevant institutions and processes to this end.” 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. After informal discussion, delegates decided to delete “Producer” before “members,” and agreed to the text.

Final Text: This article states the objectives of the ITTA, 2006, are to promote the expansion and diversification of international trade in tropical timber from sustainably managed and legally harvested forests and to promote the sustainable management of tropical timber producing forests by, *inter alia*:

- Contributing to sustainable development and to poverty alleviation;
- Developing and contributing towards mechanisms for the provision of new and additional financial resources with a view to promoting the adequacy and predictability of funding and expertise needed to enhance the capacity of producer members to attain the objectives of this Agreement;
- Promoting market intelligence and encouraging information sharing on international timber market with a view to ensuring greater transparency and better information on markets and market trends;
- Strengthening the capacity of members for the collection, processing and dissemination of statistics on their trade in timber and information on the sustainable management of their tropical forests;
- Encouraging members to develop national policies aimed at sustainable utilization and conservation of timber producing forests and maintaining ecological balance, in the context of the tropical timber trade;
- Strengthening the capacity of members to improve forest law enforcement and governance, and address illegal logging and related trade in tropical timber; and
- Promoting better understanding of the contribution of NTFPs and environmental services to the sustainable management of tropical forests with the aim of enhancing the capacity of members to develop strategies to strengthen such contributions in the context of SFM, and cooperating with relevant institutions and processes to this end.

CHAPTER II. DEFINITIONS

Definitions (Article 2): This article contains 12 definitions for the purpose of the Agreement, including: Tropical timber, sustainable forest management, members, producer member, consumer member, Organization, Council and special vote.

On SFM, Switzerland and Côte d'Ivoire favored keeping the definition, while Togo preferred deleting it. The US proposed, and delegates agreed, that "SFM will be understood according to the Organization's relevant policy documents and technical guidelines."

Delegates agreed to the European Union (EU) proposal to define "member" as "a Government, the EC or any intergovernmental organization referred to in Article 5 (Membership)" bound by this Agreement.

On "Producer member," the ITTO Secretariat explained that a possible definition of "producer member" is any country situated between the Tropics of Cancer and Capricorn with tropical forest resources "and/or" a "net" exporter of tropical timber in volume terms. He said if delegates delete "net" and retain "and/or," many consumer members would become producer members. He said that if delegates kept "or" and "net," the current system would continue. The EU, Canada and Mexico supported referring to Producer "members," as opposed to "countries," and delegates agreed. Japan, opposed by the EC, favored deleting the term "net" before "exporters." Delegates agreed to this with the specification of Producer "member." On defining Producer and Consumer members, India favored language in ITTA, 1994, opposing any changes in membership categories. Delegates agreed to the definitions of Producer and Consumer.

On including "natural closed forests and forest plantations" within "tropical forest resources" used in the calculation of the distribution of votes, Egypt emphasized the importance of including plantations, and India added that, since the ITTA is a commodity agreement, its focus should remain on forest products, not forest types. On agreed text defining forest resources for the purpose of distribution of votes, WGI Chair Attah suggested inserting "tropical" natural closed forests and forest plantations. Switzerland noted that if "tropical" was inserted before "natural closed forests," it should also appear before "plantations." However, he noted that he agreed to use "between the Tropics of Cancer and Capricorn" after "plantations." The EU added "located" in front of "between," and delegates agreed to this text.

The US and Switzerland were persuaded to retain the current name of the Organization, as proposed by Togo and supported by Brazil, Japan, Panama, Malaysia and Thailand, although they noted that they preferred a name that would reflect the evolution of the ITTO.

On "Special Vote," the EU, supported by Suriname, suggested equal thresholds for both groups. The US agreed, but expressed reservations regarding the complexity of the voting system, and supported by Switzerland, suggested adding "Council may adjust the minimum percentages required for a special vote if it deems necessary," noting the possibility that otherwise the EU might have a blocking minority. The EU noted, with Switzerland, that the minimum vote requirement should apply to both Consumers and Producers, and proposed qualifying "by special vote" with the term "in accordance with Article 12." After consultation,

the group agreed that a special vote would require "60%" of the votes of consumer members rather than "two-thirds." Delegates ultimately agreed that "special vote" requires at least 60% (as opposed to "two-thirds") of the votes of Producers and 60% of those of Consumers, cast by at least half of those present and voting.

Delegates agreed to refer to Food and Agriculture Organization (FAO) data on natural closed forests and forest plantations to calculate votes.

Final Text: The definitions of "Council," "Simply distributed majority vote," "Financial biennium," and "freely convertible currencies" were not discussed during ITTA-4. For the purpose of this Agreement, this article defines, *inter alia*:

- Tropical timber as tropical wood for industrial uses, which grows or is produced in the countries situated between the Tropics of Cancer and Capricorn, and the term covers logs, sawnwood, veneers sheets and plywood;
- Producer member as any member situated between the Tropics of Cancer and Capricorn with tropical forest resources and/or net exporter of tropical timber in volume terms, which is listed in Annex A and which becomes a party to this Agreement;
- Consumer member as any member that is an importer of tropical timber listed in Annex B that becomes a party to this Agreement, or any member that is an importer of tropical timber not so listed which becomes a party of this Agreement;
- Special vote as a vote requiring at least two-thirds of the votes cast by producer members present and voting and at least 60% of the votes cast by consumer members present and voting, counted separately, on condition that these votes are cast by at least half of the producer members present and voting and at least half of the consumer members present and voting; and
- For the purposes of the calculation of the distribution of votes under Article 10, paragraph 2(b), "tropical forest resources" means natural closed forests and forest plantations located between the Tropics of Cancer and Capricorn.

CHAPTER III. ORGANIZATION AND ADMINISTRATION

Headquarters and Structure of the International Tropical

Timber Organization (Article 3): On establishing regional offices, Switzerland and Togo proposed, and delegates agreed, that "regional offices of the Organization may be established if the Council so decides by special vote in accordance with Article 12."

Membership in the Organization (Article 4): Text on the two categories of membership – producers and consumers – was agreed at ITTA-2 and not reopened for discussion. It states "there shall be two categories of membership in the Organization, namely Producer and Consumer."

Membership by Intergovernmental Organizations (Article 5): The EU proposed using the term "European Community and other intergovernmental organizations" to refer to a new category of organizational membership. He also added a new paragraph that describes distribution of votes for such organizations. WGI Chair Attah proposed, and delegates agreed, to use "Membership by Intergovernmental Organizations" as the title of the article. He also proposed, and delegates agreed, to delete references to "regional economic integration organizations" from sections dealing with comparable responsibilities and vote distribution. Venezuela favored "states and any IGO" rather

than “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.

Regarding voting matters within IGOs, delegates agreed to delete reference to the assessment of contributions to the Administrative Account. On the issue of EC competence under this article and under Article 36 on Signature, Ratification, Acceptance and Approval, the US preferred deleting the paragraph in this article that mentions the number of votes of the EC or any IGOs, as well as one on signature, ratification and acceptance or approval or accession of the EC or other IGOs. However, she agreed to negotiate EC competence in the context of the latter article if it was deleted in the former. After contact group consultations, delegates agreed that “the EC and other IGOs should “vote with a number of votes equal to the total number of votes attributable to their member states that are parties to the Agreement on matters within their competence.” Chair Attah proposed and delegates agreed to use “Governments” rather than “Intergovernmental Organizations” and delete a paragraph on EC competence from this article in favor of inclusion under Article 36 on Signature, Ratification, Acceptance and Approval.

Final Text: This articles states that, *inter alia*:

- Any reference in this Agreement to “Governments” shall be construed as including the EC and other IGOs having comparable responsibilities in respect of the negotiation, conclusion and application of international agreements, in particular commodity agreements; and
- In the case of voting on matters within their competence, the EC and other IGOs shall vote with a number of votes equal to the total number of votes attributable to their member States that are parties to the Agreement.

CHAPTER IV. INTERNATIONAL TROPICAL TIMBER COUNCIL

Composition of the International Tropical Timber Council (Article 6): This article was agreed at ITTA-3. It states that the highest authority of the Organization is the Council and each member should be represented in the Council by one representative and may designate alternatives to attend the Council.

Powers and Functions of the Council (Article 7): This article was agreed at ITTA-3. It states that the Council should exercise all powers and perform all functions that are necessary to carry out the provisions of the Agreement.

Chairman and Vice-Chairman of the Council (Article 8): This article was agreed at ITTA-3. It states that Council should elect for each calendar year a Chairman and a Vice-Chairman among the representatives of producer and consumer members, and that these offices should alternate each year between the two categories.

Sessions of the Council (Article 9): On the issue of frequency of sessions, WGI Chair Attah proposed keeping the current ITTA, 1994 language on “at least one” regular session a year. Japan and Switzerland preferred deleting “at least” to limit the number of sessions. Brazil, for Producers, argued that changes were not necessary and noted there had never been a special session of Council. Japan proposed holding only one

regular session. Malaysia reiterated the Producers’ request to have “at least” one. Egypt, Switzerland, Norway, the US, China and Japan supported holding one regular session with additional “special” sessions as deemed necessary by Council. Japan, in response to Producer members’ concerns that this could slow down the project approval process, and supported by China, Switzerland and Egypt, suggested adding that “the Council shall ensure the effective work of the Organization in the interval between sessions.” WGI 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,” and delegates agreed.

On the issue of where to meet, Brazil highlighted general agreement on the utility of meeting in Producer countries. China said that the venue should not be limited to Producer countries. The Republic of Korea, opposed by Malaysia, proposed one annual regular session alternating between Yokohama and other regions. The US also proposed adding “preferably in a Producer country” for meetings outside of Yokohama. Japan proposed adding language requiring meetings outside Yokohama to be funded by the host country. On regular versus special session, Switzerland preferred that decisions for such sessions may be made at the request of any member “and,” rather than “or,” the Executive Director. Suriname said that the content of the Council’s agenda should be what distinguishes a regular from a special session. Switzerland suggested making it explicit that Council shall make the decision for a special session. Japan proposed “and” rather than “or” at the end of each requirement to be met for requesting special sessions, which would have the effect of making it more difficult for members to approve special sessions. Delegate agreed that “Council shall meet in special session whenever it so decides or at the request of any member or the Executive Director, in agreement with the Chairman and Vice-Chairman of the Council and either a majority of producer members or consumer members; or a majority of all members.”

On funding sessions of the Council, Japan said it would fund only one Council session a year and would not fund meetings held outside Japan. Egypt and Norway preferred having no specific reference to costs. Japan noted it currently provides the bulk of ITTO’s budget. After lengthy discussion, WGI 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.

Final Text: This article states that, *inter alia*:

- As a general rule, Council shall hold at least one regular session a year;
- The Council shall meet in special session whenever it so decides or at the request of any member or the Executive Director, in agreement with the Chairman and Vice-Chairman of the Council, and: a majority of producer members or a majority of consumer members; or a majority of members; and in considering the frequency and location of its sessions, the Council shall seek to ensure the availability of funds;
- Sessions of the Council shall be held at the headquarters of the Organization unless Council by special vote in accordance with Article 12, decides otherwise. In this regard Council shall seek to convene alternate sessions of the Council outside headquarters, preferably in a producer country.

Distribution of Votes (Article 10): The allocation of 1000 votes for producer members and 1000 votes for consumer members was retained. Distribution of votes among the producers remains at 400 distributed equally among members of the region; 300 distributed in accordance with their respective shares of the total tropical forest resources of all producer members; and, 300 distributed in proportion to the average of the values of their respective net exports of tropical timber during the most recent three-year period for which definitive figures are available. Brazil proposed, and delegates agreed, to include the Caribbean in the Latin American region.

Among consumer members, delegates agreed that each would receive 10 initial votes, with the remaining votes distributed in proportion the average volume of their respective net imports during the five-year period, commencing six years before the distribution.

However, language that "votes distributed for a given biennium shall not exceed 5% over and above the votes distributed to that member for the previous biennium," was added as a result of concerns regarding the possibility of a blocking minority emerging from the evolution of the EC.

Final Text: This article states, *inter alia*:

- The producer members shall together hold 1,000 votes and the consumer members shall together hold 1,000 votes.
- The votes of the producer members shall be distributed as follows: 400 votes shall be distributed equally among the three producing regions of Africa, Asia-Pacific and Latin America and the Caribbean; 300 votes shall be distributed among the producer members in accordance to with their respective shares of the total tropical forest resources of all producer members; and 300 votes shall be distributed among the producer members in proportion to the average of the values of their respective net exports of tropical timber during the most recent three-year period for which definitive figures are available.
- The votes of the consumer members shall be distributed as follows: each consumer member shall have 10 initial votes; the remaining votes shall be distributed among the consumer members in proportion to the average volume of their respective net imports of tropical timber during the five-year period commencing six calendar years prior to the distribution of votes.
- The votes distributed to a consumer member for a given biennium shall not exceed 5% over and above the votes distributed to that member for the previous biennium.

Voting Procedures of the Council (Article 11): This article was agreed at ITTA-3. It states that each member should be entitled to cast the number of votes it holds, that no member shall be entitled to divide its votes, and that by written notification to the Chairman of the Council, any member may authorize any other member to represent its interests and cast its votes at any meeting of the Council.

Decisions and Recommendations of the Council (Article 12): Delegates agreed that the Council shall endeavor to make all decisions and recommendations by consensus. Delegates agreed that if consensus cannot be reached, the Council will vote by a simple distributed majority, unless it concerns an article that specifies the need for a special vote. The US withdrew her

proposal to list these specified articles after delegates agreed to an EC proposal to add "in accordance with Article 12" after every mention of "special vote."

Quorum for the Council (Article 13): This article was agreed at ITTA-3. It states that the quorum for any meeting of Council shall be the presence of a majority of members of each category, provided that such members hold at least two-thirds of the total votes in their respective categories.

Executive Director and Staff (Article 14): This article was agreed at ITTA-3 with brackets around "by special vote," as delegates had not reached agreement on the voting system. At ITTA-4, delegates agreed to remove brackets and this article states that Council should, by special vote, appoint the Executive Director; the Council should determine the terms and conditions of appointment of the Executive Director; and the Executive Director should be the chief administrative officer of the Organization and the Council for the administration and operation of the Agreement.

Cooperation and Coordination with Other Organizations (Article 15): This article was agreed at ITTA-3. It states that the Council shall make arrangements, as appropriate, for consultations and cooperation with the United Nations and its organs and specialized agencies, and other relevant international and regional organizations, institutions and instruments; and the Organization shall utilize the facilities, services and expertise of the private sector, non-governmental organizations and civil society; and the Organization shall take full advantage of the Common Fund for Commodities' facilities.

Admission of Observers (Article 16): On admitting non-members and organizations, China suggested new language allowing the Council "to invite any non-member sovereign State recognized by the UN or any organization interested in ITTO's activities to attend as observers any of the meetings of the Council." Delegates agreed to the text.

Final Text: This article states 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), interested in the activities of the Organization to attend as observers the sessions of the Council.

CHAPTER V. PRIVILEGES AND IMMUNITIES

Privileges and Immunities (Article 17): This article was agreed at ITTA-3. It states that: the Organization should have legal responsibilities and the capacity to contract, acquire and dispose properties; the status and privileges and immunities of the Organization, its Executive Director and staff while in Japan should continue to be governed by the Headquarters Agreement between Japan's Government and the Organization; and if the headquarters is moved to another country it should conclude a Headquarters Agreement to be approved by the Council.

CHAPTER VI: FINANCE

Financial Accounts (Article 18): Discussion on this article reflected larger disputes over Producers' desire to try to ensure more project funding through the Organization and a proposed method for addressing this by including some policy work that is currently funded through voluntary Special Account contributions in the Administrative Account, contributions for which are assessed from both Consumers and Producers.

The two questions for this article were whether to rename the accounts “Assessed Contributions Account” and “Voluntary Contributions Account, including the Special Account and the Bali Partnership Fund (BPF),” as proposed by Canada but opposed by Norway and the EC, and whether to keep a simple formulation, as preferred by the US and Japan, or name specific assessed sub-accounts, as preferred by Norway and the EC. After some debate, delegates agreed to list the “Administrative Account, which is an assessed contribution account” and “the Special Account and the BPF, which are voluntary accounts.”

Japan withdrew a proposal to limit assessed contributions of donor countries that contribute more than US\$1 million to project funding.

Administrative Account (Article 19): Debate centered on how to include funding for activities that came to be known as operational costs in the assessed Administrative Account.

On a paragraph describing the costs covered under the Administrative Account, delegates came to fairly early agreement on listing costs under separate sub-paragraphs on “administrative costs” and the “operational costs.” After lengthy discussion, delegates agreed to insert an illustrative list of other items already included as budget headings.

On approving the budget, delegates agreed that the Council shall assess contributions of members “to the budget for the Administrative Account.”

On a paragraph describing assessment of contributions, the US suggested a 70:30 split between Consumers and Producers, respectively, for half of the Administrative Account and a 50:50 split for the remainder. Japan proposed Administrative Work and Key Policy Work Sub-accounts, with a 75:25 ratio for Consumer and Producer contributions to the Key Policy Work Sub-Account.

The EC favored a 50:50 split for contributions to administrative work and a 70:30 split for key policy work. He also preferred putting text on the sub-accounts into two separate articles and limiting contributions for key work to 15% of the Administrative Account.

Brazil, for Producers, recalled the Producers’ proposal for an 80:20 split in burden-sharing for both an Administrative Account and a Key Policy Work Account. A proposal from Producers, presented by Brazil, which called for a Consumers’ statement expressing their willingness to commit US\$200 million in annual voluntary funding, was not pursued.

As debate progressed, delegates gradually converged around two points: either a 50-50 split between the two parts of the Administrative Account or a cap at some lower ratio for operational costs. The EC held out for the lowest ratio, at 15% of the Administrative Account. WGII Chair Blaser noted that strategic activities cost between US\$1-2 million.

After further consideration, the EC, supported by Japan, suggested capping costs related to special activities at “15% of administrative costs,” a low proportion of a comparatively small fraction of the Organization’s overall funding requirements, and allowing the Council, by consensus, to “decide to vary this limit for a specific financial biennium.” He also proposed that unused allocated funds should be carried over automatically to the following year’s budget and deducted from members’ assessments. The US, supported by Norway, suggested an alternative 50% cap. Producers preferred striving for “a 1/5

ratio” between administrative costs and “the overall budget of the Organization,” as this language would reinforce the need for further financial help under the Special Account, although this raised questions from other delegates as to the implications of this vis-à-vis Producers’ own contributions. Eventually, this proposal coalesced into a new sub-paragraph allowing for Council review of the Administrative Account and the voluntary accounts five years after entry into force.

On what proportion of the budget for operational costs would be assessed to Producers, positions ranged from Producers’ call for a 10:90 ratio for Producers and Consumers, respectively, to a Swiss proposal for a 40:60 split. One impediment was Producers’ demand for assurance that their assessed contributions would not increase. WGII Chair Blaser said that “operational costs” would cover some costs currently funded from the Administrative Account and some currently funded from the Special Account, thus increasing the total Administrative Account budget. However, “operational costs” would carry a differential burden for Consumers and Producers than the current 50:50 split for the Administrative Account.

The two questions of the level of operational costs and the level of Producer assessments were merged into a package deal based on a compromise text proposed by the President of the Conference. This proposal called for a ratio of 80% for Consumers’ assessed contributions, and 20% for Producers, for core operational costs relative to the Administrative Account such as experts’ meetings and publications, but placed no caps on operational costs. The EC insisted on a 30% cap on the proportion of the Administrative Account budget used for core operational costs. Some Producers, however, reminded the group that there had also been some compromise from their previous position of setting proportions of assessed contributions at 90% for Consumer members and 10% for Producer members.

A compromise 27.5% cap was proposed. The remaining group of members with objections consulted privately, but was unable to join a consensus on that change. It was suggested that the wording might be changed to state that operational costs should not exceed 30% of the administrative “costs,” rather than “Account.” This was not accepted.

A new compromise was proposed, that operational costs shall not exceed “1/3” of the basic administrative costs and that “Council may, by consensus, decide to vary this limit for a specific financial biennium.” After consultations, the EC agreed on this proposal. After intense consultations, Producers eventually agreed to this language as well and the article was approved.

On whether to differentiate developing Consumer members’ assessments, after some debate, delegates favored addressing the issue of votes for China under the article on distribution of votes.

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

Regarding the due date of contributions to the administrative budgets, delegates agreed that contributions should become due on the first day of each financial “year” rather than “biennium.”

On countries' obligation to pay their assessed contributions, Brazil, for Producers, suggested inserting "without prejudice to the provisions contained in Article 30 (Relief from Obligations), before language stating "if a member has not paid its contribution in full for two consecutive years, that member shall become ineligible to submit project or pre-project proposals for funding consideration." After discussion delegates agreed on "taking into account" the provisions in Article 30.

Final Text: The final text of this article reads, *inter alia*, that expenses necessary for the administration of the Agreement shall be met by annual assessed contributions and shall include "basic administrative costs such as salaries and benefits, installation costs, and official travel" and "core operational costs such as those related to communication and outreach, expert meetings convened by the Council and preparation and publication of studies and assessments" pursuant to articles on: policy work of the Organization; statistics, studies and information; and annual report and biennial review; contributions to the Administrative Account for each financial biennium shall be assessed in equal shares for Consumers and Producers for basic administrative costs and shared 20:80 for Producers and Consumers, respectively, for core operational costs, with operational costs not to exceed 1/3 of administrative costs except if Council decides, by consensus, to vary this limit for a specific financial biennium."

The text also states that Council may review how the Administrative Account and the voluntary accounts contribute to the efficient and effective operation of the Organization in the context of evaluation of the Agreement five years after its entry into force, and that if a member has not paid its contribution in full for two consecutive years, "taking into account" the provisions contained in Article 30 on relief from obligations, that member shall become ineligible to submit project or pre-project proposals for funding consideration under the article on project activities. Paragraphs on assessment of initial contributions, discounting of payments made in full within four months of coming due, and liability to pay after suspension of rights remained unchanged from the ITTA, 1994.

Special Account (Article 20): During discussions, delegates clarified that projects and pre-projects would be funded from a Thematic Work Sub-account and a Project Sub-account, which refer to unearmarked and earmarked funds, respectively. Delegates agreed to state that, as a general principle, the Council shall "establish criteria and procedures for the transparent operation of the Special Account".

Based on interventions from the US, Brazil, Switzerland and the Netherlands, delegates agreed that "the donors may allocate their contributions among the Thematic Programmes or may request the Executive Director to make proposals for allocating their contribution."

Final Text: The final agreed text provides for two sub-accounts, the Thematic Programmes Sub-Account and the Project Sub-Account, and lists as possible sources of finance: the Common Fund for Commodities; regional and international financial institutions; voluntary contributions from members; and other sources. It specifies that earmarked contributions shall be used only for the pre-projects, projects and activities for which they are designated, unless otherwise decided by the donor in

consultation with the Executive Director. It: calls on members to strive to replenish the Special Account; specifies the charging of expenditures to respective sub-accounts; waives liability for members from any actions in connection with pre-projects, projects or activities; and calls on the Executive Director to support members' use of the funds as well as to report on allocation and expenditure of the various funds.

The Bali Partnership Fund (Article 21): Discussion opened with debate on whether 50% or 100% of income earned as a result of activities related to the Special Account should be invested in the Bali Partnership Fund (BPF). After Japan, Switzerland, Norway and the Netherlands said they could not exceed 50%, delegates accepted retention of ITTA, 1994 text with the 50% limit. On allocating BPF resources, delegates agreed to broaden criteria to include the needs of members to establish and manage significant conservation programmes and to implement SFM. With regard to the text on replenishing the BPF, Colombia proposed broadening the goal of replenishment to "achieve the objectives of the Fund." India preferred to "further" its objectives, and Brazil preferred an "adequate" rather than "reasonable" level of replenishment. These changes were accepted and the article was approved.

Final Text: The article specifies that contributions from donors, 50% of income earned from activities, and other resources constitute the fund; and establishes criteria for earmarked and unearmarked funds to implement SFM, with emphasis on conservation programmes.

Forms of Payment (Article 22): This article was previously agreed upon at ITTA-2. The article states that financial contributions to accounts should be payable in freely convertible currencies and be exempt from foreign-exchange restrictions, and that the Council may decide to accept other forms of contributions to the accounts other than the Administrative Account.

Audit and Publication of Accounts (Article 23): This article was previously agreed at ITTA-1. The article states that the Council should appoint independent auditors for auditing the Organization's accounts.

CHAPTER VII. OPERATIONAL ACTIVITIES

Policy Work of the Organization (Article 24): The US proposed text to link Article 24 on policy work more closely with Article 20 on the Special Account and to the Objectives. Both proposals were approved.

Mexico emphasized the inclusion of language on basic communication, outreach tools, and development of criteria and indicators, which was approved. A paragraph on relating policy activities to ITTO action plans was approved after agreement on minor revisions proposed by Norway, Switzerland, Colombia, Papua New Guinea, Cameroon, the US, Honduras and Ghana.

Final Text: The article mandates integration of policy work and project activities, which contributes to achieving the objectives of the Agreement, and establishment of an action plan to guide policy activities and identify priorities and thematic programmes.

Project Activities of the Organization (Article 25): Delegates generally agreed on text allowing the Executive Director to submit project and pre-project proposals contributing to the Agreement's objectives and to priority areas for work or

thematic programmes identified in ITTC-approved action plans. Delegates also agreed that the Council may limit the number of proposals the Executive Director may submit in a given project cycle.

Final Text: The article mandates the Council to establish procedures and priorities for projects and pre-projects. It also authorizes the Executive Director to suspend disbursement of funds if pre-projects or projects are mismanaged.

Committees and Subsidiary Bodies (Article 26): Based on the EC proposal for reference to a statistical committee, delegates approved compromise text listing Committees on: Forest Industry; Economics, Statistics and Markets; Reforestation and Forest Management; Finance and Administration; and “such other Committees as the Council shall deem appropriate and necessary.” After some discussion, delegates agreed to delete a sub-paragraph listing the establishment of “such other committees” in favor of a paragraph allowing Council to “establish or dissolve committees and subsidiary bodies as appropriate.” The article was approved with these changes.

Final Text: The article establishes four committees: Forest Industry; Economics, Statistics and Markets; Reforestation and Forest Management; and Finance and Administration. It gives Council the power to establish or dissolve committees and define the scope and functioning of committees.

CHAPTER VIII. STATISTICS, STUDIES AND INFORMATION

Statistics, Studies and Information (Article 27): Most of the article was agreed at ITTA-3. Discussion at ITTA-4 centered on a paragraph on corrective action. Some delegations, including Ghana, Canada and Mexico, wanted text that would state that the “Council take appropriate action for non-submission of statistics,” but others, including the US, the Netherlands, the EC, Switzerland, Cameroon, and the Congo wanted stronger language on the possibility of taking actions related to voting rights.

Final Text: The article requires the Council to enhance the technical capacity of member countries and, if members do not furnish statistics and required information for two years, to take “appropriate actions.”

Annual Report and Review (Article 28): This article was approved at ITTA-3. The article states that the Council shall publish an annual report on its activities and biennially review and assess the international timber situation and other factors considered relevant to the Agreement’s Objectives.

CHAPTER IX. MISCELLANEOUS

General Obligations of Members (Article 29): This article was approved at ITTA-3. The article states that members shall cooperate to promote the attainment of the Agreement’s Objectives and undertake to carry out the Council’s decisions.

Relief from Obligations (Article 30): This article was approved at ITTA-3. The article states that in exceptional circumstances, emergency or *force majeure*, Council may relieve a member of an obligation if satisfied by the member’s explanation regarding the issue, and that Council should explicitly state the terms, conditions and time period for the relief from the obligation.

Complaints and Disputes (Article 31): This article was approved at ITTA-3. The article states that any member may bring to the Council any complaint concerning a member’s unfulfilled obligation and dispute concerning the Agreement’s interpretation or application, and that the Council’s decisions on these matters shall be taken by consensus.

Differential and Remedial Measures and Special Measures (Article 32): This article was approved at ITTA-3. The article states that, *inter alia*: developing consumer members whose interests are adversely affected by measures taken under this Agreement may apply to the Council for appropriate differential and remedial measures that least developed country members may apply to the Council for special measures.

Review (Article 33): This article was approved at ITTA-3. The article states that the Council may evaluate the implementation of this Agreement, including the objectives and financial mechanisms, five years after its entry into force.

Non-Discrimination (Article 34): This article was approved at ITTA-3. It states that nothing in this Agreement authorizes the use of measures to restrict or ban international trade in timber and timber products.

CHAPTER X. FINAL PROVISIONS

Depositary (Article 35): This article was approved at ITTA-3. The article states that the Secretary-General of the UN is designated as the depositary of the Agreement.

Signature, Ratification, Acceptance and Approval (Article 36): The EC introduced new text stating that the EC shall deposit a declaration specifying areas of EC competence. 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. Based on a proposal by the EC, delegates agreed that “the EC or any IGOs... shall deposit a declaration issued by the appropriate authority of such Organization specifying the nature and extent of its competence over matters governed by this Agreement” and that where it has exclusive competence on all matters governed by this Agreement its member States shall not sign, ratify, accept, approve, accede to the Agreement. Similar language was deleted from Article 5 on Membership in the Organization, as it is more appropriate here.

Final Text: The article states that the Agreement will be opened for signature at UN headquarters from 3 April 2006, and that the EC or any intergovernmental organization referred to in Article 5 has authority to deposit a declaration of its competence to sign, ratify, accept or approve the Agreement.

Accession (Article 37): After China questioned the deletion “of all states” after “accession by the Governments,” the EC explained that this deletion was necessary for EU approval, and the article was approved.

Final Text: The article states that the Agreement will be open for accession and shall be effected by deposit of an instrument of accession with the depositary.

Notification of Provisional Application (Article 38): This text from the ITTA, 1994 was approved without change. The article states that a signatory Government that intends to ratify, accept or approve the Agreement may notify the depositary about provisional application at any time.

Entry Into Force (Article 39): Discussion of this article centered on threshold criteria for entry into force. In response to an EC suggestion that the number of Consumer member ratifications be lowered because of questions involving counting EU members, the threshold was lowered to 10 Consumer and 10 Producer members. The US proposed using trade data based on value rather than volume of imports, and suggested using forest area as a criterion, but these proposals were not accepted. Mexico, supported by Indonesia and Malaysia, opposed by Switzerland and the Netherlands, called for returning to the text of the ITTA, 1994. Delegates agreed to a text proposed by WGII Chair Blaser that sets thresholds of 12 Producer governments with 60% of the votes and 10 Consumer governments with 60% of the import volume of tropical timber trade in 2005 for definitive entry into force, and of 10 Producer governments with 50% of the votes and seven Consumer governments with 50% of import volume of tropical timber trade in 2005 for provisional entry into force. The article was approved with these thresholds.

Final Text: The article states:

- for definitive entry into force, 12 Producer governments with 60% of the votes and 10 Consumer governments with 60% of the import volume of tropical timber trade in 2005 must sign or ratify under terms of Article 36; and
- for provisional entry into force, 10 Producer governments with 50% of the votes and seven Consumer governments with 50% of import volume of tropical timber trade in 2005 must sign or ratify, or notify the depositary that they will apply the Agreement provisionally.

Amendments (Article 40): This article was informally approved at ITTA-3 with brackets around “special votes.” The brackets were removed at ITTA-4 in conjunction with the agreement on “special vote.”

Final Text: The article states that the Council may, by special vote in accordance with Article 12, recommend an amendment to members on the Agreement, and should fix a date for members to notify the depositary of the amendment’s acceptance.

Withdrawal (Article 41): This article was agreed at ITTA-3. The article states that:

- any member may withdraw from the Agreement at any time after entry into force by giving written notice of withdrawal to the depositary and informing the Council;
- withdrawal shall become effective 90 days after the notice is received by the depositary and financial obligations to the Organization shall not be terminated by a member’s withdrawal.

Exclusion (Article 42): This article was agreed at ITTA-3 with brackets around “special vote.” The brackets were removed at ITTA-4 in conjunction with the agreement on “special vote.”

Final Text: The article states that if the Council decides that any member is in breach of its obligations and that this significantly impairs the Agreement’s operations, it may by special vote, in accordance with Article 12, exclude that member from the Agreement and that six months after Council’s decision that member shall cease to be a party to this Agreement.

Settlement of Accounts with Withdrawing or Excluded Members or Members Unable to Accept an Amendment

(Article 43): This text from ITTA, 1994 was approved without change. The article states that, *inter alia*, the Council should

determine any settlement of accounts with a member that ceases to be a party due to non-acceptance of an amendment, withdrawal, or exclusion, and that the Council should retain any assessment or contributions paid to the financial accounts by a member that is no longer a party.

Duration, Extension and Termination (Article 44): This article was agreed at ITTA-3 with the brackets around “special vote.” At ITTA-4, the brackets were removed with agreement on the definition of “special vote.”

Final Text: The article states that, *inter alia*, the Agreement should remain in force for a ten-year period after its entry into force unless the Council decides, by special vote in accordance with Article 12, to extend, renegotiate or terminate it, and that the Council may, by special vote in accordance with Article 12, decide to extend the Agreement for two periods of five years each.

Reservations (Article 45): This article was agreed at ITTA-3. The article states that reservations may not be made with respect to any of the Agreement’s provisions.

Supplementary and Transitional Provisions (Article 46): This article was agreed at ITTA-3. The article states that, *inter alia*, the Agreement should be the successor to the ITTA, 1994.

ANNEXES

Annexes were drafted to implement provisions of Article 39 on Entry into Force. Since Article 39 now requires the ratification by 12 Producer member governments with 60% of the total votes, the voting distribution is listed in Annex A for a list of governments attending the conference that are “potential producer members.” It lists 43 countries, including 14 from Africa, 10 from Asia and the Pacific, and 19 from Latin America and the Caribbean, that participated in the negotiations. In Annex B there is a list of 37 potential consumer members, which attended the conference, with no indication of voting distribution since it was not decided by the close of the conference. Article 39 requires only that 10 Consumer member governments ratify for entry into force, as long as they represent 60% of global import volume.

CLOSING SESSION

Following brief reports of complete consensus on their respective segments of the Agreement by Working Group, Chairs Attah and Blaser, President Paranhos opened the final plenary on Friday, 27 January. Delegates adopted the report of the Credentials Committee, chaired by Sri Murningingtyas (Indonesia).

The plenary then adopted the final resolution (TD/Timber.3/L.8), which: expresses gratitude for support from UNCTAD; requests the Secretary-General of the United Nations to forward copies of the text of the Agreement to all Governments and IGOs and to open it for signature at UN headquarters; and draws attention to the provision for all Governments and IGOs to become members and invites their membership.

President Paranhos then presented the text of the agreement for final adoption. He read all of the article titles and asked delegates to approve them one by one. The agreement was then adopted in its entirety.

During the closing statements, Brazil, for Producers, said that the new Agreement is the result of a balance of expectations on both sides, Producers and Consumers, and that all delegates

have shown flexibility. He said that although the outcome is far from adequate for funding operational costs, the Producers have decided not to sacrifice the whole package but to agree to it in a spirit of compromise.

The EC said that a spirit of cooperation has guided all delegates. He noted that this is the only international negotiated agreement in the area of forests, and it is a shining example of members' commitments.

Malaysia noted that the objectives of the Agreement identify and address new issues. He was disappointed that Consumers had not negotiated a statement committing to additional funding and noted that progress toward Objective 2000 hinges on additional funding.

China noted that all parties made compromises and sacrifices, and that there is a new spirit of cooperation between Consumers and Producers.

Cameroon delivered a message from the Minister of Forestry of Cameroon, expressing the satisfaction of the African Group with the Agreement.

Japan noted, as the host country, that the Agreement means a renewed commitment to the objectives of sustainable forest management.

Lakshmi Puri, UNCTAD, lauded delegates for the successful agreement, which keeps the best features of ITTA, 1994 and opens doors to new steps in sustainable forest management.

President Paranhos, in his closing statement, reviewed progress on negotiations from 2003 and said that the new Agreement moves forward from the traditional lines of ITTA, 1994 to a stage where funding is more predictable. He closed the conference at 6:30 p.m.

A BRIEF ANALYSIS OF ITTA-4

Even as late as 5:00 pm on Friday, 27 January, no one knew if there would be agreement on an ITTA, 2006. After an overnight cliffhanger that left everyone wondering whether the EC would be able to accept the agreement, the tables completely turned and then it was the Producers who created the final few hours of uncertainty, as delegates awaited their formal reaction to a proposed compromise on the assessed Special Account. Unlike almost exactly 12 years ago in a similar plenary hall in Geneva, where the ITTA, 1994 was only accepted with reservations from several countries, the ITTA, 2006 was fully accepted by all delegates present and the champagne was broken out. The fact that there were no objections or reservations represented a successful outcome in itself. But what does the new ITTA really offer? Does it hold the potential for a true improvement over the *status quo*?

It is clear that many think the ITTA, 2006 is a worthy instrument. Lakshmi Puri, Director, Division of International Trade in Goods and Commodities, UNCTAD, stated that the new ITTA will be of tremendous importance to UNCTAD itself. Neither Producers nor Consumers were willing to walk away from it when it was made clear that any attempt to make a reservation would result in the collapse of the whole agreement. While no one is completely satisfied, Conference President Amb. Carlos Antonio da Rocha Paranhos noted in his final statement that "an agreement equally unsatisfactory to all is a good agreement." But it was former ITTO Executive Director Bin Che

Yeom Freezailah who summed it up most clearly: the new ITTA augurs new obligations as well as the promise of new resources with which to meet them.

Certainly the new ITTA is born at a time when international cooperation on forests could use an infusion of new energy. As many ITTA delegates prepare to head to New York for the sixth session of the UN Forum on Forests in February, the prospects for closer cooperation in that forum are being questioned. Deforestation, particularly in the tropics, continues at an unacceptable rate, according to the FAO, even as public interest in the plight of forests continues to recede in the face of what are seen as more urgent issues, such as security concerns. Interest in the ITTO in particular is low, with environmental NGOs noticeable by their absence from the entire renegotiation process. And, most distressing for many, ITTO funding continues to fall, from a high of around US\$25 million in the early 1990s to approximately US\$10 million today, while the number of countries pledging project funding through the ITTO has declined as well, as donors pursue other bilateral, multilateral, or NGO-based mechanisms for funding projects that interest them. Perhaps most critically for the continued success of the Organization, Japan, the key sponsor of the ITTO, has been forced to rein in its generosity to the Organization because of its own budgetary constraints.

All of these issues, as well as the looming expiration date of December 2006 for the ITTA, 1994, were all on the minds of negotiators when they came together more than two years ago and began to shape the future of the ITTA and ITTO. These concerns formed a foundation of common interests that enabled the negotiators to engage in this process with thoughtful consideration and a spirit of good faith, and the contents of the new Agreement bear witness to this. Because the participants knew that an improved document was in everyone's interest, numerous observers noticed a tangible difference in the mood of these negotiations and those of the 1994 Agreement, which suffered spill-over from the uncooperative mood of the Rio Forest Principles negotiations in 1992 and from continuing concerns about sovereignty over forests as natural resources within national boundaries.

This spirit of common goals seems to have paid off. Improvements in the new document include explicit acknowledgment of the need to grapple with controversial topics such as illegal logging, certification, and sustainable forest management itself, which is now generally accepted as one of the two overarching objectives of the ITTA.

More tangible results are also present, particularly in the form of financial improvements. The realization of the need both for increased funding and for more stable funding led to two new arrangements that stand out in the ITTA, 2006. First, project funding has a new mechanism, the Thematic Programmes Sub-Account. This funding repository, which evolved originally from European proposals, will allow donors to earmark funds to go towards projects related to issues of particular interest but will cut transaction costs for donor countries, give Council more authority over particular projects funded from that source, and allow for larger multilateral projects. The Thematic Programmes Sub-Account, moreover, holds the potential to lure more project funding from large donors that have made it clear they need to

see this type of change in the operations of the Organization in order to access to funds available from their national-level development aid agencies.

The second new arrangement moves funding for recurrent “operational costs,” such as outreach, communications, and policy-related work of the Organization, into the assessed Administrative Account. This will stabilize the flow of funds to these activities; however, since the budget for these activities is to come from assessed contributions, it also means that some of these funds will come partially from Producers. Thus the formula for assessment became the ultimate controversy in the negotiations for the ITTA, 2006, with the final question coming down to whether Producers would agree to an increase in their assessed contributions and, if so, how much. The fact that in the end Producers did agree to an increase in their assessed contributions will have the positive effect of stabilizing funding for some of the most important policy work of the Organization while, it is hoped, releasing more funding for other projects.

What, therefore, are the prospects for the ITTA, 2006? In the immediate future, the fact that an agreement has been reached, and is generally viewed as acceptable by everyone, forestalls the question of collapse of the agreement and the loss of funding that would entail. More importantly, it holds the potential to encourage new pledges for funding, perhaps as early as at the next ITTC session in May 2006, as was the case with the establishment of the Bali Partnership Fund in 1994. The prospects for early entry into force of this ITTA are much brighter than they were in 1994, as well, because many countries will find reason to move quickly into the ITTA, 2006 *modus operandi* in order to open up more funding possibilities in some areas while reducing costs in others.

And what of the longer term, after entry into force? One gauge of improvement might be the level of interest that the NGOs show in the Organization. Some NGOs are already actively involved in project work and in the Civil Society Advisory Group, which is intended to bring the interests of multiple forest stakeholders to the attention of the Organization in the same way as the Trade Advisory Group brings together tropical timber industry representatives. More activist NGOs may never again concede legitimacy to the enterprise of addressing forest loss in the context of an organization with an overriding objective that includes promoting the “expansion” of international trade in tropical timber. Yet the fact that the ITTO keeps chugging away, together with the increased potential that the new Agreement brings to its work, may eventually make the ITTO one of the most effective intergovernmental organizations in pursuing the goals of both ending tropical deforestation and increasing the well-being of the people and communities that depend upon tropical forests.

UPCOMING MEETINGS

SIXTH UN FORUM ON FORESTS (UNFF-6): UNFF-6 will be held from 13-24 February 2006, at UN headquarters in New York. This meeting will seek to reach conclusion on issues that were unresolved at UNFF-5. For more information, contact: Elisabeth Barsk-Rundquist, UNFF Secretariat; tel: +1-212-963-3262; fax: +1-917-367-3186; e-mail: barsk-rundquist@un.org; internet: <http://www.un.org/esa/forests>

FOREST LEADERSHIP CONFERENCE “THE SUSTAINABILITY CHALLENGE”: This Conference will be held from 1-2 March 2006, in Toronto, Canada. Topics to be addressed at this conference include: long-term planning for sustainability in forestry; intensifying production while protecting biodiversity and landscapes; improving livelihoods of local communities through sustainable practices; reconciling forest sustainability and financial performance; addressing challenges and opportunities arising from the Kyoto protocol; and expanding bio-energy production through co-generation. For more information, contact: Jean-Pierre Kiekens, Chair, Forest Leadership Conference; tel: +514-274-4344; fax: +514-277-6663; e-mail: conference@forestleadership.com; internet: <http://www.forestleadership.com/>

WORKING PARTY ON THE MANAGEMENT OF WILDLIFE AND PROTECTED AREAS/AFRICAN FORESTRY AND WILDLIFE COMMISSION: This Commission will meet from 27 March - 1 April 2006, in Maputo, Mozambique. The sixteenth session of the Working Party on the Management of Wildlife and Protected Areas of the African Forestry and Wildlife Commission will be held from 27 to 28 March 2006, and will be followed by the fifteenth session of the African Forestry and Wildlife Commission from 29 March - 1 April 2006. This session will examine forestry activities of interest to the region, including the ones performed by FAO, the follow-up to the recommendations of last session, and relevant activities that have taken place in the international arena. A special session on implementation of Sustainable Forest Management in Africa also will be organized, including topics such as accessing funds for sustainable forest management, progress towards sustainable forest management, achievement of the Millennium Development Goals through regional cooperation, and forest law compliance.” For more information, contact: Pape Djiby Koné, FAO Regional Office for Africa; tel: +233-21-675-000 ext. 3202; fax: +233-21-668-427; e-mail: pape.kone@fao.org; internet: <http://www.fao.org/forestry/>

21ST SESSION OF THE ASIA-PACIFIC FORESTRY COMMISSION: The 21st session of the Asia-Pacific Forestry Commission will meet from 17-21 April 2006, in Dehradun, India. Participants will also attend a special session on sustainable forest management in the Asia-Pacific. For more information, contact: Patrick Durst, Senior Forestry Officer; tel: +66 2697-4000 fax: +66 2697-4445; e-mail: patrick.durst@fao.org; internet: <http://www.fao.org/forestry/site/31093/en>

33RD SESSION OF THE EUROPEAN FORESTRY COMMISSION (EFC): This Commission will meet from 23-26 May 2006, in Zvolen, Slovakia. For more information, contact: Kit Prins; tel.: +41-22-917 1286 fax: +41-22-917 0041; e-mail: christofer.prins@unece.org; internet: <http://www.fao.org/forestry/site/31096/en>

ITTC-40: The 40th session of the ITTC and associated sessions of the Committees will convene from 29 May to 2 June 2006, in Mérida, Mexico. For more information, contact: Manoel Sobral Filho, ITTO Executive Director; tel: +81-45-223-1110; fax: +81-45-223-1111; e-mail: itto@itto.or.jp; internet: <http://www.itto.or.jp>