



SUMMARY OF THE UNITED NATIONS CONFERENCE FOR THE NEGOTIATION OF A SUCCESSOR AGREEMENT TO THE INTERNATIONAL TROPICAL TIMBER AGREEMENT, 1994: 26-30 JULY 2004

The United Nations Conference on the Negotiation of a Successor Agreement to the International Tropical Timber Agreement, 1994 met at the Palais des Nations in Geneva, Switzerland from 26-30 July 2004. The conference was held under the auspices of the United Nations Conference on Trade and Development (UNCTAD) and included over 160 delegates from the International Tropical Timber Organization's (ITTO) member countries, one potential member, one intergovernmental organization (IGO), one UN body, as well as members of the Civil Society Advisory Group (CSAG) and the Trade Advisory Group (TAG) and several non-governmental organizations (NGOs).

Over the course of the five-day meeting, delegates met in two working groups, one dealing specifically with the Preamble and Chapters I-IV and the other with Chapters V-XI of the draft working document (TD/TIMBER.3/4). The negotiations proceeded amicably, although it became clear by Friday morning that more time would be needed to finalize the terms of the new agreement. The main issues that needed further discussion concerned the objectives of the successor agreement and the financial arrangement. During the closing plenary, delegates decided that the Conference would reconvene from 14-18 February 2005, in Geneva.

A BRIEF HISTORY OF THE ITTA

The 1983 International Tropical Timber Agreement (ITTA) was negotiated under the auspices of UNCTAD. The Agreement sought 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 the development of national policies for the

sustainable utilization and conservation of tropical forests and their genetic resources, and the maintenance of the 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 five-year period and was extended twice for three-year periods. The Agreement was renegotiated in 1993-1994. The successor agreement to the ITTA (ITTA, 1994) was adopted on 26 January 1994, and entered into force on 1 January 1997. The ITTA, 1994 contains broader provisions for information sharing, including on non-tropical timber trade data, allows for consideration of non-tropical timber issues as they relate to tropical timber and includes the ITTO Objective 2000 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 ITTO Objective 2000. 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 established the ITTO, headquartered in Yokohama, Japan. The ITTO has 59 members divided into two caucuses: producer countries (33 members) and consumer countries (26

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members). The ITTO membership accounts for 95 percent of the world trade in tropical timber and control 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 at least once per year. The ITTC performs, or arranges for the performance of, all functions necessary to carry out the provisions of the ITTA, 1994.

ITTC-32: The ITTC held its 32nd session in Bali, Indonesia, from 13-18 May 2002. Among its decisions, the Council addressed preparations for negotiating a successor agreement. The Council requested the Executive Director to appoint two consultants, one from a producer and one from a consumer country, to identify new and emerging issues relevant to the ITTC.

ITTC-33: The 33rd session of the ITTC met from 4-9 November 2002, in Yokohama, Japan. Among other topics, the Council addressed preparations for negotiating a successor agreement to the ITTA, 1994 and agreed on the following: a schedule for PrepCom meetings and renegotiations, starting immediately following ITTC-34, and each subsequent Council session until December 2004 or 2005; a request for members to submit comments on issues associated with the renegotiation process no later than 15 January 2003; and a request that the Executive Director consult with UNCTAD to convene a working group to identify issues to be addressed in the successor agreement, analyze potential changes to the ITTA, determine the implications of these changes and report on its analysis for consideration by PrepCom I.

WORKING GROUP ON THE PREPARATIONS FOR NEGOTIATING A SUCCESSOR AGREEMENT TO THE ITTA, 1994: The Working Group met from 7-11 April 2003, in Bern, Switzerland. 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 the process for the PrepCom. They also considered new and emerging issues relevant to the ITTC and ITTO's relationship with other international organizations. The Working Group elected Jürgen Blaser (Switzerland) as Chair of the PrepCom and Amb. Carlos Antonio da Rocha Paranhos (Brazil) as Co-Chair.

ITTC-34: The 34th session of the ITTC was held from 12-17 May 2003, in Panama City, Panama. Regarding preparations for negotiating a successor agreement, the Council requested the PrepCom to implement intersessional work as needed, including extending the mandate of the Working Group. It also requested the Executive Director to, *inter alia*: engage consultants to prepare a summary of experiences in implementing the ITTA, 1994 and take stock of the most relevant studies available regarding internationally traded and potentially tradable environmental services; and advise the Secretary-General of UNCTAD to arrange for the UN Conference for the Negotiation of a Successor Agreement to the ITTA, 1994, in Geneva, Switzerland, from 26-30 July 2004.

PREPCOM I: Immediately following the 34th session of the ITTC, PrepCom I convened in Panama City to begin preparing a draft working document that would be used as the basis of 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 with a view to recommending how these could be strengthened in the successor agreement; proposed preambular language for the successor agreement; developed a shortened list of overarching objectives and definitions; and prepared a work plan for PrepCom II.

ITTC-35: The 35th session of the ITTC met from 3-7 November 2003, in Yokohama, Japan. Delegates considered several elements relating to the negotiation of the successor agreement, including: experiences with the implementation of the ITTA, 1994; internationally traded and potentially tradable environmental services provided by tropical forests; and a review of the report of the intersessional working group on preparations for negotiating a successor agreement, also referred to as the Curitiba Report (ITTC(XXXV)/7).

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

ITTC-36: The 36th session of the ITTC met from 20-23 July 2004, in Interlaken, Switzerland. Delegates to ITTC-36 discussed a range of issues, including: preparations for negotiating a successor agreement to the ITTA, 1994; progress reports on the study of forest law enforcement and governance (FLEG) in Malaysia and Honduras; phased approaches to certification; developments in UN Framework Convention on Climate Change (UNFCCC)/Intergovernmental Panel on Climate Change (IPCC) discussions regarding forests; and the promotion of sustainable forest management (SFM) in the Congo Basin. Delegates also considered the recommendations of a joint workshop involving the TAG and CSAG on the issue of illegal logging and associated trade. In the end, delegates approved 11 projects and seven pre-projects and pledged US\$5.7 million in new project funding.

REPORT OF THE CONFERENCE

UNCTAD Secretary-General Rubens Ricupero opened the United Nations Conference on the Negotiation of a Successor Agreement to the International Tropical Timber Agreement, 1994 on Monday morning, 26 July 2004. Following the nomination and acceptance of Amb. Carlos Antonio da Rocha Paranhos (Brazil) as President of the Conference, delegates heard opening statements.

President Paranhos said that ITTO's achievements include the establishment of 38 SFM demonstration areas and that its shortcomings include a narrow funding base.



Ricupero highlighted the ITTA, 1994's distinctiveness in treating trade and environment as issues of equal importance. He stressed that for markets to function properly they require legal frameworks, and warned that, as long as illegal timber exists, its price will undermine the competitiveness of timber from sustainably managed sources.

ITTO Executive Director Manoel Sobral Filho said that ITTO membership has increased from 40 to 59 members, which together encompass 80 percent of the world's tropical forests, and indicated that the new agreement should treat forests more holistically. Urging a focus on the future, he explained how the world of tropical timber will change, given the declining share of tropical timber exports in the global market. Sobral emphasized that if the ITTO is to be useful in the future, negotiators must be flexible. He acknowledged that the ITTO is the only forum that promotes discussion on tropical timber, and called for a constructive agreement to guide ITTO's future work.

ORGANIZATIONAL MATTERS: Delegates adopted the agenda (TD/TIMBER.3/1) and the provisional rules of procedure (TD/TIMBER.3/2). Brazil, on behalf of the Producer Caucus, nominated, and delegates accepted, Jürgen Blaser (Switzerland) as Vice-President of the Conference.

It was agreed that two working groups would be established and that Working Group I (WGI) would address the Preamble and Chapters I-IV of the agreement, with Alhassan Attah (Ghana) as Chair and Jan McAlpine (US) as Vice-Chair. For Working Group II (WGII), the Conference elected Jürgen Blaser (Switzerland) as Chair, and German Espinosa (Ecuador) as Vice-Chair to address Chapters V-XI.

COUNTRY STATEMENTS

Finland, on behalf of the Consumer Caucus, expressed a willingness to conduct negotiations that would address both producers' and consumers' concerns and assured the producers that the consumers would work in a collaborative spirit.

Venezuela supported assistance for capacity building and carrying out project work, and supported inclusion of all forest products in the agreement. The Republic of Korea indicated that the scope of the agreement should be expanded to include logs, sawnwood and other forest products, and recommended changing the name of the ITTO to the International Tropical Forest Organization to reflect this expansion.

The European Community (EC) said the successor agreement should remain a commodity agreement focused on the trade of tropical timber from sustainably managed sources and that the ITTO should not change its name. The EC also stated that environmental services and NTFPs should not be elevated as new and specific objectives and projects could attract more funding if they contain initiatives that cannot be undertaken through bilateral cooperation. The EC said the ITTA should emphasize transparency, multi-stakeholder partnerships, FLEG and trade, and complement other existing agreements and initiatives.

China said the new ITTA should remain a commodity agreement. Switzerland urged consensus on an innovative formula for adequate and secure funding. Ecuador called for increasing awareness of the weaknesses that have hampered the achievement of ITTO Objective 2000. Noting that the ITTA, 1994 and the

successor agreement must be linked to sustainable development and poverty reduction, he stressed that donors must fulfill their commitments to finance projects. Ghana noted that the role of the ITTO in the dialogue on international trade should be enhanced, and identified the Common Fund for Commodities (CFC) as a possible source of funding.

New Zealand suggested that the objectives of the ITTO be broadly defined in order to give the Council greater flexibility and take on new environmental issues, including wood substitutes. He also raised concerns about the unequal financial contributions to the ITTO and the potential for costly, frequent renegotiations.

Expressing concern over a reference by UNCTAD Secretary-General Ricupero to illegal mahogany logging in Brazil, Brazil described how its participatory National Forest Programme (NFP) has become a pillar for sustainable development.

Norway said the successor agreement should continue to focus on tropical timber but also include NTFPs and ecosystem services. He asserted that 50-80 percent of the tropical timber trade is illegal and called on the ITTO to level the playing field for the legal trade. He called for the successor agreement to make reference to mandatory financial contributions and indigenous peoples' rights.

Malaysia, on behalf of the Producer Caucus, noted that some consumer countries have a conflict of interest, as they themselves are large timber exporters, and called for transparency on subsidies for temperate and boreal timber production. He noted that SFM includes compliance with national laws and contrasted producers' obligation to achieve SFM with donors' voluntary, meager and declining financial support for SFM.

Indonesia called for improving the structure of the organization without losing transparency in ITTO's decision-making process. Egypt asked for assistance for desert projects and capacity building, and said NTFPs need attention in the new agreement. India indicated that: indigenous people and tribal people living in the vicinity of ITTO projects should be included in the projects; the socioeconomic elements of promoting NTFPs need to be addressed; and carbon sequestration and its relationship to SFM practices should be emphasized.

Colombia noted that environmental services and NTFPs should be included in the new agreement and indicated, *inter alia*, that adequate finances for projects and programmes is needed and that the social dimension of SFM should be addressed for those dependent on forest resources, since forests are a strategic resource for economic and social development.

Andy White, Forest Trends, Chair of the CSAG, noted that the tropical timber trade has been characterized by unsustainability, illegality and corruption. He recommended that the successor agreement: rededicate its primary mission to the sustainable management of tropical forests, primarily natural forests; contribute to the Millennium Development Goals (MDGs); curtail illegal harvesting of, and associated trade in, tropical forest products; acknowledge the legitimate rights and interests of indigenous peoples; and acknowledge the sustainable production and trade of NTFPs and environmental services.

Geoffrey Pleydell, on behalf of the TAG, called for, *inter alia*: retaining the existing name of the Organization; reconsidering the roles of separate consumer and producer caucuses given that tropical timber is traded between tropical timber producing countries;



retaining the ITTO's focus on wood production and processing; strengthening outreach; and supporting FLEG, ITTO Objective 2000, and phased certification.

The Global Forest Coalition called for: ITTO compliance with multilateral environmental agreements, including the Expanded Forest Biodiversity Work Programme of the Convention on Biological Diversity (CBD); an indigenous peoples and local communities' advisory group; commitment to the MDGs; and non-discriminatory treatment of all timber and countries of origin.

NEGOTIATION OF THE SUCCESSOR AGREEMENT TO THE ITTA, 1994

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. The contact group for Working Group I addressed the preamble and the objectives of the successor agreement. The contact group for Working Group II focused on the financial arrangements.

At the opening session of WGI on Tuesday, Indonesia, supported by Malaysia, queried whether observers should be allowed to participate, and proposed that they not be permitted to do so. UNCTAD said that, unless the conference decides otherwise, the rules of procedure allow observers to participate, but not to vote. Following consultations, a Joint Working Group was convened to discuss this issue.

In the Plenary later that afternoon, Vice-President Blaser announced that for the duration of the day observers would be permitted to sit in the working groups, but not speak. He then invited the two caucuses to discuss the issue and report back to Plenary on Wednesday, 28 July.

On Wednesday, at the outset of both working group negotiations, the respective Chairs announced that observers would be permitted to make interventions at the outset of the negotiation of each chapter, but not during the specific textual negotiations on each article. This arrangement remained in place for the duration of the negotiations.

Also throughout the week, many delegates, producers and consumers alike, voiced their concern regarding the lack of audio services before 10:00 am and after 6:00 pm. They were also concerned about a similar lack of Spanish, Chinese and Arabic interpretation during off-hours and about the translation of documents into languages other than English. In order to properly facilitate the work of the Producer Caucus, it was agreed that on Tuesday and Wednesday, the working groups would end early so that the

Producer Caucus could meet from 5:00 – 6:00 pm to carry out its caucus meetings with full translation, interpretation and amplification.

The following summarizes the state of play and the main contentious issues of the articles under negotiation in the working document. Text that is not bracketed has been adopted *ad referendum*. This summary is based on the last available working document prior to the close of the conference.

PREAMBLE

Working Group I and its contact group spent most of its time discussing the preambular paragraphs, including a conceptual discussion within the contact group on the role of a preamble in a convention.

On a paragraph recalling previous economic initiatives, language in the ITTA, 1994 on the Cartagena Commitment from UNCTAD VIII was superseded by language on the Spirit of São Paulo and São Paulo Consensus from UNCTAD XI. Specific reference to paragraph 100 (on supply-side management, including price risk and over-supply) of the Consensus was left in brackets.

Delegates agreed to retain a paragraph recalling the ITTA, 1983 the ITTA, 1994 and the achievements of the ITTO, including reference to its strategy for achieving international trade in tropical timber from sustainably managed sources.

On a paragraph referring to other processes and agreements, several references to other processes were added to the ITTA, 1994 text, including the 2002 Johannesburg Declaration, the UN Forum on Forests (UNFF), and the Collaborative Partnership on Forests (CPF). One delegate queried inclusion of a reference from the ITTA, 1994 to the three Rio conventions when other conventions more closely related to forests, such as CITES, were not included. The reference was left bracketed. Delegates deleted a proposed reference to "forest-related multilateral environmental and trade agreements."

On recognizing the economic importance of timber, a number of countries favored adding "NTFPs" and others suggested "forest-related services." These were put in brackets.

On the multiple economic, environmental and social benefits provided by forests, some delegates favored adding "NTFPs" and others proposed adding "ecological" or "environmental" services. All three options remain bracketed. Proposals to recognize the contribution of related "trade" to sustainable development and to the achievement of internationally agreed development goals, including the "Millennium Development Goals" (MDGs), were accepted, but a proposal to recognize the contribution of SFM-related "services" remains bracketed.

Proposals to modify an ITTA, 1994 paragraph to recognize the need to promote and apply comparable criteria "and indicators" (C&I) for "sustainable forest management" were accepted. Delegates accepted a proposal to replace language specifying C&I as important tools for "assessing, monitoring, and promoting members' progress" to language noting that they are important tools for "all members to assess, monitor and promote progress" toward SFM. A Malaysian proposal to specify SFM "of all types of forest" was bracketed.

Delegates agreed to expand an ITTA, 1994 paragraph taking into account the linkages of tropical timber trade and the international timber market to include the "wider global economy."



On a paragraph on previous commitments, Malaysia urged that the mutual commitments for both producers and consumers be reaffirmed. Final language for this paragraph includes reaffirmation of the commitment to moving as rapidly as possible toward achieving exports of tropical timber and timber products from sustainably managed sources and the "ITTO Objective 2000." Delegates bracketed language adding their commitment to the Bali Partnership Fund. They deleted ITTA, 1994 language recognizing Principle 10 of the Non-Legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of all Types of Forests (the Forest Principles) on new and additional financial resources.

An ITTA, 1994 paragraph recalling consuming members' 1994 commitment to maintain or achieve the sustainable management of their forests was kept intact.

Cameroon opposed, but the US, New Zealand and the EU favored, a proposed paragraph recognizing the importance of collaboration among members, international organizations and other non-state actors. The US, with the EU and Peru, favored "including indigenous and local communities." Norway, with Switzerland, suggested adding a reference to indigenous "peoples." New Zealand suggested referring to "civil society" only. Colombia preferred referring to "other major groups of stakeholders." The entire paragraph, "recognizing the importance of collaboration among members, international organizations, the private sector and civil society, including indigenous [peoples] and/or local communities, and other stakeholders in promoting SFM," remains bracketed.

An Indonesian proposal to include "improving forest law enforcement and combating illegal trade" was put into a new paragraph "also recognizing the importance of such collaboration for improving forest law enforcement and promoting trade from legally harvested timber. This paragraph was also bracketed.

The US proposed a new paragraph noting the role of good governance, forest law enforcement, clear land tenure arrangements and cross-sectoral coordination at the national level in achieving SFM. Delegates discussed whether this should be limited to the national level and this was bracketed. Malaysia proposed adding text, which was bracketed, noting "the commitment of consumers to the Bali Partnership Fund and the Special Account." The entire text is bracketed.

On a proposed paragraph recognizing the need to enhance capacity to achieve the Agreement's objectives, there was much debate over whether to specify forest-dependent indigenous "peoples" "and/or" local communities, including those who are forest owners and managers. Both "peoples" "and/or" local communities remain bracketed in the text, with a Malaysian proposal to add language specifying achieving the Agreement's objectives "for all types of forests" bracketed at the end.

A proposed paragraph noting the need to improve the standard of living and working conditions within the forest sector, bearing in mind relevant internationally recognized principles on these matters, was not bracketed in the revised working document.

Malaysia added "environmental" standards to a proposed new paragraph stating that labor standards should not be used for trade protectionist purposes. The entire paragraph was bracketed.

Norway, supported by Papua New Guinea, proposed replacing the three proposed paragraphs on enhancing capacity, improving the standard of living and working conditions and not using labor standards for protectionist trade purposes with one paragraph recognizing the rights of indigenous peoples and workers according to relevant ILO conventions. This proposed paragraph remains bracketed.

A proposed paragraph noting that timber is the most energy-efficient and environmentally sustainable raw material compared with competing products was modified to read that timber is "an" energy efficient and "renewable" raw material compared with competing products. The entire paragraph was bracketed.

Malaysia, supported by Venezuela, proposed new text recognizing the need for transparency in the global timber economy, including the examination of subsidies in member countries. The new text on recognizing the need for transparency in the timber economy, including subsidies in member countries, remains bracketed.

A new paragraph, recognizing the necessity to provide a fair price for tropical timber on the international markets, was proposed. The US bracketed the paragraph, cautioning that it was not prepared to go beyond São Paulo Consensus paragraph 100 on, *inter alia*, formulating strategies to respond to commodity markets over-supply.

A new Norwegian proposal for a paragraph taking into account the special needs of least developed tropical timber producing countries in achieving SFM as a means to poverty reduction was bracketed.

CHAPTER I. OBJECTIVES

Objectives (Article 1): Although delegates discussed this article at length and throughout the week in both in WGI and its contact group, no consensus was reached on its structure or content. Initially, there was a proposal to include four "overarching" objectives in the article, on providing an effective framework, enhancing capacity of members, promoting and supporting SFM, and promoting and supporting trade from tropical forests, but the term "overarching" was deleted.

During initial debate, Norway and Malaysia recommended clear, specific objectives. New Zealand, the US, Switzerland and the EC, preferred a few general objectives, rather than a long list of specific objectives, noting it would give Council more flexibility. The Philippines, with India, Brazil and India, favored maintaining the existing objectives of the ITTA, 1994. Liberia and others advocated including new and emerging issues. Indonesia proposed specific objectives addressing, *inter alia*, technical assistance to combat illegal logging and trade in illegally logged timber, market intelligence and law enforcement collaboration, and enhancement of local government capacity.

Switzerland proposed focusing on a few general objectives, followed by a section listing "functions" or "mechanisms" that would serve as a means for achieving the objectives. In the contact group, various proposals were made to include broad objectives related to trade and promoting and supporting SFM, as well as on promoting equitable production and trade based on SFM, taking into account social, economic and environmental aspects. However, some delegates highlighted specific objectives from ITTA, 1994 that should be included as objectives in the new agree-



ment. Malaysia proposed text on promoting the elimination of subsidies in all timber-producing countries, and maintaining ITTO Objective 2000 and linking it to the Bali Partnership Fund. Norway proposed including provisions on taking effective measures against illegal logging and related trade, promoting certification, exploring potential markets for ecological services, and promoting legal trade in NTFPs, excluding genetic resources.

Lengthy debate ensued over the proposed structure. Switzerland and other proponents of the new structure recommended that the article on objectives should reflect the aspirations of the Agreement and be concise and broad. However, some delegates questioned the new structure and reiterated that the objectives from ITTA, 1994 should be used as a basis for negotiation.

Some believed the proposed structure would de-emphasize the obligations of some members and put more obligations on producers. They expressed concern that ITTA, 1994 objectives would be left behind or perceived as having less importance if they were included in the functional section of the article. No agreement was reached and the article remains bracketed in its entirety.

The bracketed text in the working document includes chapeau language recognizing sovereignty over natural resources along with the need to protect the environment. It outlines the proposed new structure and includes proposed general objectives and some possible means of achieving the objectives. Also included are ITTA, 1994 objectives so that they may be considered in the new article on objectives.

CHAPTER II. DEFINITIONS

Definitions (Article 2): On a paragraph defining “tropical timber,” discussion focused on what should be included. Switzerland, China, Norway and the Republic of Korea proposed deleting the limitation to “non-coniferous tropical” wood as specified in the ITTA, 1994. The EC objected and it was bracketed. Japan called for inclusion of “panel products and engineered lumber” to replace “plywood” in the ITTA, 1994. Panama called for inclusion of artisanry or handicrafts. “Furniture” appears in the revised working document and remains bracketed. Malaysia asked for a report on the implications of including new terms. The list of materials that the term “tropical timber” covers, including terms from the ITTA, 1994, as well as terms proposed to replace and/or augment them, remains bracketed. The EC stressed the need to align definitions with customs classifications. The entire definition of tropical timber remains bracketed pending clarification by the Secretariat on technical issues.

The ITTA, 1994 definition of “further processing” was bracketed, some stating that its inclusion was not necessary.

Calls came from various countries to include definitions of new terms, such as SFM, NTFPs, ecological services, certification, and tropical forest resources. Malaysia supported including the proposed definition of SFM, while the US, supported by Nigeria, noted that SFM is an evolving concept and therefore should not be defined. Bracketed definitions of SFM and NTFPs were inserted into the working document, with a proposal by Norway to exclude “genetic resources” from NTFPs, which was bracketed. A note in the working document calls for inclusion of a definition of timber certification.

On “member,” delegates discussed the EC’s unique status. The US, with Egypt, voiced concern over other international organizations’ potential membership. A proposal was made to specify a government or “the European Community or any other” IGO, and this was bracketed, along with ITTA, 1994 language “or an inter-governmental organization referred to in Article 5.”

On “producing member,” Venezuela, supported by Colombia, noted some countries have abundant tropical forest resources but no developed export capacity. Cameroon, with the US, warned that countries that serve as transit points for timber or timber products are technically “exporters.” The US opposed limiting producing members to “net” exporters. The EC queried whether countries that have forests but do not trade, or have very sparse forest cover, should be producing members of a trade-based commodity organization. The current working document offers a definition of “producing” and “producer” (bracketed) members, alternatively, based on New Zealand’s displeasure with the term “consuming” member to denote consumers. An alternative definition of a producing member as any country with tropical forest resources and/or a net exporter of tropical timber, from the ITTA, 1994, is bracketed.

On “consuming member,” the US proposed opening membership to any country that “is an importer of tropical timber.” The EC queried limiting membership to “countries,” noting its unique supranational status. Malaysia warned of the implications of EC membership for voting. The working document specifies that “Consuming [Consumer] member” means any country [member] [which is an importer of tropical timber] listed in annex B which becomes a party to this Agreement, or any country [member] [which is an importer of tropical timber] not so listed which becomes a party to this Agreement and which the Council, with the consent of that country [member], declares to be a consuming [consumer] member.” “Annex B” refers to a list of ITTO consuming members.

Alternative definitions for producing and consuming members were proposed by Mexico, which suggested opening producing country membership to “any member with forest resources and/or exporter of tropical timber and consuming country membership to “any member” rather than “country,” as in the ITTA, 1994. Both alternatives were left for consideration at the next negotiating session.

On the names of the Organization and Council, the US supported replacing International Tropical “Timber” with “Forest.” China and Japan opposed this change. “Timber” and “Forests” remain bracketed in both definitions.

Regarding definitions for “special vote” and “simple distributed majority vote,” the US supported having only one voting scheme, deleting the definition for simple majority vote and bracketing reference to “special.” Japan, with Malaysia, supported maintaining both definitions. Regarding “special vote,” Malaysia noted an inconsistency in requiring 2/3 of producing member votes and only 60 percent of consuming member votes. The working document paragraph on “special vote” modifies ITTA, 1994 text by bracketing “special” vote and “60” percent. The ITTA, 1994 definition for “simple distributed majority vote” remains unchanged. Both definitions are bracketed in their entirety.



Regarding a definition for the financial time period, the US, with China, proposed replacing a definition for financial “year” with financial “biennium,” and both references remain in brackets.

Delegates agreed to retain the ITTA, 1994 definition for “freely usable currencies,” but references to the Euro and the Swiss franc remain in brackets.

CHAPTER III. ORGANIZATION AND ADMINISTRATION

Headquarters and Structure of the International Tropical [Timber] [Forest] Organization (Article 3): During the discussion on the article on the organization’s headquarters and structure, the Republic of Korea, with the US and Switzerland, opposed by Japan and Malaysia, favored renaming the organization the International Tropical Forest Organization. No consensus was reached on this issue. A reference to committees and other subsidiary bodies remains bracketed, pending a decision in other articles related to structure, as does a reference to special vote, pending agreement on the number of voting schemes.

Delegates debated a proposed paragraph on whether to establish regional offices in Africa and Latin America. Japan expressed concern over cost implications of establishing regional offices, while Côte d’Ivoire, Gabon, Egypt, Liberia, Cameroon, Brazil, Republic of Congo and Norway supported the proposal. Stressing that it was not opposed to establishing regional offices, the EC said such a decision should be taken by the Council, and not be included in the agreement, and emphasized Japan’s considerable financial support to the ITTO Secretariat. Japan, noting improved communication in the technology era, said cost effectiveness must be further analyzed, and that even if it is deemed necessary, the decision to establish regional offices should be made by the Council to allow for flexibility. The remainder of the article remains unchanged from ITTA, 1994.

Membership in the Organization (Article 4): Delegates discussed a proposal by New Zealand for a change from producing and consuming to “producer” and “consumer” members. China stressed that this change should conform to language on definitions. The UNCTAD Secretariat noted that members of the International Coffee Agreement and the International Cocoa Agreement are called “exporting” and “importing,” respectively. Malaysia preferred keeping the terms as in ITTA, 1994, and producer and consumer were bracketed.

Membership by Intergovernmental Organizations (Article 5): On membership of IGOs, Egypt proposed confining membership to the EC only. Vice-Chair McAlpine suggested distinguishing intergovernmental “bodies” with governmental functions from other IGOs. Other countries thought the issue should be dealt with under Article 2 on definitions. Indonesia proposed new categories of “members,” including producers and consumers and “observers,” such as IGOs. Malaysia, supported by Cameroon, suggested making IGOs permanent observers. The EC suggested limiting membership of “any intergovernmental organization” to those with authority transmitted from member states. The text reads that “any reference in this Agreement to ‘Governments’ shall be construed as including the European Community [and[any other] intergovernmental organization[s]] having responsibilities in respect of the negotiation, conclusion and application of international agreements, in particular commodity agreements.”

On IGO voting, the EC proposed that voting and presence of members be counted in terms of total number of member states’ votes. Cameroon, supported by the EC, proposed specifying that IGO member states would be ineligible to vote “throughout” the agreement’s duration. The working document reflects those comments in brackets.

CHAPTER IV. INTERNATIONAL TROPICAL TIMBER COUNCIL

Composition of the International Tropical Timber Council (Article 6): Delegates agreed to retain this article using the same language that appears in the ITTA, 1994.

Powers and Functions of the Council (Article 7): Delegates briefly discussed the article addressing the powers and functions of Council and the rules and regulations necessary to carry out the agreement’s provisions. The article contains brackets around a reference to adopting rules and regulations “by special vote.” Delegates did not reach consensus on whether to specify the Administrative Account, the Special Account and the Bali Partnership Fund or to include reference to accounts established in Article 18 (Financial Accounts). The US proposed a new paragraph reflecting the Council’s responsibilities to run an efficient and effective organization and establish action plans and work programmes, which remains in brackets. The remainder of this article remains unchanged from ITTA, 1994.

Chairman and Vice-Chairman of the Council (Article 8): Delegates agreed that the officers for each Council session would be referred to as Chairman and Vice-Chairman.

Sessions of the Council (Article 9): On the number of Council sessions per year, Japan, Switzerland, Cameroon and the US proposed specifying one regular meeting and one executive board meeting per year. Venezuela, supported by Brazil, Colombia, Nigeria and the Republic of Congo, objected. Japan expressed flexibility to maintain current language on “at least one” regular session per year. Alternative texts specifying “at least” “one” or “two” regular sessions per year remain bracketed. An ITTA, 1994 reference to “one in a producer country” is also bracketed, reflecting the fact that countries are not in agreement on reducing the number of meetings to one per year.

On deciding to hold special sessions, the working document reads, on the basis of proposals by the US, Japan and New Zealand, that a request to hold a special session must be made by “(a) The Executive Director, in agreement with the Chairman [and Vice Chairman] of the Council; or (b) A majority of producing members of [and] a majority of consuming members” as two paths by which a special session may take place. The Secretariat explained that majority normally means over 50 percent of delegates present and voting. The proposals were bracketed in the working document.

On location of sessions, the US proposed, and Japan bracketed, that “Council shall seek to convene alternate sessions of the Council outside headquarters.” A suggestion that delegates decide this “by special vote” was also bracketed.

A paragraph calling for notice of sessions to be communicated to members at least six weeks in advance was left unchanged from the ITTA, 1994.

Executive Board (Article 9bis): Delegates briefly discussed the proposed article on establishing an executive board. The EC: linked it to discussions on project cycle and committees; suggested



that the issues be discussed jointly with WGII; and stated that the article might be better placed elsewhere in the agreement. Japan proposed adding another paragraph, reflecting that executive board sessions will be held at ITTO headquarters unless the Council decides otherwise, in which case the host executive board member would pay the additional cost of holding the meeting away from ITTO headquarters. The content of the article was not discussed and the entire article remains bracketed.

The proposed article calls for the establishment of an executive board to supplement the Council's work, which would be composed of the Council Chair and Vice-Chair, Committee Chairs and Vice-Chairs, caucus spokespersons, host country (Japan) representative, and representatives from six producer and six consumer countries.

The proposed functions include:

- receiving, generating, synthesizing, and providing advice to the Council;
- considering priorities related to public relations and public education;
- identifying actions needed to respond to emerging issues;
- advising the Council on complaints and disputes;
- reviewing and approving project and pre-project proposals between Council sessions; and
- considering activities, projects and pre-projects eligible for funding under Sub-Account B of the Bali Partnership Fund.

Distribution of Votes (Article 10): This article was not discussed since delegates agreed it requires the attention of a joint working group. The entire article remains bracketed and will be addressed during the next session of the negotiations.

Voting Procedure of the Council (Article 11): This article remains unchanged from ITTA, 1994.

Decisions and Recommendations of the Council

(Article 12): In discussing this article, delegates did not agree on whether the Council should "make every effort" or "endeavor" to take all decisions by consensus, but agreed that if consensus cannot be reached, decisions will be taken and recommendations made by a vote. However, the type of vote remains unresolved and "special vote" and "simple distributed vote" remain in brackets, pending resolution on the number of voting schemes.

Quorum of the Council (Article 13): Regarding a paragraph in the article stating a quorum is the presence of a majority of members, provided such members hold at least two-thirds of the total votes, delegates debated, but did not reach consensus, on what constitutes a "majority" in the context of a quorum. Panama noted ambiguity over reference to two-thirds of total votes in this context, and this provision remains bracketed, as do references to "majority." Paragraphs 2 and 3 remain identical to ITTA, 1994 language.

Executive Director and Staff (Article 14): During discussion of this article, the US proposed deleting text referring to staffing decisions taken by the Council in order to give more flexibility to the Executive Director in taking staffing decisions, but the text remains bracketed. A reference to special vote also remains bracketed, pending a decision on the number of voting schemes. The rest of the text remains unchanged from ITTA, 1994.

Cooperation and Coordination with Other Organizations

(Article 15): Four alternative proposals were debated for modifying language from the ITTA, 1994, which calls for the Council to make arrangements, as appropriate, for consultations and cooperation with the UN and its organs, including a list of organizations, and NGOs. Discussion centered around whether a list of organizations should be included, and if so, which ones. Malaysia requested mention of CSAG and TAG in the list of organizations, but the Philippines and China noted that these are not separate from the ITTO. New Zealand, the US, the EC and Mexico preferred a general mention of "organizations," to which the Philippines added "processes." The EC added "conventions" and also favored mentioning the private sector and NGOs. Panama noted that the common understanding of "NGO" is a non-profit organization. Delegates discussed whether the term "international" organization could include all organizations. Indonesia stressed consideration of other organizations' relevance to ITTO's objectives if they were to be listed.

The current working document maintains the four alternative constructions of this paragraph. The first maintains ITTA, 1994 language, replacing GATT with WTO in the list of organizations to be consulted. The other three differ in whether they list organs, and, if so, which organs, agencies, organizations, processes, or conventions are listed. They also differ in what the Council is called upon to do, whether to "make arrangements as appropriate", "facilitate," "make arrangements for the ITTO," or "provide for" consultations and cooperation.

Modifications were proposed for an ITTA, 1994 paragraph on utilizing the facilities, services and expertise of existing intergovernmental, governmental or non-governmental organizations. A proposal to drop reference to "existing" organizations was accepted; proposals to include "civil society" and/or the "private sector" were bracketed.

Delegates accepted a proposal to move Chapter VIII from ITTA, 1994, on taking full advantage of the facilities of the Common Fund for Commodities, to this article.

Admission of Observers (Article 16): A proposal was made to modify ITTA, 1994 language specifying that Council may invite any non-member government or any of the organizations referred to in Article 15 (Cooperation and Coordination with Other Organizations), Article 20 (Special Account) or Article 29 (Statistics, Studies and Information) to attend any Council meetings as observers. Instead, the proposal refers, more generally, to organizations referred to "in the Agreement". Both alternatives remain bracketed.

CHAPTER V. PRIVILEGES AND IMMUNITIES

Privileges and Immunities (Article 17): Delegates discussed the article on privileges and immunities necessary for the functioning of the agreement and approved the original text from ITTA, 1994 without amendment.

CHAPTER VI. FINANCE

Based on initial WGII discussions on the current structure of the Organization's accounts and a separate work programme account, Chair Blaser suggested that small number of delegates meet in a contact group to discuss finances. A balanced number of producer and consumer members met in a contact group to revise



Articles 18-21 and discuss a new financial structure for the Organization. The contact group produced a revised Chapter VI. The entire chapter was bracketed in the working document.

Financial Accounts (Article 18): During an initial discussion, the Netherlands, on behalf of the European Union, supported by Canada, stressed the dependence of Council's work on contributions to the Administrative Account. Switzerland said a work programme account would help ensure sufficient financial coverage for priority projects.

The US, New Zealand and Canada emphasized that the ITTO should not be a development organization but should retain its focus on commodities. Malaysia noted that more resources are required for the Bali Partnership Fund and the Administrative Account. The EC, supported by Canada, suggested the objectives of the Administrative Account should be specified. Japan reported on past levels of voluntary funding based on net imports of round-wood equivalent, indicating that it could not continue giving the same level of contributions in the future. Japan urged more consumer countries to make voluntary contributions.

Delegates agreed to text mentioning the current structure of the ITTO's accounts, which are the Administrative Account, the Special Account, the Bali Partnership Fund and other accounts deemed appropriate by the Council. Delegates noted that further discussion was needed on the bracketed text referring to a "work programme account." Delegates left unchanged ITTA, 1994 language regarding the Council's role in establishing financial rules for the management and administration of accounts.

Administrative Account (Article 19): On Tuesday, the EC, opposed by Japan, proposed that policy work in support of key Council functions be included, and insisted on maintaining an emphasis on biennial budgeting. The US proposed inserting language stating that members that have not paid their assessments in full for two consecutive years will be ineligible to submit projects and pre-projects for funding consideration.

Delegates agreed to bracket text regarding the linkage of a member state's votes to its assessed contribution and the number of years in arrears that should determine when a member state's ability to submit project and pre-project proposals would be affected. The remaining text is unchanged from the ITTA, 1994.

Special Account (Article 20): The EC requested enhancing the role of the Executive Director in facilitating the development of project proposals. The US said that member state liability for pre-project and project funding should relate to any action undertaken during projects and pre-projects and not just borrowing or lending activities. The US, opposed by the EC, proposed language noting that Council should decide what to do with the remainder of unearmarked project funds, instead of directly returning these to the contributor.

Delegates agreed to retain the current text of ITTA, 1994, but left bracketed text that concerns how remaining earmarked and unearmarked funds are to be used.

Bali Partnership Fund (Article 21): On Monday, the EC suggested establishing a trust fund for worthwhile projects and pre-projects.

On Tuesday, Côte d'Ivoire suggested that funds remaining from completed projects should be moved from the Special Account to the Bali Partnership Fund. The US, supported by the EC, called for

100 percent of income earned from investment activities related to the Special Account to be included in the Bali Partnership Fund. Indonesia suggested a reference stating that only consumer members should contribute to the Fund.

On Wednesday, Togo proposed that Council should also take into account countries without significant forest areas when allocating the Fund's resources. Switzerland, supported by Norway, proposed that the Council should take into account countries that establish significant conservation programmes in timber producing forests. The US proposed considering regional benefits, the approved work programme and biennial examination of the Fund's available resources. Indonesia requested that in allocating resources from the Fund, Council should take into account the ability of "producer" members to achieve SFM given their limited resources. The final text does not distinguish between producers and consumers in the paragraph on allocating resources from the Fund.

Delegates agreed to a compromise text with minor changes to the language of ITTA, 1994, but have yet to determine the amount of income from investment activities in the Special Account that should be applied to the Bali Partnership Fund. Specific reference to the needs of members who establish and manage significant conservation programmes in timber producing forests was inserted, since this implies that potential recipients of pre-project and project funding need to be implementing baseline activities to achieve SFM.

Work Programme Account (Article 21bis): On Wednesday, China and the US said they do not support a proposed work programme account. Switzerland supported a work programme account to ensure stable funding for the organization. Noting that the current system of contributions is trade-based, the EC opposed basing assessments for a work programme account on gross domestic product (GDP). Japan stated that all consuming members share a responsibility to fund a work programme account.

Delegates agreed to further debate the issue of a separate work programme account, which would fund policy activities defined in the Biennial Work Programme, as well as the cap on the total amount of the account and the scheme for donor contributions. Delegates also proposed adding certain policy and programme activities from a work programme account to the Administrative and Special Accounts.

Forms of Payment (Article 22): The US, supported by the EC, suggested modifying the language to "accounts established under Article 18," instead of explicitly listing the ITTO's accounts. New Zealand suggested replacing "usable" with "convertible" when referring to the type of currency in which a member pays.

Delegates agreed to bracket these changes, and other ITTA, 1994 language was kept in its original form when specifying how a member state pays its assessed and voluntary contributions.

Audit and Publication of Accounts (Article 23): The EC emphasized that the language should reflect the need for annual financial audits. Delegates agreed to retain ITTA, 1994 language on appointing an independent auditor and making available timely audit reports to members.



CHAPTER VII. OPERATIONAL ACTIVITIES

Policy Work of the Organization (Article 24): Regarding areas covered by policies and activities, the US suggested they be undertaken in an “integrated and balanced manner.” The US, supported by Colombia, also proposed inclusion of a work programme account, along with references to action plans, to define the work of the Organization. Brazil suggested that Council should define a five-year action plan to serve as the basis for policy and project activities, which Switzerland supported by including “successive” five-year action plans. Norway speculated that WGI might put forward specific objectives for the new agreement, which could take the place of the current list of policy activities. Chair Blaser said WGII would revisit this paragraph once the objectives had become known. Since WGI did not agree upon objectives relating to policy activities, the examples of policy work were bracketed. Delegates agreed to retain language specifying that Council should establish priorities through its action plans and work programmes.

Project Activities of the Organization (Article 25): On Wednesday, delegates discussed issues relating to submission of pre-projects and projects. The US proposed that members who have not paid their full contribution for two consecutive years should be ineligible to submit project and pre-project proposals.

There was some debate on whether projects and pre-projects should be guided by action plans and work programmes or whether work programmes should only be considered secondary to the successor agreement’s objectives.

Brazil and others called for project and pre-project submissions to take into consideration the particular needs of developing countries. Colombia proposed that such submissions should be done in the context of policies and action plans approved by the Council. On Friday, the US challenged the reference to the needs of developing countries, noting that the agreement is based on consumer and producer countries, not developing and developed countries.

On Thursday, delegates discussed what the Council should consider when it approves pre-projects and projects. Some delegates opposed creating long lists of considerations for the Council while others called for them to be linked to NFPs. Switzerland proposed allowing the Council to establish approval criteria for projects and pre-projects. Several producer countries proposed new language on contributions to national and local sustainable development. Noting that ITTA is a commodity agreement, Indonesia said that the Council should also consider economic effects in its approval of projects and pre-projects. New Zealand called for adapting projects based on lessons learned.

Unable to agree on a list of considerations, delegates eventually broke into an informal informal contact group to draft a new general paragraph incorporating a number of considerations. The contact group reported back to WGII, which agreed that the Council should establish criteria for approval of projects and pre-projects, taking into account:

- their relevance to the objectives of the agreement;
- their relationship to NFPs and strategies;
- their cost effectiveness;
- the need to avoid duplication of efforts; and
- the need to incorporate lessons learned.

Further amendments were proposed to make the criteria more encompassing.

On the issue of the Council’s termination of projects and pre-projects, some delegates favored deciding by special vote. Others suggested adding that such sponsorship would be terminated “following the report of the Executive Director.” Still others recommended that the Council should establish limits for the number of projects and pre-projects “according to agreed criteria.” Delegates also agreed to refer to projects and pre-projects considered in the “project cycle” instead of “fiscal” or “calendar” year.

Delegates did not reach agreement on the majority of the issues and, with the exception of the paragraph on suspending funds to mismanaged pre-projects and projects, the entire article was bracketed.

Committees and Subsidiary Bodies (Article 26): This article formally amalgamates the Committee on Economic Information and Market Intelligence and the Committee on Forest Industry into one committee, the “Committee on Economic Information, Market Intelligence and Forest Industry.”

The article also recognizes that the Council can establish committees and subsidiary bodies as necessary. The US proposed language to ensure that the Council has the right to dissolve the committees and subsidiary bodies as necessary. This latter provision remains bracketed in the working document.

Three additional paragraphs were imported from Article 27 (Functions of the Committees), which specify that the committees will formulate recommendations to the Council and that the Council will determine the scope of policy and technical work of the committees and subsidiary bodies. With regard to the functions of the committees, those previously appearing in Article 27 of the ITTA, 1994 have placed in an annex to the successor agreement, which is referred to in this article. According to the provisional article, these functions will remain active until the Council decides otherwise.

Functions of the Committees (Article 27): This article was deleted, but elements contained in Article 27 were folded into Article 26.

CHAPTER VIII. RELATIONSHIP WITH THE COMMON FUND FOR COMMODITIES

Relationship with the Common Fund for Commodities (Article 28): This article was merged into Article 15 (Cooperation and Coordination with Other Organizations).

CHAPTER IX. STATISTICS, STUDIES AND INFORMATION

The African Timber Organization said that Council should work within a network of regional and subregional organizations to ensure a free flow of information to the Organization.

Statistics, Studies and Information (Article 29): On Monday, the EC suggested that the Council should not have control over statistical issues, while Canada foresaw problems with statistics related to coniferous forest products.

Delegates continued lengthy discussions on statistics, studies and information on Thursday and Friday. The US suggested that data discrepancies on the tropical timber trade be made available to the Organization. Reference to providing information on such data discrepancies remains bracketed.



On countries' responsibility to provide timber statistics and information, Switzerland and Côte d'Ivoire noted that it was irrelevant to make reference to inconsistencies with national legislation. Nevertheless, noting that providing data may potentially conflict with national legislation, Brazil, supported by the EC and Myanmar, agreed to furnish statistics and information on timber if it is done "to the fullest extent possible not inconsistent with their national legislation".

The US, supported by New Zealand, proposed new text on restricting voting rights and project and pre-project submissions for members who have not submitted their statistics and information in a timely manner. Côte d'Ivoire, Trinidad and Tobago, Cameroon, Brazil and the EC opposed this. The EC insisted that the agreement should encourage members to submit their data and should not be built on distrust. The entire proposal remains bracketed.

The role of the Executive Director in ensuring the availability of recent and reliable data on tropical timber trade also engendered debate. Delegates disagreed over whether Council or the Executive Director should specify the time frame within which members should furnish statistics and information on timber. Noting the need for greater flexibility for the Executive Director, Colombia preferred to "provide guidance" instead of "authorize" the Executive Director. The exact role of the Executive Director in data reporting remained unresolved.

Delegates also did not agree on who should specify the time period within which data must be provided. The EC suggested that the Executive Director or Secretariat should be responsible for specifying the time period within which data must be provided, whereas Brazil preferred that the responsibility be given to the Council. References to both the Executive Director and the Council remain bracketed.

On the issue of whether members should be provided with assistance in developing project submissions, the EC, supported by Switzerland, proposed considering whether there is a need to provide assistance to members. This issue remains bracketed.

The proposals to standardize, harmonize, and avoid duplication in international reporting on forest-related matters and to have the Council arrange studies on the international timber market were approved. All other paragraphs remain bracketed.

Annual Report and Review (Article 30): On Friday, delegates agreed to retain ITTA, 1994 language on the annual report and review. Delegates will further consider new bracketed text requiring the Council to periodically review and assess the state of management of tropical timber producing forests.

CHAPTER X. MISCELLANEOUS

Complaints and Disputes (Article 31): On Friday, delegates agreed to revisit text regarding disputes that are decided by the Council at the next negotiating session, since debate continues on whether decisions should be taken by special vote or by consensus.

General Obligations of Members (Article 32): Delegates will need to revisit the insertion of a reference to the obligation of member states to contribute to the Administrative Account and to provide statistics. A note in the working document reflects this, and the remainder of the text contains ITTA, 1994 language.

Relief from Obligations (Article 33): Delegates agreed to retain ITTA, 1994 text specifying when Council may relieve a member from obligations of the agreement.

Differential and Remedial Measures and Special Measures (Article 34): Delegates agreed to refer language on special measures for least developed countries to the UNCTAD legal advisor. The entire text remains bracketed.

Review (Article 35): Delegates bracketed this article, which explains the timeline for the review of the agreement's scope, since they could not agree on the duration of the agreement or whether member states should review "scope" or "objectives."

Non-Discrimination (Article 36): Delegates agreed to retain ITTA, 1994 text noting that the agreement does not authorize the use of restrictions or bans on trade in imports and utilization of timber and timber products.

CHAPTER XI: FINAL PROVISIONS

Depository (Article 37): This article remains unchanged from the ITTA, 1994.

Signature, Ratification, Acceptance and Approval (Article 38): This article remains in brackets pending an additional paragraph from the EC specifying how it will sign, ratify and accept the successor agreement, taking into account its unique situation as an IGO.

Accession (Article 39): This article remains unchanged from the ITTA, 1994.

Notification and Provisional Application (Article 40): This article remains unchanged from the ITTA, 1994.

Entry into Force (Article 41): This article engendered some discussion over the amount of producer and consumer votes required for the agreement to enter in force. The date from which the successor agreement will enter into force also needs updating. This entire article remains bracketed.

Amendments (Article 42): This article remains unchanged from the ITTA, 1994, apart from the bracketing of a reference to the Council recommending an amendment "by special vote," based on continuing debate over the form or forms that votes will take.

Withdrawal (Article 43): Some delegates were unclear as to whether members are obligated to pay their arrears to the organization after their withdrawal. To clarify this, the word "pending" was proposed by Colombia to specify which type of financial obligations withdrawing members would be responsible to pay.

Exclusion (Article 44): This article remains unchanged from the ITTA, 1994.

Settlement of Accounts with Withdrawing or Excluded Members or Members Unable to Accept an Amendment (Article 45): This article remains unchanged from the ITTA, 1994, except for an agreed change specifying that any assessments or contributions shall be paid into the financial accounts established under Article 18 (Financial Accounts).

Duration, Extension and Termination (Article 46): Both duration and the issue of extension remain to be decided. New Zealand proposed that the agreement be extended up to three times for five-year periods. Some countries want the agreement to remain in force for an initial period of four years, while others prefer an initial ten-year period. All references to duration and extension remain bracketed, as do references to Council decisions by special vote.

Reservations (Article 47): This article remains unchanged from the ITTA, 1994.



Supplementary and Transitional Provisions (Article 48):

This article remains unchanged from the ITTA, 1994, except that it will contain the new name of the agreement once this is finalized.

CLOSING PLENARY

On Friday afternoon, 30 July, delegates convened in plenary to hear reports of the working groups, finalize the dates of the second session of the Conference and hear closing statements.

REPORT OF WORKING GROUP I: Working Group I Chair Attah presented the group's report in which he specified several substantive issues that prevented full agreement on Chapters I-IV, including:

- the objectives of the agreement;
- the name of the organization;
- the presence of regional offices;
- the frequency of Council sessions;
- voting;
- IGO membership;
- the status of non-coniferous tree species; and
- the proposed executive board.

He also noted the need for a joint working group on cross-cutting issues.

REPORT OF WORKING GROUP II: Working Group II Chair Jürgen Blaser noted that the group concluded a review of Chapters V-XI, and said the output of the group is a working document with brackets. He said the outstanding issues in Chapter VI on finance were addressed in a contact group with equal representation by a balance of consumer and producer members. He explained that the group attempted to integrate the contents of a work programme account into other articles and to make the chapter on finance more attractive to new donors. To respect transparency, Blaser noted that the bracketed text of Chapter VI would be inserted in the working document, and as an annex to the main report. Blaser said that finance is the major issue to be resolved in the next negotiating session.

REPORT OF THE CREDENTIALS COMMITTEE: Delegates approved the report of the Credentials Committee without amendment (TD/TIMBER.3/L.1).

ADMISSION OF OBSERVERS: President Paranhos introduced a *post-hoc* request from one NGO, the International Federation of Builders and Wood Workers, to be designated an observer to the Conference. Paranhos invited delegates to decide whether to admit the new observer. Delegates agreed to admit the NGO without objection.

PREPARATION OF A SUCCESSOR AGREEMENT TO THE INTERNATIONAL TROPICAL TIMBER ORGANIZATION, 1994: With some minor amendments, delegates adopted the Working Document from the First Session (26-30 July 2004) of the Conference for the Negotiation of a Successor Agreement to the ITTA, 1994 (30 July 2004) as the basis for further negotiations.

RESOLUTION: Delegates then considered a draft resolution on reconvening the Conference in February 2005. Cameroon asked that a small contact group of producers and consumers be created in order to consult before the next negotiating session. With the Republic of Congo, France and Venezuela, Brazil, on behalf of the Producer Caucus, expressed hope for better preparation of documents in all languages. The Republic of Congo added requests for

negotiations to begin with caucus meetings and for interpretation at Producer Caucus meetings. Venezuela added that all documents need to be made available in all UN languages, so that analysis can be done in a timely fashion. A resolution was then adopted requesting the Secretary-General of UNCTAD, in cooperation with the Executive Director of the ITTO, to prepare the necessary documents, especially the working document resulting from 26-30 July session, and to make arrangements to reconvene the Conference from 14-18 February 2005.

CLOSING STATEMENTS: Brazil, on behalf of the Producer Caucus, stated that the new agreement should remain a commodity agreement, not expand into the trade of environmental services, and strengthen cooperation among all members to continue their efforts to promote legal trade in tropical timber and timber products from sustainably managed forests. He said capacity of producing countries must be improved in order to benefit from values generated by timber producing tropical forests, underscored producers' commitment to SFM, urged consuming members to be as equally committed to financial contributions under the Bali Partnership Fund and Special Account as producers are to SFM, and urged resolution on the issue of fair financing of the Organization and its activities to ensure success of the Conference and the future of the ITTO.

Finland, on behalf of the Consumer Caucus, noted agreement and disagreements within the Group and said it was constructive to hear from both caucuses. She expressed optimism regarding the next round, and expressed hope that common ground could be found.

Bill Mankin, Forest Trends, on behalf of Alberto Chinchilla, Coordinating Indigenous and Peasant Farmers Association on Community Agroforestry in Central America, Co-Chair of the CSAG, said that the renegotiation of the ITTA, 1994 offers an opportunity to put in place a policy and a management regime to ensure SFM of the world's tropical forests. He also said the agreement should incorporate the MDGs, fully recognize the rights and interests of indigenous peoples and forest communities, deal with illegal harvesting and trade in tropical forest products and be sufficiently flexible to exploit the emerging opportunities for trade in other tropical forest products and services. He hoped that civil society would be permitted to participate more actively in the next session.

Noting the importance of international commodity agreements for the International Task Force for Commodities launched at UNCTAD XI, Lakshmi Puri, Director of UNCTAD's Division for Trade in Goods, Services, and Commodities, stated that the ITTO provides a good example of a successful commodity agreement.

Conference President Paranhos emphasized the need for: more caucus coordination; the establishment of a contact group between producer and consumer countries; and clear and finished positions at the next negotiating session. He adjourned the session at 6:15 pm.



A BRIEF ANALYSIS OF THE NEGOTIATIONS

Architect Louis Sullivan's modern dictum, "form follows function," suggests that architectural structures are based on their purpose. This past week, the architects of the successor agreement to ITTA, 1994 attempted to re-define the agreement's purpose and construct an appropriate structure for the ITTO. Although delegates did not reach agreement on a final text, many producing and consuming countries emphasized a strong desire to keep the ITTA as a commodity agreement, take into account the evolving situation of international timber trade and implement sustainable forest management objectives more effectively. There were also intense discussions on changes to the ITTO's administrative structure, since delegates clearly identified the ITTO's eroding financial base as a hurdle to successful implementation of the agreement.

At week's end, delegates acknowledged that the primary obstacles to completion of the negotiations were the agreement's objectives and finance, two issues which will guide the future work of the ITTO and the Council. This analysis will examine the implications of the negotiations on the scope and finance, the two most contentious issues that will have to be resolved when the negotiations resume in February 2005, to explore how well the form of the Organization may follow its proposed function.

DEFINING INTENDED FUNCTIONS

Although there was some indication that the scope of the agreement would be a contentious issue in the negotiation, delegates spent far more time focusing on "objectives." Indeed, many have posited that even though the ITTA, 1994 is a commodity agreement, it has the potential to usurp authority from other multilateral institutions that deal with forests and forestry. But this did not appear to be the case at the negotiations. In fact, with unexpectedly little debate, delegates decided not to focus on the agreement's scope at all. Instead, they preferred to define the agreement's objectives within a stand-alone article, since it was felt that the issue of scope would have assumed less importance. Moreover, a number of participants at the conference were confident that the niche of the ITTO would be retained and the mandate of the Organization would not be broadened so as to compete with other organizations in the global forestry arena.

Nevertheless, the objectives themselves continue to elicit considerable debate; some delegates preferred a few broad objectives; and others wanted to include more objectives than originally contained in ITTA, 1994. Those who preferred a few broad objectives argued that adding long lists of policy and project work might restrict donor funding to only those topics mentioned in the draft working text, rather than providing flexible interpretation of the range of work undertaken in the ITTO. They also argued that including a long list of specific objectives in the agreement might render the Organization less attractive to new donors.

In contrast, many participants noted the importance of listing objectives related to certification, non-timber forest products, transparency on subsidies, fair price on tropical timber, community forestry and environmental services. According to this view, held primarily, but not exclusively, by producer countries, such a list of objectives would ensure that the real concerns of producer countries could be met through project and policy work.

All the same, while the objectives of the agreement were certainly a key part of the debate, the discussions on structure also affected progress on the objectives. In particular, administrative issues, such as voting schemes, finance, frequency of Council sessions, Council's decision making authority for project and pre-project approval, committees' flexibility in defining their work, and the level of the Executive Director's autonomy, often slowed progress during the negotiations. Nevertheless, some member states' willingness to give greater freedom and autonomy to the ITTO indicates that there is a possibility to give ITTO more flexibility in implementing work under the new agreement, a possibility reflected in the new proposals to change the Organization's structure.

FORMING THE STRUCTURE

One of the major stumbling blocks in the negotiations also forms the cornerstone of the Organization's structure, namely its financial arrangement. Throughout the 1990s, the ITTO suffered from an eroding financial base, since member states, themselves experiencing financial difficulties, were often unable to pay their full assessed contributions. This is reflected in the current financial deficit of US\$4.5 million, accrued since 1987. Additionally, there is an apparent unevenness in contributions to the ITTO's voluntary accounts, with Japan, the US and Switzerland consistently providing the bulk of funding for project and pre-project work administered by the ITTO. Many have noted the unsustainable nature of this approach to funding.

This has serious implications. The current amount of member state arrears, coupled with the increasing demands for project and pre-project work, has placed an unsustainable workload on the Secretariat. Some delegates argued that giving more flexibility to the Council over project and pre-project approval, or establishing an executive board, would help alleviate some of the Secretariat's administrative burden. The intent to restructure the Organization's accounts, therefore, was an attempt to provide a more stable, predictable and equitable funding base for the Organization. To encourage this, members suggested adding a new assessed account to fund core project and programme work. Delegates created some negotiating space throughout the week by incorporating elements of policy and programme work, such as the Tropical Forest Update, communications, and market intelligence services, which was proposed to be funded from a new work programme account, into the existing Administrative Account and Special Account. Combining elements of the proposed work programme account into the ITTO's existing accounts may create some room for compromise between those who oppose a stand-alone assessed work programme account and those who believe that such an account is the only way to provide a stable funding base for the Organization.

A related proposal was to change the percentage of what consuming and producing members would contribute to the Administrative Account, which would include elements of a work programme account, to avoid an unnecessary financial burden on producer countries that benefit from the ITTO's project and programme work.



Based on the negotiations this week, it appears that the effort to radically change the Organization's financial structure will not win the support of key potential contributors, and that no major financial structural change will take place that would set a precedent for other UN institutions established by conventions. This is important since other multilateral environmental agreements affiliated with UN institutions only have one assessed account and creating a new account based on GDP per capita or the UN scale of assessments would give greater weight to those who advocate changing financial structures in other multilateral institutions. Some have argued that such changes would amount to "bad accounting."

DOES FORM FOLLOW FUNCTION?

Following the week's negotiations, it is clear that many are of the view that ITTO is an institution worth preserving. This is reflected in the fact that both producers and consumers are trying to ensure a viable, well-financed institution for the future. But not only that, ITTO also has the positive attention of many non-governmental organizations, notably those interested in dealing head-on with the illegal logging issue. In this vein, restructuring the Organization was at the forefront of delegates' minds as they discussed what the new objectives of the timber agreement should be, given a general interest in ensuring that the ITTA remains a commodity agreement. But the extent to which this restructuring might be deemed a success can only really be evaluated once the agreement is finalized and the money starts to flow. A much clearer sense of how form follows function should begin to emerge in February when the second negotiating session gets underway.

THINGS TO LOOK FOR

SECOND WORLD WIDE SYMPOSIUM ON GENDER AND FORESTRY: This symposium, organized by the Gender and Forestry Research Group of the International Union of Forest Research Organizations (IUFRO), will be held from 1-10 August 2004, on Mount Kilimanjaro, Tanzania. For more information, contact: Ann Merete Furuberg, Hedmark University College, Norway; tel: +47-90-163092; fax: +47-62-945753; e-mail: merete.furuberg@hedmark-f.kommune.no; Internet: <http://iufro.boku.ac.at/iufro/iufronet/d6/wu61800/2an-gender.htm>

UNITED NATIONS FORUM ON FORESTS: The United Nations Forum on Forests *ad hoc* expert group on consideration with a view to recommending the parameters of a mandate for developing a legal framework on all types of forests (AHEG PARAM) will meet from 7-10 September 2004, in New York. For more information, contact: Elisabeth Barsk-Rundquist, UNFF Secretariat; tel: +1-212-963-3263; fax: +1-917-367-3186; e-mail: barsk-rundquist@un.org; Internet: <http://www.un.org/esa/forests>

WORKSHOP ON ILLEGAL LOGGING AND TRADE OF ILLEGALLY-DERIVED FOREST PRODUCTS IN THE UNECE REGION: This workshop, jointly organized by the UNECE and the Food and Agriculture Organization, will be held from 16-17 September 2004, in Geneva, Switzerland. The purpose of the workshop is to: identify the main causes of illegal logging in the region; estimate the extent of the problem on the basis of national reports; and provide recommendations on how to combat illegal logging and trade in the UNECE region. For more information, contact: C.F.L. Prins, Chief, UNECE/FAO Timber Branch;

tel: +41-22-917-1234; fax: +41-22-917-0041; e-mail: Cynthia.de.castro@unece.org; Internet: <http://www.unece.org/trade/timber/docs/sem/2004-1/sem-2004-1.htm>

INTERNATIONAL WORKSHOP ON CLIMATE CHANGE AND THE FOREST SECTOR: CLEAN DEVELOPMENT MECHANISM IN TROPICAL COUNTRIES: This workshop will meet from 21-23 September 2004, in Seoul, Republic of Korea, to identify trends and potential impacts of carbon forestry, with an emphasis on the forest industry sector and rural livelihoods in Asia-Pacific tropical countries. For more information, contact: Yeo-Chang Youn, Seoul National University; tel: +82-2-884-754; fax: +82-2-875-476; e-mail: youn@snu.ac.kr; Internet: <http://www.itto.or.jp/live/PageDisplayHandler?pageId=223&id=576>

THIRD IUCN WORLD CONSERVATION CONGRESS: The third IUCN World Conservation Union Conservation Congress will be held from 17-25 November 2004, in Bangkok, Thailand. For more information, contact: Elroy Bos, IUCN Wetlands and Water Resources Programme; tel: +41-22-999-0251; fax: +41-22-999-0025; e-mail: elroy.bos@iucn.org; Internet: <http://www.iucn.org/congress/index.cfm>

TENTH CONFERENCE OF THE PARTIES TO THE UNFCCC: The tenth session of the Conference of the Parties to the UN Framework Convention on Climate Change will meet from 6-17 December 2004, in Buenos Aires, Argentina. For more information, contact: UNFCCC Secretariat; tel: +49-228-815-1000; fax: +49-228-815-1999; e-mail: secretariat@unfccc.int; Internet: <http://unfccc.int/cop10/index.html>

EXPERT MEETING ON TRADITIONAL FOREST-RELATED KNOWLEDGE AND THE IMPLEMENTATION OF RELATED INTERNATIONAL COMMITMENTS: This meeting, organized by the International Alliance of Indigenous and Tribal Peoples of Tropical Forests, will take place from 6-10 December 2004, in San José, Costa Rica. For more information, contact: Annabel Pinker; tel: +66-53-904037; fax: +66-53-277645; e-mail: iait@loxinfo.co.th; Internet: <http://www.international-alliance.org>

ITTC-37: The 37th session of the ITTC and Associated Sessions of the Committees will be held from 13-18 December 2004, in Yokohama, Japan. For more information, contact: Manoel Sobral Filho, Executive Director, ITTO Secretariat; tel: +81-45-223-1110; fax: +81-45-223-1111; e-mail: itto@itto.or.jp; Internet: <http://www.itto.or.jp>

ITTA, 1994 UNITED NATIONS CONFERENCE FOR THE NEGOTIATION OF A SUCCESSOR AGREEMENT TO THE INTERNATIONAL TROPICAL TIMBER AGREEMENT, 1994: The second session of the United Nations Conference for the Negotiation of a Successor Agreement to the International Tropical Timber Agreement, 1994 will be held from 14-18 February 2005, in Geneva, Switzerland. For more information, contact: Alexei Mojarov, UNCTAD Secretariat; tel: +41-22-917-5809; fax: +41-22-917-0051; e-mail: alexei.mojarov@unctad.org; Internet: <http://r0.unctad.org/commodities/>