



ITTA, 1994 RENEGOTIATION HIGHLIGHTS: TUESDAY, 28 JUNE 2005

The pace of negotiations slowed on the second day of the UN Conference on the Negotiation of the Successor Agreement to the International Tropical Timber Agreement, 1994 (ITTA, 1994), Third Part. In the morning and early afternoon, delegates met in two working groups. Working Group I (WGI) continued to address outstanding issues in Chapter I (Objectives) and Chapter III (Organization and Administration). Working Group II (WGII) attempted to reach agreement on bracketed text in Chapter VII (Operational Activities), Chapter IX (Statistics, Studies and Information), Chapter X (Miscellaneous), and Chapter XI (Final Provisions). In the afternoon, delegates gathered in a joint working group to decide on text to forward to the legal drafting committee.

WORKING GROUP I

WGI Chair Alhassan Attah (Ghana) suggested delegates continue discussing, paragraph-by-paragraph, the final working paper from the second part of the UN Conference (TD/TIMBER.3/L.4).

OBJECTIVES: Offering a compromise between broadening the Agreement's scope and focusing on trade, the US, opposed by GABON, proposed taking into account non-timber forest products (NTFPs) and ecological services (ES) in the chapeau. MALAYSIA proposed deleting the two overarching objectives of the Agreement and reference to legally harvested forests, NTFPs and ES in the chapeau to the objectives, noting that such concepts are already captured in the objectives. She also proposed narrowing the scope of the Agreement to tropical "timber producing" forests. Noting that ITTO has developed practices and funded projects related to ES, SWITZERLAND, with NORWAY, insisted on maintaining explicit reference to ES in the objectives. He cautioned that excluding ES from the scope of the Agreement will impact its financing. INDIA said that the Agreement cannot be converted into an environmental agreement. MALAYSIA, with SURINAME, said the reference to NTFPs and ES in the Preamble is sufficient. HONDURAS highlighted the importance of ecological services in forests. JAPAN said the new Agreement should be a commodity agreement that takes into account emerging issues such as illegal logging. The EC underscored that ES and NTFPs contribute to sustainable forest management (SFM).

On improving the marketing and distribution of tropical timber exports from sustainably managed and legally harvested sources, JAPAN said that "forest products" encompasses "timber and non-timber products," and suggested mention of "tropical timber products." Regarding the promotion of consumer awareness, ECUADOR, INDIA, JAPAN, PAPUA

NEW GUINEA and VENEZUELA suggested deletion of "encouraging information sharing on private voluntary market-based mechanisms." The EC, supported by SWITZERLAND, but opposed by the US, suggested replacing "private" with "independent" voluntary market-based mechanisms. Noting that the reference to information sharing on private voluntary market-based mechanisms is unclear and contentious, the REPUBLIC OF KOREA supported its deletion. NORWAY suggested rewriting the phrase to promote consumer awareness and encourage information sharing on voluntary mechanisms to promote such trade.

On legally harvested sources, BRAZIL, on behalf of the Producer Group, believed the provisions should reflect a balance between legal harvest and legal trade.

On developing national policies aimed at sustainable utilization and conservation of timber producing forests, NORWAY, CAMEROON, SWITZERLAND and MALAYSIA favored including genetic resources and maintaining ecological balance. Noting that genetic resources are already addressed in the Convention on Biological Diversity, MEXICO, supported by VENEZUELA and PAPUA NEW GUINEA, favored removing reference to genetic resources.

COLOMBIA said that qualifying SFM by mentioning "genetic resources" and "ecological balance" excludes socioeconomic and cultural issues, which are other important aspects of SFM. JAPAN favored maintaining reference to "genetic resources" and "forest law enforcement and governance." BRAZIL, on behalf of the Producer Group, asked for further discussion of law enforcement and governance.

HEADQUARTERS AND STRUCTURE OF THE INTERNATIONAL TROPICAL [TIMBER][FOREST] ORGANIZATION: JAPAN, supported by SWITZERLAND, INDONESIA, MALAYSIA, INDIA, COLOMBIA, CHINA, and BRAZIL, but opposed by the US, the REPUBLIC OF KOREA, HONDURAS, and NEW ZEALAND, favored retaining the current name of the Organization. The US favored one voting scheme, stating that voting should have a high threshold. Noting that Council could address the establishment of regional offices, JAPAN, supported by NEW ZEALAND, SWITZERLAND, and the REPUBLIC OF KOREA, but opposed by BRAZIL, CÔTE D'IVOIRE and GABON, proposed to remove reference to regional offices.

SESSIONS OF THE COUNCIL: JAPAN, the REPUBLIC OF KOREA, SWITZERLAND, the EC, the US and NEW ZEALAND favored, as a general rule, one regular session a year, while GABON and COLOMBIA preferred two. On special sessions, SWITZERLAND and the US said they should be held at the request of the Executive Director, in agreement with the Chairman and Vice-Chairman of the Council "and" a majority



of producer members and a majority of consumer members. SURINAME, MEXICO and VENEZUELA favored changing "and" to "or."

Noting that a majority on both producer and consumer members is required to hold a special session, SWITZERLAND proposed requiring at least 750 instead of 500 votes to decide this.

WORKING GROUP II

WGII Chair Jürgen Blaser opened the session, saying that if substantial progress were not made by the afternoon, conclusion of an agreement this week would be doubtful.

POLICY WORK OF THE ORGANIZATION: Delegates deleted one alternative formulation of a paragraph listing examples of policy activities. BRAZIL noted inconsistencies between definitions of key policy work in different articles and queried whether all action plans mentioned in the draft agreement refer to the same concept. SWITZERLAND suggested deleting a phrase that key policy work is "explicitly described in the budget for the Administrative Account as adopted by the Council," noting that it is not. The paragraph was left bracketed.

COMMITTEES AND SUBSIDIARY BODIES:

MALAYSIA opposed a proposed sub-paragraph establishing one committee on economic information, market intelligence and forest industry. The EC, supported by CANADA and MALAYSIA, opposed by VENEZUELA and the US, proposed deleting reference to establishing "such other Committees as the Council shall deem appropriate and necessary," and inserted text allowing Council to "establish or dissolve committees and subsidiary bodies." Delegates debated how to specify which committees Council can dissolve. The EC, opposed by VENEZUELA and BRAZIL, proposed an amendment specifying that Council may only dissolve "any such other committees and subsidiary bodies" that it may establish itself. WGII Chair Blaser recalled that ITTA, 1994 omitted mention of dissolving committees. The article was left for further discussion.

STATISTICS, STUDIES AND INFORMATION: The US proposed softening its proposed paragraph on sanctions the Council may take against a country that does not: provide required statistics and information; seek assistance from the Executive Director or Council; or provide a satisfactory explanation. After the US agreed to delete reference to possible suspension of voting rights or of rights to participate in project work, BRAZIL, for the Producer Group, acknowledged that this paragraph seeks to address the need for transparency from both consumer and producer members, but asked for it to be bracketed.

DIFFERENTIAL AND REMEDIAL MEASURES AND SPECIAL MEASURES: Chair Blaser explained that UNCTAD Resolution 93 (IV) on the Integrated Programme for Commodities provides exemptions, including those related to finance, for the Least Developed Countries. CHINA, supported by ALGERIA, MALAYSIA and GHANA, favored retaining language on appropriate and differential and remedial measures for members as per Resolution 93 (IV) of UNCTAD and the Paris Declaration and Programme of Action for the Least Developed Countries for the 1990s.

REVIEW: On the content and timing of the Agreement, SWITZERLAND and MALAYSIA suggested focusing on the need to review financial mechanisms. The EC and the NETHERLANDS said it should be a "light" mid-term review of effectiveness, not a renegotiation of legal mechanisms. The NETHERLANDS proposed compromise text that "Council could review the effectiveness" of the Agreement, instead of particular components of the Agreement such as the scope, objectives or financial arrangements. The US noted that Council already reviews the effectiveness of the Agreement on a regular basis. MALAYSIA and SWITZERLAND noted the merits of the Netherlands' proposal, but delegates could not reach compromise on this issue.

ENTRY INTO FORCE: The UNCTAD legal advisor explained that commodity agreements often enter into force provisionally, and noted that his proposed language, supported by the US, was meant to simplify this process. The EC preferred ITTA, 1994 language on entry into force, since the situation would be determined by the number of producer and consumer signatories.

AMENDMENTS: Delegates agreed to remove brackets from text allowing an amendment to enter into force after acceptance by 2/3 of producer members and accounting for at least 75% of producer members' votes, and 2/3 of consumer members and accounting for at least 75% of their votes.

DURATION, EXTENSION AND TERMINATION:

Delegates agreed to return to the issue of whether the Agreement would remain in force for eight or 10 years.

ANNEX A AND B: The EC noted that new EU member states should be taken into account in allocation of votes. JAPAN, the EC and the US said that the function and content of Annexes will depend on final wording on entry into force.

JOINT WORKING GROUP

CROSS-CUTTING ISSUES: Chair Blaser announced that the one objective of the joint session would be to agree on clean text from both groups that could be sent to the legal drafting committee.

WGI Chair Attah asked the joint group to approve articles agreed in WGI. Delegates adopted articles on membership in the Organization, composition of the International Tropical Timber Council, voting procedure of the Council, quorum for the Council, and cooperation and coordination with other organizations.

On membership by regional economic integration organizations, the EC reserved the right to amend the text later to meet the EC's requirements regarding its future participation.

The following articles were approved for submission to the legal drafting committee: forms of payment; audit and publication of accounts; general obligations of members; withdrawal; exclusion; settlement of accounts with withdrawing or excluded members or members unable to accept an amendment; reservations; and supplementary and transitional provisions.

Articles on: depository; signature, ratification, acceptance and approval; notification of provisional application; and entry into force were not approved, pending consultations with the EC legal advisors.

The article on privileges and immunities was left pending after PERU requested clarification on why the ITTO's tax exemption should be limited by the host country's national legislation.

On non-discrimination, VENEZUELA questioned why the use of measures to restrict or ban international trade in timber and timber products focused only on imports. JAPAN proposed deleting the article, and it was left bracketed.

IN THE CORRIDORS

With clear divergences in opinion over a number of outstanding issues in the working document, delegates remained firmly entrenched in their positions. As negotiations between governments focused on substance and semantics, a few delegates noted that many attendees overlooked the low attendance of civil society at the negotiation. Yet, civil society representatives, in a written statement, registered concerns about the need for balance in the new Agreement's mandate for ITTO activities. Such a mandate might help ensure that certification does not become a non-tariff barrier to trade and address important labor concerns. Others said that, instead, the new Agreement's scope seems to become more narrow as negotiations progress. It remains to be seen if delegates can provide adequate space in the new Agreement to address civil society concerns.