

ITTA, 1994 RENEGOTIATION HIGHLIGHTS: THURSDAY, 19 JANUARY 2006

As the end of the first week of negotiations draws near, delegates at the UN Conference for the Negotiation of the Successor Agreement to the International Tropical Timber Agreement, 1994 (ITTA, 1994), Fourth Part, appear to be moving slowly toward a positive outcome. Working Group I (WGI) pursued elusive consensus on issues such as sessions of the Council and admission of observers. Working Group II focused primarily on issues related to finance, but also attempted to build on progress achieved within a break-out group on measures for non-submission of statistics.

WORKING GROUP I

PREAMBLE: On the need to improve standards of living and working conditions within the forest sector, NORWAY proposed language mentioning use of relevant internationally recognized principles on these matters "and" relevant ILO Conventions. INDONESIA, opposed by the US, preferred "such as" rather than "and." INDONESIA requested time to seek legal advice, and Chair Attah postponed discussion on the matter.

OBJECTIVES: On promoting better understanding of the contribution of non-timber forest products (NTFPs) and environmental services, INDONESIA cautioned against broadening the scope of the agreement beyond tropical forests. SWITZERLAND suggested limiting it to sustainable management of "tropical" forests. The US noted that the original scope was clearly focused on tropical forests and that the introduction of the Producer's proposal on NTFPs and environmental services had altered this. Chair Attah called for further consultation in the Producer caucus.

On "encouraging/promoting" information sharing on market mechanisms and certification of tropical timber-producing forests, MALAYSIA said some Producers' delegations are still consulting.

DEFINITIONS: The US repeated that she preferred discussing definitions of "Producer" and "Consumer" members together with articles on Distribution of Votes and the Administrative Account. COTE D'IVOIRE and TOGO highlighted the importance of considering whether a Producer is situated in the tropical zone. Noting that the definition of tropical forests should include dense forests and plantations, TOGO, supported by MEXICO and PANAMA, favored keeping the definition from ITTA, 1994. Chair Attah postponed further discussion.

On agreed text defining forest resources for the purpose of distribution of votes, Chair Attah suggested inserting "tropical" natural closed forests and forest plantations. MALAYSIA,

supported by TOGO and EGYPT, said this would be redundant. TOGO expressed surprise at the re-opening of this agreed text. SWITZERLAND noted that if "tropical" was inserted before "natural closed forests," it should also appear before "plantations." However, he noted that he agreed to use "between the Tropics of Cancer and Capricorn" after "plantations." The EU added "located" in front of "between," and delegates agreed to this text.

EC MEMBERSHIP: INDONESIA, supported by SWITZERLAND, said the legalistic nature of the issues requires additional consultation.

SESSIONS OF THE COUNCIL: EGYPT recalled past discussions recommending "at least one" Council session. The REPUBLIC OF KOREA, opposed by MALAYSIA, proposed one annual regular session alternating between Yokohama and other regions. JAPAN, in response to Producer members' concerns that this could slow down the project approval process, and supported by CHINA, SWITZERLAND and EGYPT, suggested adding that "the Council shall ensure the effective work of the Organization in the interval between sessions." The US suggested "establishing procedures for undertaking activities referred to under articles on Policy Work and Project Activities of the Organization, including activities related to project approval and financing." She also proposed adding "preferably in a Producer country" for meetings outside of Yokohama.

On special sessions, SWITZERLAND preferred that decisions for such sessions may be made at the request of any member "and," rather than "or," the Executive Director (ED). MALAYSIA favored keeping this in brackets, while SURINAME said that the content of Council's agenda should distinguish a regular from a special session. SWITZERLAND suggested making it explicit that Council shall make the decision for a special session. MALAYSIA said that "Council shall seek to convene" implies securing funding. TOGO said funding is a sensitive issue and requested clarification of the decision-making process.

On holding special sessions outside headquarters, the CONGO and TOGO highlighted the importance of considering how to finance such sessions. The US said that the Agreement does not require them to specify how costs will be met, and proposed that "in considering the frequency and location of its sessions, the Council should ensure the availability of sufficient funds to cover the costs." JAPAN clarified that if more than one annual session is approved, Japan is unwilling to cover associated costs, whether it be held in Yokohama or elsewhere. EGYPT and NORWAY preferred having no specific reference to costs. JAPAN noted it currently provides the bulk of ITTO's budget.

ADMISSION OF OBSERVERS: The US noted that if Council ever decided to have a closed session, by definition this would mean that observers would not be permitted. As for who might be invited to observe, she supported a “non-member sovereign state that is recognized by the UN.” The EU requested legal advice from UNCTAD on how other treaties address this. The UNCTAD Legal Advisor suggested “the Council may invite any member or observer State of the UN, which is not party to the ITTO, or any organization interested in the activities of the Organization to attend as observers the sessions of the Council.” MEXICO and the EU noted the need for further consultation. Delegates decided to further negotiate the matter on 20 January.

WORKING GROUP II

STATISTICS, STUDIES AND INFORMATION:

BARBADOS, Chair of a contact group on the issue, proposed allowing members two years to comply with statistics requirements and letting Council determine non-compliance measures. The US, supported by the NETHERLANDS, the REPUBLIC OF KOREA and SWITZERLAND proposed that, in case of non-compliance, Council should be able to suspend voting rights as a last resort. COLOMBIA, MEXICO, PAPUA NEW GUINEA, GHANA and MALAYSIA opposed this, suggesting that Council already has this power. After further consultations, BARBADOS reported that the US and the NETHERLANDS were willing to change the text to “measures related to voting rights.” The text remains bracketed.

ADMINISTRATIVE ACCOUNT: On the listing of elements included in this Account, the EC queried the budgetary implications of JAPAN’s proposal to include “Council meetings” among administrative costs. SWITZERLAND warned against including it. JAPAN noted WGI’s ongoing discussions of how to meet costs of ITTC sessions in an article on Sessions of the Council, and said Council decides budgets for ITTC meetings. Manoel Sobral, ITTO Executive Director, explained that Council meetings outside Japan cost about US\$500,000, and the host country traditionally pays 10-20%. He said that if Council decides on meetings outside Japan and no donor country agrees to meet most of the costs, Council must budget for them. FRANCE stressed that Parliamentary approval of international agreements necessitates certainty on mandatory costs. BRAZIL noted inconsistencies between this article and the related WGI article. The phrase was bracketed pending conclusion of WGI negotiations on Sessions of the Council.

On the “[administrative]” and “[operational]” costs of the Administrative Account, delegates accepted the EC proposal to divide the Account into administrative costs and costs required by other articles in the agreement. MALAYSIA inserted, but delegates deleted, “recurrent” before administrative costs. Delegates did not agree to a US proposal adding “where such expenses are determined by the Council to be necessary to the administration of the agreement.” Delegates also inserted an illustrative list of specific administrative costs, including salaries and benefits, and other operational costs such as expert panel meetings. Naming of the two parts of the account remains under discussion.

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

On assessing contributions to the Administrative Account, Chair Blaser introduced two alternative formulas. Both divide the Administrative Account into halves for “[administrative]” and “[operational]” costs. Under the first formula, contributions for one half of the budget are divided 50-50 and for the other (“operational”) half they are divided 75-25, between Consumers and Producers respectively. Under the EC’s alternative formula, the second half is shared 70-30 between Consumers and Producers, respectively, and is not to exceed 15% of

administrative costs. SWITZERLAND suggested that 50% rather than 15% of administrative costs should be substituted in the EC’s formula.

BRAZIL, for the Producer Group, requested assurance that total assessed Producer contributions will not increase. He noted Producers’ preference for a 75-25 split, later reiterating Producers’ earlier proposal for an 80-20 split.

Responding to Brazil’s inquiry, Chair Blaser said that “operational costs” would cover some costs currently funded from the Administrative Account and some currently funded from the Special Account, thus increasing the total Administrative Account budget. However, “operational costs” would carry a differential burden for Consumers and Producers than the current 50-50 split for the Administrative Account.

FRANCE, supported by CHINA, favored the EC’s proposal due to its higher level of predictability. Chair Blaser noted that either proposal may contain a cap. SWITZERLAND bracketed reference to a cap. The NETHERLANDS noted that the two proposals might not differ much in predictability during the life of the Agreement.

FRANCE and the US asked what would happen to unused funds. Chair Blaser reported that they currently go into the Working Capital Account.

The US opposed dividing the Administrative Account into two. The Chair explained the historical logic behind it but noted the division is more political than logical and that ultimately Council decides budget items.

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

On the issue of relief from financial obligations, BRAZIL, for the Producer Group, suggested inserting “without prejudice to the provisions contained in Article 32 on Relief from Obligations, before language stating “if a member has not paid its contribution in full for two consecutive years, that member shall become ineligible to submit project or pre-project proposals for funding consideration.” The US said it would need to consult with its lawyers about the full implications of the proposal.

SPECIAL ACCOUNT: BRAZIL proposed, and delegates agreed, to move a paragraph up, stating that Council shall establish criteria and procedures for the transparent operation of the Special Account, which includes a Thematic Programmes Sub-Account and Project Sub-Account. Chair Blaser agreed the new placement would help guide the overall operation of the Special Account, since it gives greater decision-making authority for the allocation of unearmarked funds and selection of thematic programmes to Council.

Based on interventions from the US, BRAZIL, SWITZERLAND and the NETHERLANDS, Chair Blaser proposed that “the donors may allocate their contributions among the Thematic Programmes or may request the ED to make proposals to the Council for allocating their contribution.” After some discussion on how to involve Council in the allocation of unearmarked funds, GHANA suggested, and delegates agreed, to use the Chair’s proposal less the phrase “to the Council” in the negotiating document.

IN THE CORRIDORS

Working Group II kept on track during the day in working toward eventual agreements on statistics and finances. In Working Group I however, several delegates noted that they were getting increasingly sidetracked as discussions transferred from substantive issues such as objectives and definitions to entrenched debates over Council sessions and then diverted onto the intricacies of UN resolutions on the recognition of states and territories. Some thought that only the emergency brake of translators’ availability prevented derailment, but that this may give delegates a chance to get back on track by the next session.