

## SUMMARY OF THE UNFF EXPERT GROUP ON THE NON-LEGALLY BINDING INSTRUMENT: 11-15 DECEMBER 2006

The United Nations Forum on Forests (UNFF) *ad hoc* expert group on the consideration of the content of the non-legally binding instrument (NLBI) on all types of forests convened from 11-15 December 2006, at UN headquarters in New York. Over 300 participants, including government-designated experts from member states and representatives of the Collaborative Partnership on Forests (CPF), intergovernmental organizations and Major Groups, completed a first reading of a draft composite text of the NLBI. This will be forwarded to UNFF-7 for consideration, along with a revised and consolidated version prepared by the Secretariat which could serve as the basis for negotiations at UNFF-7 in April 2007.

This meeting completed an essential first step in developing an NLBI on all types of forests. Leading up to the meeting, it was accepted by most participants that the best-case scenario outcome would be to have all views expressed and consolidated into options contained in bracketed text, ready for negotiation at UNFF-7. The week started off well, with tensions perhaps eased by having the forest convention debate out of the way, and with no expectation of attaining consensus by the end of the week. While it was technically an “expert group” meeting, from the outset it was clear that experts approached this as a working group as originally proposed at UNFF-6, delving into detailed textual modifications and revisiting familiar country positions. However, the meeting exceeded all expectations in that it not only finished a first reading of the text, it did so ahead of the time allotted, a rarity within multilateral environmental negotiations.

### A BRIEF HISTORY OF THE UNFF

The UNFF followed a five-year period (1995-2000) of forest policy dialogue facilitated by the Intergovernmental Panel on Forests (IPF) and the Intergovernmental Forum on Forests (IFF). In October 2000, the Economic and Social Council of the United Nations (ECOSOC), in Resolution E/2000/35, established the UNFF as a subsidiary body, with the main objective of promoting the management, conservation and sustainable development of all types of forests.

To achieve its main objective, principal functions were identified for UNFF, namely to: facilitate implementation of forest-related agreements and foster a common understanding on sustainable forest management (SFM); provide for continued policy development and dialogue among governments, international organizations, and Major Groups, as identified in Agenda 21, as well as address forest issues and emerging areas of concern in a holistic, comprehensive and integrated manner; enhance cooperation as well as policy and programme coordination on forest-related issues; foster international cooperation and monitor, assess and report on progress; and strengthen political commitment to the management, conservation and sustainable development of all types of forests.

The earlier IPF/IFF processes had produced more than 270 proposals for action towards SFM; these form the basis for the UNFF Multi-Year Programme of Work (MYPOW) and Plan of Action, which have been discussed at annual sessions. Country- and organization-led initiatives have also contributed to UNFF’s work.

**ORGANIZATIONAL SESSION:** The UNFF organizational session and informal consultations on the MYPOW took place from 12-16 February 2001, at UN headquarters in New York.

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Delegates agreed that the UNFF Secretariat would be located in New York and discussed progress towards the establishment of the CPF, a partnership of 14 major forest-related international organizations, institutions and convention secretariats.

**UNFF-1:** The first session of UNFF took place from 11-23 June 2001, at UN headquarters in New York. Delegates discussed and adopted decisions on UNFF's MYPOW, a Plan of Action for the implementation of the IPF/IFF Proposals for Action, and UNFF's work with the CPF. Delegates also recommended establishing three *ad hoc* expert groups to provide technical advice to UNFF on: approaches and mechanisms for monitoring, assessment and reporting (MAR); finance and transfer of environmentally sound technologies (ESTs); and consideration with a view to recommending the parameters of a mandate for developing a legal framework on all types of forests.

**UNFF-2:** The second session of UNFF took place from 4-15 March 2002, at UN headquarters in New York. Delegates adopted a Ministerial Declaration and Message to the World Summit on Sustainable Development. Delegates also adopted decisions on, *inter alia*, proposed revisions to the medium-term plan for 2002-2005 and the format for voluntary reporting, and resolutions on: combating deforestation and forest degradation; forest conservation and protection of unique types of forests and fragile ecosystems; rehabilitation and conservation strategies for countries with low forest cover; the promotion of natural and planted forests; and specific criteria for the review of the effectiveness of the international arrangement on forests (IAF).

**UNFF-3:** UNFF-3 met in Geneva, Switzerland, from 26 May-6 June 2003. UNFF-3 adopted six resolutions on: enhanced cooperation and policy and programme coordination; forest health and productivity; economic aspects of forests; maintaining forest cover to meet present and future needs; the UNFF Trust Fund; and strengthening the Secretariat. Terms of reference were adopted for the voluntary reporting format, and three *ad hoc* expert groups designed to consider: monitoring and reporting; finance and transfer of technologies; and "consideration with a view to recommending the parameters of a mandate for developing a legal framework on all types of forests."

**UNFF-4:** UNFF-4 convened in Geneva, Switzerland, from 3-14 May 2004. UNFF-4 adopted five resolutions on: forest-related scientific knowledge; social and cultural aspects of forests; MAR and criteria and indicators; review of the effectiveness of the IAF; and finance and transfer of ESTs. UNFF-4 attempted to but could not reach agreement on resolutions on traditional forest-related knowledge and enhanced cooperation and policy and programme coordination.

**UNFF-5:** UNFF-5 took place from 16-27 May 2005, at UN headquarters in New York, with the goal of reviewing the effectiveness of the IAF. However, participants were unable to reach agreement on strengthening the IAF and did not produce either a ministerial statement or a negotiated outcome. They did agree, *ad referendum*, to four global goals on: significantly increasing the area of protected forests and sustainably managed forests worldwide; reversing the decline in official development assistance (ODA) for SFM; reversing the loss of forest cover; and enhancing forest-based economic, social and environmental benefits. They also agreed in principle to negotiate, at some future date, the terms of reference for a voluntary code or

international understanding on forests, as well as means of implementation. Delegates decided to forward the draft negotiating text to UNFF-6.

**UNFF-6:** UNFF-6 took place from 13-24 February 2006, at UN headquarters in New York. Negotiators reached agreement on how to proceed with reconstituting the IAF. Delegates generated a negotiating text containing new language on the function of the IAF, a commitment to convene UNFF biennially after 2007, and a request that UNFF-7 (16-27 April 2007) adopt an NLBI on all types of forests. UNFF-6 also set four global objectives for the IAF: reverse the loss of forest cover worldwide through SFM, including protection, restoration, afforestation and reforestation; enhance forest-based economic, social and environmental benefits and the contribution of forests to the achievement of internationally agreed development goals; increase significantly the area of protected forests worldwide and other areas of sustainably managed forests; and reverse the decline in ODA for SFM and mobilize significantly increased new and additional financial resources from all sources for the implementation of SFM.

### UNFF EXPERT GROUP REPORT

Pekka Patosaari, Director, UN Forum on Forests (UNFF) Secretariat, opened the meeting on Monday, noting that the current period of Economic and Social Council (ECOSOC) reform presents an opportunity for UNFF to increase its profile. Delegates agreed that the UNFF-7 Bureau should act as bureau for this meeting, including: Hans Hoogeveen (the Netherlands) as Chair; and André-Jules Madingou (Gabon), Arvids Ozols (Latvia), Hamidon Ali (Malaysia), and Christian Maquieira (Chile) as Vice-Chairs. Chair Hoogeveen said that UNFF is at a critical juncture and ready for a great leap forward. He made an appeal to not reopen previously agreed language, and said that although this was an expert group meeting, participants should approach it as a negotiating session.

Jan Haino, Forestry Department of the UN Food and Agriculture Organization (FAO), on behalf of the Collaborative Partnership on Forests, reiterated the CPF's strong commitment to the international arrangement on forests (IAF), and expressed hope that the outcome of the *ad hoc* expert group (AHEG) would set the stage for the adoption of a non-legally binding instrument at UNFF-7.

Finland, for the EU, noted divergent views within the proposals, on: financial resources; subscription to the instrument; the relationship between the MYPOW and the instrument; and a facilitative process proposed by the EU. Canada preferred to begin negotiations of the instrument at UNFF-7, and explained that some elements of Canada's submitted proposal were taken out of context, as they had originally related to a legally binding instrument (LBI). India and China supported the creation of a global forest fund, and China highlighted priority issues including poverty reduction, means of implementation and illegal logging.

New Zealand expressed support for a strong UNFF that is capable of coordinating activity in support of sustainable forest management (SFM), and suggested using the seven thematic elements on SFM as a basis for discussion. Iran encouraged

cooperation and recognition of stakeholder contributions. Pakistan urged experts to focus on the root causes of deforestation.

The US noted the language used in the instrument will dictate how binding it would be, and encouraged adherence to a voluntary approach. She supported a strong, concise document that will add value to the existing process and cautioned against creating additional bureaucracy.

Australia emphasized the need for agreement on the purpose of the NLBI and for the instrument to include emerging issues. The Russian Federation said that there was a need for tangible and practical results and that this process should enhance international consensus. Mexico underscored that the document should reflect the high level of political commitment to SFM and promote the enhancement of domestic forest policies.

Major Groups issued a joint statement on their key concerns on the NLBI, including that: national sovereignty clauses recognize traditional rights as supported by other international agreements; governments ensure that markets and trade support SFM; traditional knowledge be protected; and financing mechanisms not be diverted from existing funding. A representative of the Small Forest Landowners group suggested removing “non-legally binding” from the title of the instrument, explaining that this, along with weak language in the text, undermines the agreement.

**ORGANIZATIONAL MATTERS:** Delegates adopted the provisional agenda (E/CN.18/AC.1/2006/1) without amendment. Chair Hoogeveen outlined the Bureau’s proposal that work be undertaken as a single body in plenary, as simultaneous interpretation was only available for one room, and noted that interpretation in Chinese, Russian and Arabic would not be available throughout the week.

Patsaari introduced: a background paper, “Elements or proposals for an NLBI,” which contains proposals and comments submitted by member states and other groups on the NLBI; a composite draft text prepared by the Secretariat and incorporating all proposals; and a note by the Secretariat on developing an NLBI on all types of forests (E/CN.18/AC.1.2006/2). The Secretariat noted that 50 percent of the composite draft text was taken from previously agreed language. Delegates agreed to base the week’s discussions on the composite draft text.

Chair Hoogeveen clarified that the text, with all country proposals, would be forwarded to UNFF-7 as a reference document, and that the Secretariat would also provide a consolidated text taking into account proposals from the expert group, which could be used as a basis for negotiations at UNFF-7.

Throughout the week, participants convened in plenary to consider the draft composite text on the NLBI. On Monday a panel discussion on legal and financial matters was convened and on Friday the meeting concluded with adoption of the report of the expert group.

## **PANEL DISCUSSION ON LEGAL AND FINANCIAL MATTERS**

This panel discussion was held on Monday and was facilitated by Daniela Simioni, Office of the UN Secretary-General. Francisco Rezek, former judge, International Court of Justice, outlined the historical context of non-binding agreements and clarified the legal aspects of an NLBI. He said that due to the non-obligatory language in the text, there would be no difference in outcome if the text were adopted as a treaty or as an NLBI. Charles di Leva, World Bank, highlighted the importance of clarity of terms, credibility, commitment and continuity of the proposed NLBI. He noted that subscription was not necessary to represent the global community’s commitment to an NLBI. Markku Simula, forest expert, discussed SFM financing, highlighting the important role of private sector investment. He pointed to existing financing mechanisms, and said that increasing development lending is dependent on recipient countries’ willingness to borrow for and prioritize forest-related activities.

Panelists then answered questions from participants on: the efficacy of NLBIs, subscription, dispute settlement, building capacity for NLBI implementation in developing countries, attracting additional financing for forests, and the potential legal implications of an NLBI.

## **CONSIDERATION OF THE DRAFT COMPOSITE TEXT ON THE NLBI**

Participants proceeded through a first reading of the draft composite text on the NLBI in plenary throughout the week. Delegates agreed not to address the preamble at this meeting. On Thursday, the structure of the NLBI was debated, with participants making proposals on the order of the different sections. Several participants preferred further consolidating sections in the draft text. Mexico and Chile suggested that it was premature to elaborate a detailed structure.

**PRINCIPLES:** The principles of the NLBI were discussed on Tuesday. Discussion focused on: the NLBI’s relationship to the Rio Declaration and the Forest Principles and to international law; national responsibilities; international cooperation; the role of Major Groups; and the inclusion of the seven thematic elements of SFM.

On the relationship of the NLBI to the Rio Declaration and Forest Principles, the EU preferred that these form “the basis of the instrument” instead of “the basis for the principles of the instrument.” Costa Rica suggested adding that they “are an integral part of this instrument.” The Russian Federation, supported by the US, said the most important message to convey was that this document intends to build upon the Rio Declaration and Forest Principles.

Regarding text stating that nothing in the instrument is intended to affect international legal obligations, proposals were forwarded to move the text to the end of the document or combine it with the subparagraph stating the voluntary and open nature of the instrument. Mexico proposed text reflecting that nothing in the instrument would prejudice the rights, jurisdictions and duties of states under international law. Brazil commented that the retention of this paragraph will depend on whether the instrument will require subscription.

On the responsibility of each country for sustainable management of its forests and the enforcement of its forest laws, the EU, supported by New Zealand, Japan, Norway, Switzerland and Mexico, proposed adding reference to promoting good governance. Colombia, Pakistan, Senegal, India, Mauritania and Nigeria, for the African Group, suggested deleting the paragraph, with Senegal noting that the means of enforcing forest law had not been addressed. Switzerland, Japan and the EU noted that the paragraph was an important addition to the Forest Principles and requested its retention. The African Group, supported by Pakistan, proposed adding a reference to the provision of adequate financial resources if the paragraph were to be retained. On sovereignty over forest resources, Switzerland recalled that national sovereignty is already included in the preamble and proposed deleting reference to it in the principles. The US, supported by Guatemala and India, requested that the reference be retained.

On the role of international cooperation in improving the management of forests in developing countries and countries with economies in transition, Iran, supported by Canada and the US, noted the importance of the international community and proposed adding reference to the efforts of all countries. Pakistan, supported by Cuba, the African Group, Venezuela and Guinea, proposed reference to international cooperation and financial support, with China adding capacity building and technology transfer.

On participation of Major Groups in forest decision making, Australia, supported by Brazil, Iran and the Russian Federation, proposed referring to Major Groups as identified by Agenda 21, while the US, Norway, Guatemala and Chile preferred listing specific groups. Pakistan, with the African Group, said Major Group involvement should be according to each member state's forest policies. The US said this would undermine the nature of the principle.

Australia, supported by Colombia, Brazil, China and the African Group, suggested deleting a subparagraph on the seven thematic elements of SFM, noting these are addressed in a separate section of the text. The EU, the US and New Zealand preferred retaining the text, with New Zealand adding that the thematic elements provide both an indicative set of criteria and a common framework for SFM. Argentina, Venezuela, India and Cuba argued that thematic elements are not principles and should not be included in this section. Brazil opposed referring to the thematic elements as "an indicative set of global criteria." The Russian Federation suggested that "consideration should be given to" the thematic elements.

**USE OF TERMS:** On Tuesday, delegates briefly discussed the need to include a section on use of terms but did not embark on substantial discussions of the terms themselves. Delegates noted that it would be a time-consuming process, and that defining certain terms, such as "forest," would be difficult, as definitions vary by country. Australia, Brazil and the EU stressed the importance of defining SFM. Canada and the Russian Federation said the full text must be finalized in order to determine which terms need definition.

**PURPOSE:** The purpose of the NLBI was discussed on Monday. Noting the complexity of the text, Norway, supported by Australia, Malaysia, China, Brazil and New Zealand,

recommended stating instead that the purpose of this instrument is to strengthen political commitment and actions to effectively implement SFM and to achieve the global objectives on forests. Mexico noted that raising political commitment is not the purpose of the NLBI. Australia suggested including reference to enhanced cooperation and Malaysia proposed adding "on all types of forests and to provide a global platform." The US questioned the need to elaborate a purpose in the document.

**GLOBAL OBJECTIVES ON FORESTS:** The section on global objectives was discussed on Monday. The EU and Indonesia preferred deleting text on the overarching objective of the instrument. Indonesia also suggested deleting language on deciding to set the Global Objectives and work to achieve progress towards their achievement by 2015. Pakistan, Cuba and Chile objected, noting that commitment to the Global Objectives should not be ignored, and preferred retaining the language until text on the NLBI's purpose is agreed.

**SCOPE:** The scope of the instrument was briefly discussed on Monday. The Russian Federation proposed adding that the instrument relate to all types of forests "regardless of the form of their ownership." The US questioned the need for a section on scope.

#### **NATIONAL MEASURES, POLICIES, ACTIONS OR GOALS CONTRIBUTING TO THE GLOBAL OBJECTIVES:**

On Tuesday and Wednesday, experts considered the section on national measures. Discussions focused on, *inter alia*: voluntary and quantifiable targets; proposals for action (PfA) under the Intergovernmental Panel on Forests/Intergovernmental Forum (IPF/IFF); enhanced cooperation; national forest programmes; networks of protected areas; environmental impact assessments (EIAs); enabling environments; voluntary instruments; and monitoring and assessing forest conditions.

Switzerland clarified its proposed language on voluntary quantifiable timebound national targets of voluntary national measures. The EU, Costa Rica, Mexico and Guatemala supported the idea of such targets, and Uruguay noted the added value of such an inclusion, but cautioned that attaining agreement on such language would be challenging. An informal group was formed to draft text on voluntary national targets. The text produced was submitted to the Secretariat for inclusion in the revised draft text, for consideration at UNFF-7.

The US, supported by the Russian Federation, Brazil, Indonesia, India, Australia, China, Colombia and the African Group, proposed language on "resolving," rather than "making all efforts," to contribute to the shared Global Objectives while taking national sovereignty, practices and conditions into account.

On implementing the IPF/IFF PfAs and UNFF resolutions, the US and Australia expressed concern that the text exceeded the scope of national measures and policies. Australia suggested specifying that programmes, plans and strategies be relevant to national circumstances, while the African Group suggested they be in accordance with national circumstances.

Indonesia suggested that language on enhanced cooperation be integrated with the section on cooperation and cross-sectoral policy coordination. The US and Australia emphasized that cross-sectoral cooperation is important at both the national and international levels.

India, the US, Morocco, Venezuela and Pakistan requested deletion of a subparagraph on maintaining permanent forest estates, noting that it is not applicable to all states. Fiji clarified the importance of the term for countries with communal land tenure.

On safeguarding forests from threats, the US, supported by Australia, India and Brazil, proposed to specify threats from fire, insects, diseases, pollution and “invasive” alien species. New Zealand, supported by Brazil, proposed replacing reference to invasive alien species and insects with “pests.”

On requiring environmental impact assessments (EIAs) for projects with likely adverse effects, Brazil, supported by Colombia and the African Group, said EIA use should be “promoted,” rather than “required,” and added “according to national legislation.” The US, supported by the African Group, preferred promoting use of EIAs for projects with potentially significant impacts. Uruguay supported reference to other tools including codes of good forest practices and criteria and indicators (C&I) for SFM. Noting language in the Forest Principles stating that EIAs should be carried out, Mexico said “promoting” EIAs was weaker than language previously agreed to in the Forest Principles.

On enabling environments for investment, the EU proposed deleting language limiting stakeholder involvement. On involving stakeholders in forest decision making, the EU, supported by Australia, proposed moving this paragraph to the section on principles. The US objected, noting its importance as a national commitment. Switzerland provided alternative text on promoting active participation and empowerment of Major Groups in developing, implementing and evaluating SFM policies and programmes at all levels.

On developing, promoting and implementing voluntary instruments, participants debated, *inter alia*, whether to single out certification. After protracted debate, the original text was retained, which specifies “including certification.”

On monitoring and assessing forest conditions, Brazil requested deletion of a reference to agreed C&I. The African Group, Indonesia and Malaysia recommended replacing “agreed” C&I with “national” C&I. China, supported by Pakistan, the African Group and India, said actions should be taken on a voluntary basis. Cuba proposed text reflecting that actions depend on national capacities and conditions. The Russian Federation proposed “using C&I of SFM based on national priorities and taking into account internationally agreed C&I.”

Japan proposed a new subparagraph on promoting forest law enforcement and governance to eradicate illegal practices. The US proposed five new subparagraphs on: scientific and technological innovations for SFM; sharing and use of best practices; promoting implementation of national forest programmes, C&I and good business practices through public-private partnerships; strengthening forest law enforcement and combating illegal logging and corruption; and creating transparent and effective markets for products and services.

**RELATIONSHIP TO OTHER INSTRUMENTS:** On Wednesday, experts considered the relationship of the NLBI to the work of existing LBIs and the need to strengthen interaction with these instruments for SFM. In the ensuing discussions, the EU sought clarification on who would undertake the task of increasing interaction with other instruments and, with support from the Russian Federation, India, Cuba, Malaysia and Morocco, suggested moving the paragraph to the section on enhanced cooperation. The US, questioning whether the NLBI could provide direction to the UNFF, preferred deleting the paragraph.

**SEVEN THEMATIC ELEMENTS OF SFM AND IPF/IFF PROPOSALS FOR ACTION:** This section was discussed on Wednesday. The Secretariat reported on ongoing work on clustering and simplifying the IPF/IFF PfAs and relevant UNFF and ECOSOC resolutions under the seven thematic elements of SFM, with a view to assisting national SFM implementation and monitoring and reporting of progress towards achieving SFM. He explained that this section of the text requested the development of annexes to this end. Debate ensued on whether this was an appropriate activity under the instrument.

New Zealand supported the idea of developing such annexes as part of the MYPOW. Brazil, Costa Rica, the EU, Australia and the US expressed doubts on the appropriateness of this clustering activity within the instrument. Costa Rica, the EU and Australia noted this activity would be more appropriate under the MYPOW. However, many participants agreed that the seven thematic elements should be part of the conceptual framework behind the instrument.

**INTERNATIONAL TRADE IN FOREST PRODUCTS:** On Wednesday, experts considered the issue of international trade in forest products. Discussions focused on: encouraging trade in sustainable forest products; the relationship between trade and the environment; forest law enforcement and governance; voluntary certification; internalizing environmental and social costs of forest products; public procurement policies; and addressing illegal trade through cooperation.

The US, supported by many, proposed language on encouraging trade in forest products and investment in the forest sector by removing trade barriers and by developing and implementing open and predictable and non-discriminatory international rules for trade and investment. Indonesia agreed, adding text on further promoting market access for products from sustainably managed and legally harvested forests.

The US, supported by the Russian Federation, the EU and Norway, suggested replacing several similar paragraphs with text promoting a mutually supportive relationship between trade and the environment and facilitating trade in legally harvested products. Canada noted the importance of ensuring that these products are also legally traded and Brazil suggested referring to illegal “trade” instead of “harvest.” The African Group preferred taking actions to prohibit trade in illegally harvested forest products.

On cooperation on forest law enforcement and governance, the US proposed revised language on combating illegal harvesting of, and associated trade in, timber, wildlife and non-

timber products. China, supported by Malaysia and opposed by India, the US, Senegal and Iran, proposed deleting reference to wildlife.

Japan, supported by the EU, suggested deleting language on operation of voluntary certification and labeling schemes in accordance with national legislation. The US, supported by New Zealand, proposed replacing national legislation with international obligations. Australia, supported by New Zealand, proposed that voluntary certification and labeling schemes not be used as “unjustified discrimination or disguised restrictions” rather than as “disguised protectionism,” and Malaysia proposed “non-tariff barriers” as an alternative.

On promoting valuation systems that internalize environmental and social costs of forest products, the US, supported by Canada, Mexico and India, but opposed by Iran and Switzerland, argued this was not related to trade and should be moved to another section.

The EU proposed a new subparagraph on public procurement policies and Australia, on assessing forest certification schemes. The Russian Federation, the US, Malaysia, the African Group and India expressed reservations about both proposals.

On a paragraph on addressing illegal forest-related practices through greater information sharing and international cooperation, New Zealand, China and Iran recommended deleting language directing the UNFF to carry this out. The US and the African Group favored deleting the paragraph.

Major Groups called for: addressing poverty reduction as impacted by international trade; highlighting economic development that benefits forest dependent people; and discouraging trade in timber products from areas where land tenure issues remain unresolved.

**RESEARCH:** The expert group discussed research on Wednesday. The International Union of Forest Research Organizations highlighted a joint initiative on science and technology to be launched at UNFF-7, which would support the work of the UNFF and other forest-related intergovernmental processes, and achievement of the Global Objectives.

Iran proposed that the title of the section be modified to Research and Scientific Activities, while the EU preferred Technical and Scientific Cooperation.

Experts discussed a subparagraph on the role of science and research in SFM, with the US suggesting text on states resolving to strengthen the contributions of science and research. The EU suggested text on the promotion of international cooperation, including through South-South cooperation and triangular cooperation, and, where necessary, through appropriate international, national and regional institutions. The EU also proposed language referring to scientific and technological innovations for SFM, including those that help indigenous and local communities undertake SFM. Pakistan proposed undertaking collaborative research and development with technical and financial support from developed countries.

Experts also discussed a subparagraph on encouraging states to strengthen linkages between science and policy, with Iran calling for an additional paragraph on enhancing research and scientific forest-related capacities in developing countries specifically.

**PUBLIC AWARENESS AND EDUCATION:** The expert group discussed this section on Wednesday. Singapore proposed replacing the entire section with text on resolving to promote and encourage understanding of, and the measures required for, the sustainable management of forests, including through: enhancement of forest education capacity; the media and the inclusion of these topics in education and awareness programmes; cooperation with other state and international organizations in developing such programmes; and supporting such programmes amongst Major Groups.

Major Groups proposed text on promoting and encouraging universal access to formal and informal education, and extension and training programmes. On supporting education and public awareness on SFM among youth, women and Major Groups, various proposals were put forward to include indigenous peoples, local communities, and forest-dependent communities.

**ENHANCED COOPERATION AND CROSS-SECTORAL POLICY AND PROGRAMME COORDINATION, AND INTERNATIONAL AND REGIONAL PROCESSES AND ORGANIZATIONS:** Noting that issues in these sections had been addressed while discussing other sections, on Friday Chair Hooqveen proposed, and delegates agreed, that the AHEG did not need to consider these sections. He said much of the text would be streamlined as suggested by proposals made in other sections, and that discussion of regional processes and organizations should only occur after the MYPOW meeting in February in Indonesia.

**MEANS OF IMPLEMENTATION:** The expert group discussed Means of Implementation on Thursday, and heard a related statement from the World Bank on Friday. Delegates considered three subsections on finance, incentives, and capacity building and transfer of environmentally sound technologies (ESTs).

**Finance:** Delegates addressed paragraphs related to, *inter alia*, securing political will to strengthen means of implementation, reversing the decline in ODA for SFM, new and additional resources for SFM, funding options, innovative financial mechanisms, and market mechanisms.

As an alternative to a subparagraph on securing sustained political commitment to strengthen means of implementation, the US, with Australia, proposed text linking means of implementation to assisting countries to meet the Global Objectives by cooperating bilaterally, regionally and globally. Norway proposed linking this to national targets. China, the African Group, India and Pakistan supported retaining a subparagraph on mobilizing and providing significant new and additional resources for SFM, and with the EU, a subparagraph on reversing the decline in ODA. To a subparagraph on mobilizing and providing new and additional resources for SFM, the EU added language on supporting national forest programmes and integrating forest issues in national development programmes and, where appropriate, poverty reduction strategies.

One of the more contentious issues discussed was whether to have a new global forest fund or to assess and review current funding mechanisms. Regarding the two alternative options presented in the composite draft text, China, Pakistan, Cuba, Malaysia, the African Group, Venezuela, Mexico and Iran

supported the option on establishing a new global forest fund/financing mechanism/forest development fund. Canada, the EU and Switzerland preferred the option on assessing and reviewing current funding mechanisms. Iran said use of existing funds may adversely impact financing in other areas, such as combating desertification, but that improving, strengthening and giving new mandates to existing funds could also be considered. The US preferred discussing this issue under the MYPOW.

Experts also discussed subparagraphs on: inviting CPF members to support countries in accessing additional funding, which Iran and India proposed deleting; inviting the GEF to consider support for SFM, which the US favored deleting and India, the African Group, the EU and Pakistan preferred to retain; and inviting international financial institutions to consider ways to generate access to resources, which the US opposed and Iran, Pakistan, China, India and the African Group supported.

On developing innovative financial mechanisms for generating revenue for SFM, the African Group, China, India and others opposed proposals to add reference to: debt reduction mechanisms (US); generating carbon emissions reduction credits through forest cover maintenance and recovery (Costa Rica); and payments for ecosystem services (Switzerland).

On creating financial measures to support small land owners or users, Major Groups, supported by the EU, Mexico, Switzerland and the African Group, provided an alternative subparagraph on financial mechanisms supporting forestry-related rural development for the benefit of forest-dependent local peoples, particularly in developing countries.

There was some debate over inclusion of a subparagraph on the Clean Development Mechanism (CDM), with India, Malaysia, Venezuela and China supporting its deletion. Pakistan proposed text requesting financial institutions to allocate CDM funds for afforestation and reforestation projects. Mexico, Cambodia and Guatemala proposed text on developing CDM strategies for participation of developing countries in market-based mechanisms.

Experts also discussed subparagraphs on, *inter alia*: creating an enabling environment for investment by the private sector in SFM and for involvement of and investment by local communities; and initiating and strengthening public-private partnerships to promote implementation of national forest measures. There were proposals to move subparagraphs on, *inter alia*, fostering access to forest resources and markets, and supporting livelihoods and income diversification, to the section on national measures.

The US proposed moving from another section a subparagraph on improving regional and international coordination for inclusion under Means of Implementation. Brazil proposed a new subparagraph on developing a mechanism of positive incentives to finance developing country efforts to reduce the loss of forests and implement SFM.

**Incentives:** Delegates debated whether to include a separate subsection on incentives. On adopting measures to act as incentives for SFM, Japan, Iran, New Zealand and Australia, opposed referring to incentives, suggesting the NLBI in itself should be an incentive. The Major Groups suggested broader analysis of incentives through the MYPOW.

Regarding a subparagraph calling on member states to encourage remunerative returns from sustainably managed forests, Australia said government intervention in this matter was impractical and that only the market can determine returns. Japan, the US, New Zealand and Australia, opposed by Malaysia, suggested deleting the paragraph. Australia preferred moving the content of this subsection to another location in the text.

**Capacity building and transfer of ESTs:** Under this subsection the expert group discussed subparagraphs on, *inter alia*: enhancing capacity to increase production of forest products from sustainably managed forests; promoting technology transfer and capacity building to facilitate implementation of national policies and measures; sharing and use of best practices in SFM; enhancing transfer of ESTs on favorable terms; promoting scientific and technological innovations for SFM; and international technical and scientific cooperation.

There were proposals to move to the section on National Measures subparagraphs on, *inter alia*: promoting participation and empowerment of forest-related stakeholders; promoting protection, use and benefit-sharing of traditional knowledge; and developing voluntary instruments to adopt good business practices and improve market transparency.

Contentious discussions revolved around subparagraphs related to, *inter alia*, addressing illegal practices and illegal international trade and combating wildlife poaching and related trafficking.

The US proposed merging several paragraphs in this subsection into one paragraph promoting capacity building, technical assistance and access to and transfer of ESTs to enable countries to implement national policies and measures aimed at reversing the loss of forest cover and increasing the area of protected and sustainably managed forests. Many developing countries supported maintaining a separate subparagraph on promoting transfer of technology to and capacity building in developing countries.

Egypt, India and Mexico supported retaining a paragraph on strengthening capacity to address illegal practices and illegal international trade in forest products. Noting sensitivities on the part of some to over-referencing illegal international trade, the US suggested referring to illegal logging, or illegal practices, “and associated trade.”

China opposed including a subparagraph on combating wildlife poaching and related trafficking, while India and Norway supported its retention. There were suggestions that this be done in accordance with national legislation and policies (Pakistan), and in adherence to international obligations (Chile). Brazil proposed that, if retained, reference to trafficking of forest-related biological resources be included. The US pointed to potential difficulties with this proposal.

On promoting effective protection, use and related benefit sharing of traditional knowledge, Brazil requested this be done according to national legislation. Brazil also proposed a new subparagraph on promoting the development of freeware-based technology in promoting SFM implementation.

On Friday, Gerhard Dieterle, World Bank, informed the expert group that a background document on means of implementation was being developed in partnership with the UNFF Secretariat and the CPF, which will contribute to UNFF-7 discussions. He

said the paper would assess and provide further information on various means of implementation specified at UNFF-6, in order to provide an update on the current state of discussions on the proposed means of implementation and highlight any trends and emerging options likely to influence forest sector finance. He said a first draft will be circulated at the country-led initiative to be held in Bali in February 2007, and the final paper would be made available at UNFF-7.

**TECHNICAL ASSISTANCE:** Promoting provision of technical assistance to states was discussed on Thursday. Iran, supported by Pakistan, Cuba and the African Group, noted that technical assistance should be provided specifically to developing countries and countries with economies in transition, with the EU preferring that all states practice technical cooperation. Noting that technical assistance is one modality of ODA, the US said this issue had been adequately addressed elsewhere in the text. Mexico called for a reference to providing technical assistance based on recipient country priorities.

**MONITORING, ASSESSMENT AND REPORTING:**

This section was discussed on Thursday and Friday. Participants focused on: monitoring progress in implementation; submitting national reports on a voluntary basis; peer review of national reports; and a proposal by the EU on a facilitative process.

Australia, supported by Egypt, the EU, Switzerland, Mexico and Pakistan, proposed merging two paragraphs on monitoring progress in implementation of national measures toward achieving the Global Objectives, and utilizing C&I. Iran, supported by the EU, the African Group, Switzerland, Mexico and Pakistan, proposed adding reference to achieving national goals and targets.

On Friday, the US proposed that states submit, on a voluntary basis, reports on implementation of national measures, and provide these reports to CPF member organizations where relevant. Mexico noted that reporting should be on implementation of the whole instrument rather than just on national measures. Noting that some countries would have difficulties with reporting, Iran, supported by India and Pakistan, suggested that the Secretariat be requested to support developing country efforts to enhance national capacities for MAR.

Iran proposed alternative text on requesting the Secretariat to prepare synthesis reports on the state of implementation of the instrument based on national reports. Australia and the US questioned whether preparing synthesis reports should be part of the instrument, and the EU stressed its importance within the instrument.

**Peer review of national reports:** India, Colombia, China, Indonesia, Malaysia and the African Group requested deletion of a paragraph on a voluntary peer review process of national reports. Switzerland cited the usefulness for developing countries of a demand-driven, voluntary process under the International Tropical Timber Organization (ITTO). Mexico noted this process could clarify areas where financial or technical assistance may be needed.

**Facilitative process:** Regarding an EU-proposed facilitative process to establish a committee of experts to promote and facilitate implementation of the instrument, Mexico, supported by Brazil and Argentina, said most of the proposed work of the committee could be done through existing bodies, and asked

what the committee would do that the CPF is not already doing. Colombia, China and Iran suggested this be considered under the section on institutional and working modalities. China, supported by India, said a subsidiary body providing scientific and technical advice to the UNFF could be considered. Brazil said it was not appropriate or helpful to create new structures.

While very supportive of facilitation, Switzerland said this should be done under the UNFF. Australia said the proposal was too detailed, suggesting more general language be used, and working out the details later under the UNFF. In addition to equitable geographic representation, Pakistan suggested balance between common interest groups. Cuba said that: it was premature to discuss establishing a committee under the NLBI; any process should be organized and implemented by the UNFF, taking advantage of the CPF; and the relationship between UNFF and the new instrument needed first to be determined. The African Group requested an explanation as to the role of the CPF in this proposed committee. Supporting the EU proposal, Major Groups asked to be involved in any committee that is established.

Responding to some of the interventions, the EU said they intended this to be a stand alone section, not placed under Monitoring, Assessment and Reporting. She said new ideas were needed in the instrument, CPF members could be included in the committee, and country-specific discussions should not be undertaken by the UNFF.

**INSTITUTIONAL AND WORKING MODALITIES:**

On Friday, participants discussed institutional and working modalities, including subsections on, *inter alia*, governing body, meetings, MYPOW, the UNFF Secretariat, the UNFF Trust Fund and review of progress.

**Governing body:** Experts considered whether the UNFF would serve as the governing body for the NLBI. The EU favored reference to the “intergovernmental forum” rather than the “governing body” of the instrument. The EU, opposed by New Zealand, suggested deleting reference to the MYPOW in a paragraph on functions of the UNFF in monitoring and promoting the full implementation of the NLBI by adopting plans and programmes.

**Meetings:** Experts considered language on the UNFF assessing progress in implementation of the NLBI and deciding on priorities for the NLBI. The US suggested the UNFF should not guide the instrument and, with Senegal, suggested deleting reference to this. Cuba noted the importance of the paragraph, the need for a close relationship between the UNFF and the NLBI, and the need for the UNFF to debate, analyze and negotiate priorities. New Zealand and Australia suggested the NLBI would be static until the Forum decides to renegotiate it, and stressed the importance of the UNFF taking decisions on implementation in the interim.

On the UNFF considering inputs from forest-related regional and subregional bodies and from country-led initiatives in implementing the NLBI, New Zealand, supported by the EU, said the regional element is a priority and suggested further discussion at the MYPOW meeting in Bali. Switzerland explained they did not foresee additional meetings under the NLBI and that work could be completed during regular meetings of the UNFF. Norway suggested discussing this at UNFF-7.



**Subsidiary bodies:** Mexico, Cuba, Costa Rica and Argentina underscored that only expert and *ad hoc* groups could be established by the Forum, noting that scientific and technical advisory bodies are normally associated with binding agreements, and favored deleting reference to scientific and technical advisory bodies.

**Stakeholder participation:** Noting the importance of this issue, Mexico requested stronger language. The US, the EU, Pakistan and Iran suggested that stakeholder participation be addressed under Principles, instead of under this section on institutional and working modalities.

**Multi-year programme of work:** Chair Hoozeven suggested, and experts agreed, that the MYPOW subsection in the instrument not be addressed until the MYPOW itself is discussed in February.

**UNFF Secretariat:** The Russian Federation proposed adding a clause requesting the Secretariat to fulfill any other duties that may be required by the Forum. The EU recommended deleting a paragraph on considering ways to strengthen the Secretariat, citing the language was appropriate for an ECOSOC resolution and not this instrument.

**UNFF Trust Fund:** The EU said language on the importance of the Trust Fund for supporting participants from developing countries was not necessary for the instrument. The Russian Federation noted that, if retained, the text should note the importance of the Trust Fund for the effective operation of the UNFF.

**Review of progress achieved in 2015:** On reviewing the effectiveness of the international arrangement on forests and the NLBI in 2015, the US proposed that the effectiveness of the instrument “and progress made in its implementation” be assessed in 2015. Mexico, Argentina, Costa Rica and Cuba preferred that the review of the NLBI’s implementation be done in 2011, since the consideration of an LBI will take place in 2015. Indonesia and India suggested that the review of the NLBI be done “no later than” 2015. The EU said the effectiveness of the NLBI should be reviewed in 2015 in the context of the overall review of the IAF.

**ADOPTION/SUBSCRIPTION:** On Friday, experts debated the relative merits of either universally adopting the instrument with an ECOSOC resolution, or requiring individual countries to subscribe to it.

The EU, supported by Egypt and Iran, supported subscription, suggesting that this would raise the instrument’s profile and strengthen commitments, but noted this would be contingent on the content of the instrument’s added value over existing voluntary agreements. Cuba said that if the group could not agree on at least adopting the instrument, there is no point in holding UNFF-7; others argued this does not need to be included in the text, as adoption will occur via an ECOSOC resolution.

The Russian Federation cautioned that requiring subscription may delay the introduction of the instrument. The African Group cautioned against discussing adoption and subscription until after the substance of the NLBI is further defined. Mexico disagreed, noting that as a voluntary instrument, no minimum number of participants is required for the agreement to take effect. Senegal suggested that the paragraph on subscription be removed for now, as terminology and vision are not agreed upon, and noted

that accession would be governed by the UN Law of Treaties. Pakistan suggested following the approach most commonly used for other voluntary UN agreements.

The US noted that universal adoption could achieve higher profile by obtaining both ECOSOC and General Assembly approval, and that although subscription would raise the profile of the instrument, it would require further diplomatic channels. She suggested convening a panel of experts to discuss the relative merits of each option at the beginning of UNFF-7.

Switzerland, New Zealand China and India expressed a strong preference for universal adoption. Brazil concurred, adding that requiring subscription would be inconsistent with the universal membership of the UNFF.

**AMENDMENTS/MODIFICATIONS:** This section was discussed on Friday. The US, supported by Brazil, India and New Zealand, stated this is not appropriate for an NLBI and proposed deleting language on the possibility of the UNFF amending or modifying the NLBI. Cuba, the EU and Mexico preferred retaining the language.

**ADOPTION OF ANNEXES AND SUPPLEMENTARY INSTRUMENTS:** On Friday, the US, opposed by Cuba, recommended deleting this section.

**AUTHENTIC TEXTS:** On Friday, the US requested deleting the section on authenticity of the text, stating that it is not appropriate for an NLBI.

### CLOSING PLENARY

On Friday, Patosaari presented the report of the meeting. Indonesia proposed, and delegates agreed on, the addition of text under Other Matters that noted the country-led initiative on the MYPOW, to be held in Bali, Indonesia, in 2007. On matters for consideration by the UNFF, Australia underscored the need to begin negotiations based on the revised composite text at UNFF-7, and Cuba noted that the AHEG does not have the mandate to direct the work of the Forum. Delegates adopted the AHEG report with minor amendment.

Many delegates thanked the Chair and the Secretariat and noted their enthusiasm for concluding the instrument at UNFF-7. The African Group announced that a regional consultation will be held in March to prepare a unified position prior to UNFF-7. UNFF Director Patosaari said the discussion on the instrument’s structure provided clarity for the Secretariat and thanked the Chair, CPF member organizations and Major Groups. Chair Hoozeven thanked all participants and gavelled the meeting to a close at 4:43 pm.

## A BRIEF ANALYSIS OF THE MEETING

### NLBI: THE FIRST STEP FORWARD

The United Nations Forum on Forests (UNFF) *ad hoc* expert group completed an essential first step in developing a non-legally binding instrument (NLBI) on all types of forests. In order to understand why many people viewed this meeting as a success, one must consider why it was held, and what participants expected to achieve during this first round of discussions. The NLBI was conceived as a way forward for international forest policy after years of quagmire over the creation of a legally binding forest convention. Going into the meeting, it was accepted by most participants that the best-case

scenario outcome would be to have all views expressed and consolidated into options contained in bracketed text, ready for negotiation at UNFF-7.

With tensions perhaps eased by having the forest convention debate out of the way, and with no expectation of attaining consensus by the end of the week, the week started off well. While it was technically an “expert group” meeting, from the outset it was clear that experts approached this as a working group, as originally proposed at UNFF-6, delving into detailed textual modifications and revisiting familiar country positions. However, the meeting exceeded all expectations in that it not only finished a first reading of the text, it did so ahead of the time allotted, a rarity within multilateral negotiations.

### **IN SEARCH OF ADDED VALUE**

Perspectives on the potential for the NLBI to be an effective component of international forest policy still vary. Perhaps most importantly, one’s view largely depends on how much one believes in the power of voluntary “soft law,” as opposed to legally binding “hard law.” This was discussed during the expert panel-led discussion on the first day, which sparked a useful and interesting dialogue on the relative merits of each. This discussion highlighted that voluntary agreements can potentially have as much influence and encourage compliance as much as legally-binding ones, and one panelist cited several examples of agreements that had evolved into legally binding ones, such as those on plant genetic resources and prior informed consent in the international trade of hazardous chemicals. This appeared to bring a sense of increased importance to the proceedings and to the instrument being developed.

Whether as a result of this or not, many delegations were extremely cautious in the language they supported throughout the week. Countries frequently insisted on inserting discretionary clauses within individual paragraphs, despite the voluntary nature of the entire document. On the first day, the US indicated that in their view, it is the agreement’s content, not just its label, which will determine its legal status. In line with this view, the US requested that terms such as “adoption,” “will,” “shall,” and “ensure” be removed, indicating these are generally associated with legally binding instruments (LBIs). Others objected, suggesting that the fact that the agreement is non-binding should provide more leeway for stronger language.

Much of the week was spent struggling to define the NLBI’s “raison d’être” among so many well-established forest-related instruments, many of which were written during an era when forest issues were given considerably greater political priority and public attention. Several times during protracted debate, interventions were made recalling that greater commitments than those proposed here had already been agreed to under other agreements, such as the Rio Declaration and Forest Principles. One example was a watering down of previously-agreed language on requiring environmental impact assessments.

Other concerns, particularly for donor countries seeking additional certainty prior to committing greater funding, are the numerous battlefronts from previous UNFF sessions that remain largely the same. On the first day, one delegate questioned what greater assurance the NLBI could provide regarding whether forest products are sourced from legally harvested, sustainable sources, given that consumers are increasingly scrutinizing where

their goods are coming from, as evident through the increased popularity of certification; this question remains unanswered. The issue of establishing national measures and targets to support sustainable forest management (SFM) was taken up by a small working group, who will propose text, including reference to time-bound and quantifiable targets, prior to UNFF-7. The issue of requiring national reporting remains undecided, with many proposed options on the table. Several developed countries suggested that including text on promoting good governance was one of the main ways that the NLBI could go beyond what is already stated within the Forest Principles, but many developing countries opposed its inclusion unless it contained reference to provision of adequate financial resources. Although mentioned briefly by the EU, the issue of linking national targets with the pursuit of the Millennium Development Goals received much less attention than in other meetings, despite the fact that this has been identified as a promising source of garnering political will and funding for forest-related development.

Developing countries also questioned whether there will be greater financial commitments on the part of donor countries under the NLBI, as much is yet undecided. As always, developing countries are pursuing new, additional and adequate funding, and many advocate the development of a global forest fund. The counter-argument remains that the establishment of a new fund will involve more transaction costs through administration and not necessarily bring new funding; furthermore, the coffers of existing sources desperately need replenishing. Related to this last point, several developing countries have noted that the seven thematic elements of sustainable forest management, the use of which is promoted by developed countries, do not cover a Global Objective important to the developing world, namely, reversing the decline in ODA for SFM, and should not be referred to as “an indicative set of global criteria.”

Thus, the answer to the question “what’s the added value of this agreement?” namely, stronger commitments to both SFM and the means to implement it, remains bracketed for now.

### **THE ROLE OF UNFF AND OTHER PLAYERS**

Another question remaining is whether the UNFF’s mandate will be expanded. It is unclear how this instrument relates to the multi-year programme of work, discussion of which has been deferred until the country-led initiative to be held in Indonesia in February 2007. The UNFF’s relationship with the Collaborative Partnership on Forests (CPF) and its ability to coordinate the forest-related policy of its members remain somewhat contested, as was evident through conflicting interventions during discussion of the NLBI’s relationship to other instruments. Delegates were quick to point out that not all UNFF members are signatories to each agreement, yet there is a strong need for coordination to avoid overlap and conflicts between the requirements of the instruments. Similarly, the UNFF’s role vis-à-vis the NLBI itself remains undecided, with some countries objecting to both Forum oversight of the NLBI’s implementation as well as the creation of additional bureaucracies.

A potentially positive development came in the form of a proposal by the EU to develop an expert committee under the NLBI, composed of UNFF and CPF members as well as Major Groups, which would provide advice and assistance to promote

and facilitate implementation of the NLBI. Serviced by the Secretariat, this may empower the Secretariat's role within the agreement. However, some countries have questioned the need for such an additional body.

A surprise development was the reintroduction of participation by Major Groups, who participated actively in plenary and made several interventions to be considered along with the rest of the bracketed text. Representing a wide range of interests, they produced a consensus document describing their vision for the NLBI and secured the support of several countries to act as champions for their cause. This could well be considered "added value" for the process, and may help lure back influential non-state actors that originally drove this issue into the international spotlight.

### **THE ROAD TO UNFF-7**

In plenary, a Major Group representative likened UN negotiations to a traditional Cameroonian dance whereby dancers take one step forward, then two steps back. The key question for participants to consider as they head into UNFF-7 is how to ensure that ground gained this week is not lost when discussions resume in April 2007. A successful first reading and an early finish may bode well for UNFF-7 negotiations, but they have yet to seek consensus on the most difficult issues. With participants having expressed confidence in the abilities of Chair Hans Hoogeveen, he should be able to build on the strong momentum and relationships developed during this first round of discussion. However, what the final document will contribute over and above existing forest-related instruments has yet to be determined.

International soft law on forests to date, such as the Forest Principles, has not "evolved" into a convention. If the development of an NLBI is in fact the next step, the steps are being taken at a glacial pace. It is now apparent that there is no sharp division between soft and hard law, and where the NLBI will lie along the continuum between these two will hopefully be determined at the next UNFF session. The first step forward has been taken.

## **UPCOMING MEETINGS**

### **REGIONAL WORKSHOP ON FOREST LAW**

**ENFORCEMENT IN CENTRAL AFRICA:** This workshop will take place from 9-11 January 2007, in Libreville, Gabon. It is jointly organized by the Central Africa Forests Commission (COMIFAC), FAO and ITTO and will be attended by representatives of governments, NGOs and the private forest sector of the 10 member countries of COMIFAC (Burundi, Cameroon, Central African Republic, Chad, Congo, Democratic Republic of Congo, Gabon, Equatorial Guinea, Rwanda, and Sao Tome and Principe), as well as regional and international organizations. For more information, contact: Eva Müller, FAO; tel: +39-06-57054628; fax: +39-06-57055514; e-mail: Eva.Muller@fao.org; internet: <http://www.fao.org/forestry/site/34448/en/page.jsp>

### **MOBILIZING WOOD RESOURCES WORKSHOP:**

The UN Economic Commission for Europe and the FAO are organizing this workshop, "Mobilizing Wood Resources – Can Europe's Forests Satisfy the Increasing Demand for Raw

Material and Energy under SFM?," which will take place from 11-12 January 2007, in Geneva, Switzerland. The workshop will explore ways in which the interests of all stakeholders in the forestry sector can be reconciled to achieve a truly sustainable outcome, against the evolving backdrop – and new emerging dilemmas – of higher energy prices and policy support for renewables. For more information, contact: Cynthia de Castro, UNECE/FAO Timber Section; tel: +41-22-917-1286; fax: +41-22-917-0041; e-mail: [cynthia.de.castro@unece.org](mailto:cynthia.de.castro@unece.org); internet: <http://www.unece.org/trade/timber/workshops/2007/wmw/mobilisingwood.htm>

**PAYMENTS FOR ENVIRONMENTAL SERVICES - ECONOMICALLY FEASIBLE AND PRO-POOR:** This workshop will be held from 25-26 January 2007, in Lombok, Indonesia. This workshop will bring together practitioners, support or intermediary organizations, donors and resource people to explore emerging experiences, issues and lessons in payments for environmental services (PES). It will review cross-cutting issues related to the economic and institutional feasibility of PES, as well as key social issues that affect the extent to which PES may offer a pathway for poverty reduction. It also aims to identify opportunities for future collaboration and action in Asia. For more information, contact: Beria Leimona, World Agroforestry Centre (ICRAF); tel: +62-251 625415; fax: +62-251-625416; e-mail: [L.Beria@cgiar.org](mailto:L.Beria@cgiar.org); internet: <http://www.worldagroforestry.org/sea/Default.aspx?alias=www.worldagroforestry.org/sea/rupees>

### **COUNTRY-LED INITIATIVE IN SUPPORT OF THE MULTI-YEAR PROGRAMME OF WORK OF THE UNFF: CHARTING THE WAY FORWARD 2015:**

This country-led initiative will be held from 13-16 February 2007, in Bali, Indonesia. This meeting is intended to provide an opportunity to explore, elaborate and develop a broader understanding of the possible concepts and elements to be included in the new MYPOW of the UNFF. Expected outputs of the meeting include recommendations to UNFF-7 regarding the structure and substance of the MYPOW; interlinkages between the MYPOW and the NLBI on forests; strengthening the regional dimension in the work of the IAF through the MYPOW; and possible approaches to accomplishing the Global Objectives on forests and the new principal functions of the UNFF. For more information, contact: Tri Tharyat, Permanent Mission of Indonesia to the UN; tel: +1-212-972-8333; fax: +1-212-972-9780; e-mail: [tri\\_tharyat@yahoo.com](mailto:tri_tharyat@yahoo.com); internet: [http://www.un.org/esa/forests/pdf/cli/cli\\_bali-mypow130207.pdf](http://www.un.org/esa/forests/pdf/cli/cli_bali-mypow130207.pdf)

### **THIRD FOREST VEGETATION SIMULATOR**

**CONFERENCE:** This meeting will be held from 13-15 February 2007, in Fort Collins, US. The Forest Management Service Center, together with the Rocky Mountain Research Station, is organizing a conference to bring together users and developers of the Forest Vegetation Simulator (FVS) model. The objective is to synthesize the knowledge gained from over thirty years of using FVS for project-level planning, landscape analysis, forest health assessments, forest plan revision, inventory updates, habitat evaluation and all other purposes. For more information, contact: Robert Havis; tel: +1-970-295-5768; e-mail: [rhavis@fs.fed.us](mailto:rhavis@fs.fed.us); internet: [http://www.fs.fed.us/fmsc/fvs/fvs\\_conference.shtml](http://www.fs.fed.us/fmsc/fvs/fvs_conference.shtml)

**FINANCING OF FOREST CONSERVATION:****PAYMENTS FOR ENVIRONMENTAL SERVICES IN THE**

**TROPICS:** This conference will be held from 2-3 March 2007, at the Yale School of Forestry and Environmental Studies, New Haven, US. The conference will serve as a forum to discuss the various types of PES and the successes and failures to date. The discussion will be driven by questions such as: Can PES mechanisms lead to conservation? Can such mechanisms be as economically viable as other uses? How can these methods be integrated into conservation and management plans? What are the potential negative consequences from the standpoints of conservation, local livelihoods and economic optimization? How can active trading markets for ecosystem services be developed? And, are payments for avoided deforestation and reduced carbon emissions feasible? For more information contact: the Yale School of Forestry and Environmental Studies; e-mail: [istf@yale.edu](mailto:istf@yale.edu); internet: <http://www.yale.edu/istf/>

**EIGHTEENTH SESSION OF THE FAO COMMITTEE**

**ON FORESTRY:** The 18th biennial session of the FAO Committee on Forestry (COFO) will convene at FAO headquarters in Rome, Italy, from 12-16 March 2007. COFO-18 will bring together heads of forest services and other senior government officials to identify emerging policy and technical issues and advise FAO and others on appropriate action. For more information, contact: Douglas Kneeland, FAO Forestry Department; tel: +39-06-5705-3925; fax: +39-06-5705-5137; e-mail: [douglas.kneeland@fao.org](mailto:douglas.kneeland@fao.org); internet: <http://www.fao.org/forestry>

**SEVENTH SESSION OF THE UNITED NATIONS**

**FORUM ON FORESTS:** UNFF-7 will be held from 16-27 April 2007, at UN headquarters in New York. For more information, contact: UNFF Secretariat; tel: +1-212-963-3160; fax: +1-917-367-3186; e-mail: [unff@un.org](mailto:unff@un.org); internet: <http://www.un.org/esa/forests>

**GLOSSARY**

AHEG	<i>Ad hoc</i> expert group
C&I	Criteria and indicators
CDM	Clean Development Mechanism
CLI	Country-led initiative
CPF	Collaborative Partnership on Forests
EIAs	Environmental Impact Assessment
ESTs	Environmentally Sound Technologies
IAF	International Arrangement on Forests
IFF	International Forum on Forests
IPF	Intergovernmental Forum on Forests
ITTO	International Tropical Timber Organization
MAR	Monitoring, Assessment and Reporting
MYPOW	Multi-year programme of work
NLBI	Non-legally binding instrument
PES	Payment for environmental services
PfAs	Proposals for Action
SFM	Sustainable Forest Management

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## UNFF EXPERT GROUP ON THE NON-LEGALLY BINDING INSTRUMENT: 11-15 DECEMBER 2006

The United Nations Forum on Forests (UNFF) *ad hoc* expert group on the consideration of the content of the non-legally binding instrument on all types of forests commences on 11 December 2006 at UN headquarters in New York. Participants, including government-designated experts from member States and representatives of the Collaborative Partnership on Forests (CPF), intergovernmental organizations and major groups, will take into account the compilation of the draft indicative elements of the non-legally binding instrument and other proposals submitted by member states during UNFF-6, proposals presented afterwards and comments provided by member states regarding all the proposals. The expert group will provide its outputs for consideration by the Forum at its seventh session.

### A BRIEF HISTORY OF UNFF

The UNFF followed a five-year period (1995-2000) of forest policy dialogue facilitated by the Intergovernmental Panel on Forests (IPF) and the Intergovernmental Forum on Forests (IFF). In October 2000, the Economic and Social Council of the United Nations (ECOSOC), in Resolution E/2000/35, established the UNFF as a subsidiary body, with the main objective to promote the management, conservation and sustainable development of all types of forests.

To achieve its main objective, principal functions were identified for UNFF, namely to: facilitate implementation of forest-related agreements and foster a common understanding on sustainable forest management (SFM); provide for continued policy development and dialogue among governments, international organizations, and major groups, as identified in Agenda 21, as well as to address forest issues and emerging areas of concern in a holistic, comprehensive and integrated manner; enhance cooperation as well as policy and programme coordination on forest-related issues; foster international cooperation and monitor, assess and report on progress; and strengthen political commitment to the management, conservation and sustainable development of all types of forests.

The IPF/IFF processes produced more than 270 proposals for action towards SFM, and form the basis for the UNFF Multi-Year Programme of Work (MYPOW) and Plan of Action,

which have been discussed at annual sessions. Country- and organization-led initiatives have also contributed to UNFF's work.

**ORGANIZATIONAL SESSION:** The UNFF organizational session and informal consultations on the MYPOW took place from 12-16 February 2001, at UN headquarters in New York. Delegates agreed that the UNFF Secretariat would be located in New York, and addressed progress towards the establishment of the CPF, a partnership of 14 major forest-related international organizations, institutions and convention secretariats.

**UNFF-1:** The first session of UNFF took place from 11-23 June 2001, at UN headquarters in New York. Delegates discussed and adopted decisions on UNFF's MYPOW, a Plan of Action for the implementation of the IPF/IFF Proposals for Action, and UNFF's work with the CPF. Delegates also recommended establishing three *ad hoc* expert groups to provide technical advice to UNFF on: approaches and mechanisms for monitoring, assessment and reporting; finance and transfer of environmentally sound technologies; and consideration with a view to recommending the parameters of a mandate for developing a legal framework on all types of forests.

**UNFF-2:** The second session of UNFF took place from 4-15 March 2002, at UN headquarters in New York. Delegates adopted a Ministerial Declaration and Message to the World Summit on Sustainable Development and eight decisions on: combating deforestation and forest degradation; forest conservation and protection of unique types of forests and fragile ecosystems; rehabilitation and conservation strategies for countries with low forest cover; the promotion of natural and planted forests; specific criteria for the review of the effectiveness of the international arrangement on forests (IAF); and proposed revisions to the medium-term plan for 2002-2005.

**UNFF-3:** UNFF-3 met in Geneva, Switzerland, from 26 May-6 June 2003. UNFF-3 adopted six resolutions on: enhanced cooperation and policy and programme coordination; forest health and productivity; economic aspects of forests; maintaining forest cover to meet present and future needs; the UNFF Trust Fund; and strengthening the Secretariat. Terms of reference were adopted for the voluntary reporting format, and three *ad hoc* expert groups designed to consider: monitoring and reporting;

finance and transfer of technologies; and “consideration with a view to recommending the parameters of a mandate for developing a legal framework on all types of forests.”

**UNFF-4:** UNFF-4 convened in Geneva, Switzerland, from 3-14 May 2004. UNFF-4 adopted five resolutions on: forest-related scientific knowledge; social and cultural aspects of forests; monitoring, assessment and reporting and criteria and indicators; review of the effectiveness of the IAF; and finance and transfer of environmentally sound technologies. UNFF-4 attempted to but could not reach agreement on resolutions on traditional forest-related knowledge and enhanced cooperation and policy and programme coordination.

**UNFF-5:** UNFF-5 took place from 16-27 May 2005, at UN headquarters in New York, with the goal of reviewing the effectiveness of the IAF. However, participants were unable to reach agreement on strengthening the IAF and did not produce either a ministerial statement or a negotiated outcome. They did agree, *ad referendum*, to four global goals on: significantly increasing the area of protected forests and sustainably managed forests worldwide; reversing the decline in official development assistance (ODA) for SFM; reversing the loss of forest cover; and enhancing forest-based economic, social and environmental benefits. They also agreed in principle to negotiate, at some future date, the terms of reference for a voluntary code or international understanding on forests, as well as means of implementation. Delegates decided to forward the draft negotiating text to UNFF-6.

**UNFF-6:** UNFF-6 took place from 13-24 February 2006, at UN headquarters in New York. Negotiators reached agreement on how to proceed with reconstituting the IAF. Delegates generated a negotiating text containing new language on the function of the IAF, a commitment to convene UNFF biennially after 2007, and a request that UNFF-7 (16-27 April 2007) adopt a non-legally binding instrument on all types of forests. UNFF-6 also set four global objectives for the IAF: reverse the loss of forest cover worldwide through SFM, including protection, restoration, afforestation and reforestation; enhance forest-based economic, social and environmental benefits and the contribution of forests to the achievement of internationally agreed development goals; increase significantly the area of protected forests worldwide and other areas of sustainably managed forests; and reverse the decline in ODA for SFM and mobilize significantly increased new and additional financial resources from all sources for the implementation of SFM.

### **INTERSESSIONAL HIGHLIGHTS**

**AFWC-15:** The 15th session of the African Forestry and Wildlife Commission convened in Maputo, Mozambique, from 29 March to 1 April 2006. Topics included: the AFWC implementation of SFM in Africa; achievement of the Millennium Development Goals through regional cooperation; forest law compliance; and links between climate change and deforestation.

**APFC-21:** The 21st session of the Asia-Pacific Forestry Commission met in Dehradun, India from 17-21 April 2006, and focused on SFM and financing issues. The Commission considered the use of innovative financing such as the payment of environmental services and the role of regional mechanisms in promoting SFM. Delegates further discussed codes of practice

for planted forests, forest harvesting and wildland fires, and the FAO/International Tropical Timber Organization (ITTO) guidelines for best practices on law compliance in the forest sector.

**EFC-33:** The 33rd session of the European Forestry Commission was held in Zvolen, Slovakia, from 23-26 May 2006, with delegates considering lessons learned and challenges ahead for the forestry sector in countries with economies in transition. The Commission also focused on progress towards SFM in Europe, forest law compliance, and forest-related voluntary codes of practice.

**ITTC-40:** The 40th session of the International Tropical Timber Council took place in Mérida, Mexico, from 29 May to 2 June 2006. The Council allocated a total of US\$3.9 million to a number of new projects, addressed tropical timber procurement policies in consumer countries, and convened a number of side-events on challenges facing community forestry enterprises.

**LACFC-24:** The 24th session of the Latin American and Caribbean Forestry Commission took place from 26-30 June 2006, in Santo Domingo, Dominican Republic. Participants discussed planted forests, conservation of biological diversity, climate change and forest fires. During the meeting, an initiative was launched to collect case studies of successful forest management from around the region for replication elsewhere.

**INTERNATIONAL FOREST REGIME ROUNDTABLE:** A roundtable discussion entitled “Towards a new international regime on forests” was held on 5 July 2006, in Geneva, Switzerland. Organized by the Geneva Environment Network, the meeting was attended by representatives from, *inter alia*, the ITTO, FAO, UNFF, the UN Economic Commission for Europe and Intercooperation. UNFF gave an update of the results of its 6th session and reaching a “soft forest convention.” Participants discussed illegal logging, the feasibility of a non-legally binding “soft” convention to ensure compliance, taxing illegal forest activities and capacity building.

**AFRICAN PARLIAMENTARIAN CONFERENCE:** The First International Conference of Parliamentarians on the Sustainable Management of Central African Forest Ecosystems convened in Yaoundé, Cameroon, from 24-27 October 2006. The conference focused on good forest governance and poverty alleviation. Participants adopted the Yaoundé Message, which encourages the Network of Parliamentarians for the Sustainable Management of Central African Forest Ecosystems (REPAR) and the Parliament of Cameroon to organize subregional meetings on good governance of forest resources, as well as an action plan that highlights three priority actions: institutional development of REPAR; enhancement of REPAR’s involvement in forest sector monitoring; and combating transboundary forest crime.

**ITTC-41:** ITTC-41 took place from 6-11 November 2006, in Yokohama, Japan. Delegates discussed: the ITTO Biennial Work Programme for 2006-2007; measures to improve and strengthen the ITTO project cycle; and ITTO Objective 2000. Delegates to ITTC-41 approved 13 new projects and seven pre-projects, and pledged US\$5.4 million in project financing. The Council adopted a decision on the terms of reference for selecting a new Executive Director, allocating up to US\$100,000 from the Working Capital Account for the search process, and a decision to extend ITTA, 1994 until the provisional or definitive entry into force of the ITTA, 2006.

## UNFF EXPERT GROUP HIGHLIGHTS: MONDAY, 11 DECEMBER 2006

On Monday, 11 December, the United Nations Forum on Forests (UNFF) open-ended *ad hoc* expert group (AHEG) on the consideration of the content of the non-legally binding instrument (NLBI) on all types of forests convened at UN Headquarters in New York. In the morning and afternoon plenary sessions, delegates addressed organizational matters, heard opening statements and considered the draft composite text of the NLBI. In the afternoon, a panel discussion was held to clarify legal and financial issues relating to the NLBI.

### OPENING PLENARY

Pekka Patosaari, Director, UNFF Secretariat, opened the meeting, noting that the current period of ECOSOC reform presents an opportunity for UNFF to increase its profile. He proposed, and delegates agreed, that the UNFF-7 Bureau act as the bureau for this meeting, including: Hans Hoozeveld (the Netherlands) as Chair; and André-Jules Madingou (Gabon), Arvids Ozols (Latvia), Hamidon Ali (Malaysia), and Christian Maquieira (Chile) as Vice-Chairs.

Chair Hoozeveld said that UNFF is at a critical juncture and ready for a great leap forward. He made an appeal to not reopen previously agreed language, and said that although this was an expert group meeting, participants should approach it as a negotiating session.

**ORGANIZATIONAL MATTERS:** Delegates adopted the provisional agenda (E/CN.18/AC.1/2006/1) without amendment. Chair Hoozeveld outlined the Bureau's proposal that work be undertaken as a single body in plenary. He explained that during the first two days of the meeting there would be no simultaneous interpretation and that the Secretariat was working to secure interpretation for the remainder of the meeting. He proposed the meeting begin in English, noting all documents would be translated into UN languages. BRAZIL noted the document produced from the meeting should be considered an intergovernmentally-negotiated document, thus requiring the full participation of all delegations. BURKINA FASO agreed to begin in English but proposed suspending the meeting if interpretation could not be secured by Tuesday.

**TASKS OF THE AHEG:** Patosaari introduced a compilation of proposals and comments submitted by member states and other groups on the NLBI, and a note by the Secretariat on developing an NLBI on all types of forests (E/CN.18/

AC.1.2006/2). Delegates agreed to base the week's discussions on a draft composite text prepared by the Secretariat that incorporates country proposals.

INDONESIA called attention to the country-led initiative to be held in Bali, Indonesia in February 2007, which will contribute to the development of the UNFF multi-year programme of work (MYPOW) for 2007-2015. Jan Haino, Forestry Department of the UN Food and Agriculture Organization, on behalf of the Collaborative Partnership on Forests (CPF), reiterated the CPF's strong commitment to the international arrangement on forests, and expressed hope that the outcome of the AHEG would set the stage for the adoption of an NLBI at UNFF-7.

FINLAND, for the EU, noted divergent views within the proposals, on: financial resources; subscription to the instrument; the relationship between the MYPOW and the instrument; and a facilitative process proposed by the EU. CANADA preferred to begin negotiations of the instrument at UNFF-7, and explained that some elements of Canada's submitted proposal were taken out of context, as they had originally related to a legally binding instrument. INDIA supported the creation of a global forest fund and highlighted the importance of monitoring and assessment, technology transfer and capacity building.

NEW ZEALAND expressed support for a strong UNFF that is capable of coordinating activity in support of sustainable forest management (SFM), noting the need to avoid duplication of existing work, and suggested using the seven SFM thematic elements as a basis for discussion.

IRAN encouraged cooperation and recognition of stakeholder contributions. PAKISTAN urged experts to focus on the root causes of deforestation and to use green accounting to acknowledge the true economic contribution of forests.

CHINA noted that several aspects of the negotiating text require further consolidation, and highlighted the need for a global forest fund and priority issues including poverty reduction, means of implementation and illegal logging.

The US noted that the resulting instrument will be as binding as its content dictates, and encouraged adhering to a voluntary approach. She supported a strong, concise document that will add value to the existing process and cautioned against creating additional bureaucracy.

AUSTRALIA emphasized the need for the instrument to include emerging issues, as well as to agree on the purpose of the NLBI. EGYPT noted the instrument should include man-made forests. The RUSSIAN FEDERATION explained the UNFF process is at a critical and historical juncture, that there is a need for tangible and practical results and that this process

should enhance international consensus. MALAYSIA underlined addressing means of implementation and the need to promote enabling environments, including market access and a premium on green timber. MEXICO underscored the document should reflect the high level of political commitment to SFM and promote the enhancement of domestic forest policies.

Presenting the composite draft text, the Secretariat said that 50 percent of the text was taken from previously agreed language, and highlighted potential areas of contention, including: use of terms; preparation of specific annexes relating to the seven thematic elements of SFM and Proposals for Action; international trade in forest products; finance and a global forest fund; monitoring, assessment and reporting; adoption and subscription; and adoption of annexes and supplementary instruments.

On the purpose of the composite text, the EU noted inconsistency in terminology and proposed replacing references to development agenda with “Millennium Development Goals (MDGs).” Noting the complexity of the text, NORWAY, supported by AUSTRALIA, MALAYSIA, CHINA, BRAZIL and NEW ZEALAND, proposed simplifying the text to “the purpose of this instrument is to strengthen political commitment and actions to implement effectively SFM and to achieve the global objectives on forests.” AUSTRALIA proposed including reference to enhanced cooperation and MALAYSIA proposed adding “on all types of forests and to provide a global platform.” The US questioned the need to elaborate a purpose in the document. The RUSSIAN FEDERATION proposed adding reference to the prevention of forest degradation. MEXICO noted that raising political commitment is not the purpose of the NBLI.

On global objectives, the EU and INDONESIA proposed deleting text on the overarching objective of the instrument, noting that the text was no longer necessary. INDONESIA also proposed deletion of language on deciding to set the global objectives and work to achieve progress towards their achievement by 2015. PAKISTAN, CUBA and CHILE opposed, noting that commitment to the global goals should not be ignored, and preferred retaining the language until text on the NLBI’s purpose was agreed.

On scope, the RUSSIAN FEDERATION proposed adding that the instrument relate to all types of forests “regardless of the form of their ownership.” The US questioned the need for a section on scope.

#### PANEL DISCUSSION

Daniela Simioni, Office of the UN Secretary-General, facilitated the panel discussion, noting the discussion aimed to clarify legal and financial issues relating to an NLBI. She highlighted the gender perspective on forests, the nexus between gender, energy and forests and the role of women in SFM.

Francisco Rezek, former judge, International Court of Justice, outlined the historical context of non-binding agreements and clarified the legal aspects of an NBLI. He said that due to the non-obligatory language in the text, there would be no difference in outcome if the text were adopted as a treaty or as an NLBI. Rezek noted that non-binding resolutions express a common understanding and concluded that if the draft is well considered and agreement easier to reach through an NBLI, its status as a non-binding instrument would not affect its importance.

Charles di Leva, World Bank, highlighted the importance of clarity of terms, credibility, commitment and continuity of the proposed NLBI. He underscored an increase in understanding the linkages between global forests and climate change, and payment for ecosystem services, since the adoption of the Rio Forest Principles. He noted that subscription was not necessary to represent the global community’s commitment to an NLBI.

Markku Simula, forest expert, discussed SFM financing, highlighting the important role of private sector investment. He pointed to existing financing mechanisms, including the Bali Partnership Fund and the World Bank’s Programme on Forests, and said that increasing development lending is dependent on recipient countries’ willingness to borrow for and prioritize forest-related activities. He brought attention to a feasibility study on the proposed global forest fund to clarify modalities and how it would fit in with other financing mechanisms.

Panelists then answered questions from participants. Responding to a question on efficacy of NLBIs, Rezek discussed differences between international and domestic law, and said strong public support can sometimes make NLBIs more effective than LBIs. To a question on subscription to the instrument, di Leva responded that the elements of the agreement must be defined before deciding whether subscription should be an option. To a query on dispute settlement, Rezek explained that with NLBIs, disputes are usually resolved through diplomatic channels. CUBA noted that although the Forest Principles were considered an NLBI, they did not stop deforestation, and questioned how capacity would be built for implementation of an NLBI in developing countries. Simula noted progress made on SFM since the Forest Principles, highlighting, *inter alia*, forest certification programmes. He noted the GEF’s role under the Convention on Biological Diversity and the UN Framework Convention on Climate Change, and said an NLBI would generate more political will, leading to mobilization of funds through voluntary contributions. Noting the fragmented nature of international funding for forests, ZIMBABWE asked how to attract more forest financing. Simula said the instrument might be used to create more enabling conditions for investment and increased political support.

AUSTRALIA noted that countries are increasingly required to assure the legality and sustainability of their forest products and management practices, and said that the draft NLBI text is currently limited to statements of good intentions. INDIA emphasized the need to consider the role that forests can play in poverty alleviation, and the need for capacity building. Simula concurred, adding that linking forests to the MDGs is paramount, at both national and international levels.

UNEP sought clarification on whether a voluntary instrument can potentially have *de facto* legal implications. Rezek noted the need to harmonize definitions and create convergence between forest-related processes. Di Leva emphasized a holistic approach when considering the strength of an instrument, adding that many non-binding agreements have evolved into binding ones. Rezek noted that the International Declaration on Human Rights was based on obvious imperatives, whereas forest issues are less well defined and do not share the same sense of urgency. He concluded by saying that the creation of an NLBI is a good starting point and comes at the right time.

#### IN THE CORRIDORS

On the first day of the meeting, participants expressed a cautiously optimistic outlook for the week to come, allaying concerns that lack of interpretation may inhibit negotiations. Many experts expressed an interest in building upon gains already achieved in this and other fora, and it appears that participants came prepared to negotiate as though it were a working group, as originally proposed. However, many also acknowledged the challenges for the week to come, including clarifying how the NLBI will relate to the existing international arrangement on forests, such as the MYPOW, and demonstrating how this instrument will add value to the existing body of soft law on forests.



## UNFF EXPERT GROUP HIGHLIGHTS: TUESDAY, 12 DECEMBER 2006

On Tuesday, 12 December, the United Nations Forum on Forests (UNFF) open-ended *ad hoc* expert group (AHEG) on the consideration of the content of the non-legally binding instrument (NLBI) on all types of forests convened at UN Headquarters in New York. In the morning and afternoon plenary sessions, delegates considered the draft composite text of the NLBI. Participants focused on principles, use of terms, and national measures, policies, actions or goals contributing to the Global Objectives.

### PLENARY

**PRINCIPLES:** On the principles of the NLBI, JAPAN suggested looking at the overall structure of the document prior to examining specific principles. MAJOR GROUPS issued a joint statement on their key concerns on the NLBI, including that: national sovereignty clauses recognize traditional rights as supported by other international agreements; governments ensure that markets and trade support sustainable forest management (SFM); traditional knowledge be protected; and financing mechanisms not be diverted from existing funding.

Regarding the Rio Declaration and Forest Principles, the EU preferred that these form the basis of the instrument instead of the basis for the principles of the instrument. COSTA RICA suggested adding that they “are an integral part of this instrument.” The RUSSIAN FEDERATION, supported by the US, emphasized that this document intends to build upon the Rio Declaration and Forest Principles.

The EU proposed that the NLBI be open to economic integration organizations in addition to countries. BRAZIL commented that the retention of this paragraph will depend on whether the instrument will require subscription.

AUSTRALIA requested adding that the NLBI “is not governed by international law.” MALAYSIA suggested this would be excessive given that the instrument is voluntary. ARGENTINA suggested moving this paragraph to the section on adoption.

The US, supported by the RUSSIAN FEDERATION and PERU, emphasized the importance of reiterating that the NLBI is a voluntary instrument. The EU, supported by CANADA, SWITZERLAND, COSTA RICA, ARGENTINA and MEXICO, questioned the need to reference specific Forest Principles.

On sovereignty over forest resources, SWITZERLAND recalled that national sovereignty is already included in the preamble and proposed deleting reference to it in the principles. The US, supported by GUATEMALA and INDIA, requested that the reference be retained.

On the responsibility of each country for sustainable management of its forests and the enforcement of its forest laws, the EU, supported by NEW ZEALAND, JAPAN, NORWAY, SWITZERLAND and MEXICO, proposed adding reference to promoting good governance. COLOMBIA, NIGERIA for the African Group, PAKISTAN, SENEGAL, INDIA and MAURITANIA suggested deleting the paragraph, with SENEGAL noting that the means of enforcing forest law had not been addressed. SWITZERLAND, JAPAN and the EU noted that the paragraph was an important addition to the Forest Principles and requested its retention. The AFRICAN GROUP, supported by PAKISTAN, proposed adding a reference to the provision of adequate financial resources if the paragraph were to be retained.

SWITZERLAND, MEXICO, IRAN, ARGENTINA and COLOMBIA requested deletion of a paragraph on common but differentiated principles, noting repetition within the text. GUATEMALA and MOROCCO proposed replacing common but differentiated “principles” with “responsibilities.”

On the role of international cooperation in improving the management of forests in developing countries and countries with economies in transition, MEXICO, supported by IRAN, CANADA, CUBA, the AFRICAN GROUP, BRAZIL, VENEZUELA and the US, proposed reference to achieving SFM rather than improving forest management. Noting the importance of the international community, IRAN, supported by CANADA and the US, proposed adding reference to the efforts of all countries. PAKISTAN supported by CUBA, the AFRICAN GROUP, VENEZUELA and GUINEA, proposed reference to international cooperation and financial support, with CHINA adding capacity building and technology transfer.

Regarding text stating that nothing in the instrument is intended to affect international legal obligations, proposals were forwarded to move the text to the end of the document, or combine it with the subparagraph stating the voluntary and open nature of the instrument. SWITZERLAND proposed replacing “affect” with “change.” MEXICO proposed text reflecting that nothing in the instrument would prejudice the rights, jurisdictions and duties of member states under international law.

On sustainably managing forests to meet social, economic, ecological, cultural and spiritual needs, the RUSSIAN FEDERATION proposed text stating there should be integral consideration of all functions of forests within the framework of national forest policies. The EU said this could be included when defining SFM. COSTA RICA proposed additional text stating that SFM requires adequate financial resources to ensure sustainability and competitiveness in the long term.

On participation of major groups in forest decision making, AUSTRALIA, supported by the RUSSIAN FEDERATION but opposed by the US, GUATEMALA, and NORWAY, proposed involvement by major groups, as appropriate, instead of “as such.” Supported by BRAZIL, IRAN, and the RUSSIAN FEDERATION, AUSTRALIA proposed referring to major groups as identified by Agenda 21, while the US, NORWAY, GUATEMALA and CHILE preferred listing specific groups. Noting a similar clause on major group involvement under the section on national measures, MOROCCO called for more succinct language in this principle. PAKISTAN, with the AFRICAN GROUP, said major group involvement should be according to each member state’s forest policies. Opposing this language, the US said this would undermine the nature of the principle.

AUSTRALIA, supported by COLOMBIA, BRAZIL, CHINA and the AFRICAN GROUP, suggested deleting a subparagraph on the seven thematic elements of SFM, noting these are addressed in a separate section of the text. The EU, the US and NEW ZEALAND preferred retaining the text, with NEW ZEALAND adding that the thematic elements provide both an indicative set of criteria and a common framework for SFM. ARGENTINA, VENEZUELA, INDIA and CUBA argued that thematic elements are not principles and should not be included in this section. BRAZIL opposed referring to the thematic elements as “an indicative set of global criteria.” The RUSSIAN FEDERATION suggested that “consideration should be given to the thematic elements.”

**USE OF TERMS:** Delegates debated the need to include a section on use of terms but did not embark on substantial discussions of the terms themselves. Noting he was not against including a section on use of terms, the RUSSIAN FEDERATION said it would be a time-consuming process and the added value of the section needed further assessment. AUSTRALIA highlighted dangers in defining terms such as “forest” too precisely, as the term has different meanings to different people. Questioning the necessity of the section, BRAZIL said definitions would vary according to different realities of countries, and that defining terms such as “forest” would become politicized. AUSTRALIA, BRAZIL and the EU stressed the importance of defining SFM. CANADA and the RUSSIAN FEDERATION said the full text must be finalized in order to determine which terms need to be defined. CHINA said defining key terms was necessary.

**NATIONAL MEASURES CONTRIBUTING TO THE GLOBAL OBJECTIVES:** On national measures, policies, actions or goals contributing to the Global Objectives, SWITZERLAND, supported by the EU, COSTA RICA, MEXICO and GUATEMALA, proposed text on the “development or indication of voluntary quantifiable/time-bound national targets or voluntary national measures.” URUGUAY noted the added value of such an inclusion, but cautioned that attaining agreement on such language would be challenging. Chair Hoogeveen suggested, and delegates agreed, that an informal group draft a separate paragraph on voluntary quantifiable/time-bound national targets.

The US, supported by the RUSSIAN FEDERATION, BRAZIL, INDONESIA, INDIA, AUSTRALIA, CHINA, COLOMBIA and the AFRICAN GROUP, proposed that states “resolve, while taking national sovereignty, practices and conditions into account, to contribute to the above shared global objectives.” The RUSSIAN FEDERATION, supported by CHINA, proposed including reference to “legislation practices.” The US, opposed by MEXICO and BRAZIL, also stated that language such as “will,” “shall” and “ensure” are not acceptable in an NLBI.

NEW ZEALAND noted that many measures listed in this section duplicate the Intergovernmental Panel on Forests/ Intergovernmental Forum on Forests Proposals for Action.

On taking into account the Proposals for Action and UNFF resolutions in programmes, plans and strategies, the US and AUSTRALIA expressed concern that the text exceeded the scope of national measures and policies. AUSTRALIA suggested specifying that programmes, plans and strategies be relevant to national circumstances. The AFRICAN GROUP suggested putting more effort into implementing the Proposals for Action and UNFF resolutions “in accordance with national circumstances.”

INDONESIA suggested deleting a paragraph on formulating, implementing, publishing and updating national programmes in support of SFM and combating deforestation. The RUSSIAN FEDERATION said the paragraph was overly prescriptive and repetitive.

The EU supported retaining text encouraging the integration of national forest programmes with other national strategies. PAKISTAN requested adding “through capacity building and transfer of environmentally sound technologies.”

INDONESIA suggested that the subparagraph on enhanced cooperation be integrated with the section on cooperation and cross-sectoral policy coordination. The US and AUSTRALIA opposed this, emphasizing that cross-sectoral cooperation is important at both the national and international levels and both should be highlighted. The RUSSIAN FEDERATION suggested alternative text on considering impacts of factors external to the forest sector.

The EU proposed that text on national forest programmes be consolidated under one paragraph. URUGUAY requested deleting reference to national programmes, policies and strategies, noting this was dealt with earlier in the text, and requested inserting “strategies for rehabilitation and reforestation.” IRAN suggested text on operationalizing elements of the instrument instead of listing specific activities associated with this. PAKISTAN requested inclusion of a reference to low forest cover countries.

On developing a network of protected areas, ARGENTINA proposed language on striving to maintain these. MEXICO noted the need to specifically mention forested protected areas.

INDIA, the US, MOROCCO, VENEZUELA and PAKISTAN requested deletion of a paragraph on maintaining permanent forest estates, noting that it is not applicable to all states. FIJI clarified that for countries with communal land tenure, it is important that this term be retained.

On safeguarding forests from threats, the US, supported by AUSTRALIA, INDIA and BRAZIL, proposed an alternative formulation addressing threats to forest health and vitality, including threats from fire, insects, diseases, pollution and invasive alien species. NEW ZEALAND, supported by BRAZIL, proposed replacing reference to invasive alien species and insects with “pests.”

### **IN THE CORRIDORS**

Some participants lamented that proceedings were slipping into heavy textual negotiations instead of capturing preliminary positions, as expected of a first reading of the text. Others were concerned at the length of time spent discussing principles, noting that this does not bode well for more controversial matters, such as means of implementation, or working through the whole document by the end of the week. However, in the afternoon negotiations progressed steadily through text on national measures and actions, and the day ended on a positive note with a reception hosted by Chair Hoogeveen.

## UNFF EXPERT GROUP HIGHLIGHTS: WEDNESDAY, 13 DECEMBER 2006

On Wednesday, 13 December, the United Nations Forum on Forests (UNFF) open-ended *ad hoc* expert group on the consideration of the content of the non-legally binding instrument (NLBI) on forests convened at UN Headquarters in New York. In the morning and afternoon plenary sessions, delegates considered the draft composite text of the NLBI. Participants focused on national measures, relationship to other instruments, seven thematic elements of SFM, international trade in forest products, research, and public awareness and education.

### PLENARY

COSTA RICA and SWITZERLAND highlighted difficulties in continuing discussion of the draft text while the purpose of the instrument remained unclear. Responding to queries as to what the status of the text would be at the beginning of UNFF-7, Chair Hooegeven clarified that the text, with all country proposals, would be forwarded to UNFF-7 as a reference document, and that the Secretariat would also provide a consolidated text taking into account proposals from the expert group.

**NATIONAL MEASURES CONTRIBUTING TO THE GLOBAL OBJECTIVES:** On requiring environmental impact assessments (EIAs) for projects with likely adverse effects, BRAZIL, supported by COLOMBIA and the AFRICAN GROUP, said EIA use should be promoted, rather than required, according to national legislation and for projects with likely adverse effects on the sustainable management of forests. IRAN and PAKISTAN preferred referring to forests, not “sustainable management of” forests.

The US, supported by the AFRICAN GROUP, preferred promoting use of EIAs for projects with potential significant impacts on forests subject to national legislation. GUATEMALA said EIAs were costly. MALAYSIA suggested text reflecting that EIAs were one of many management tools, and URUGUAY supported reference to other tools including codes of good forest practices and criteria for SFM. Noting language in the Forest Principles stating that EIAs should be carried out, MEXICO said “promoting” EIAs was weaker than previously agreed language. SWITZERLAND said the instrument should add value to what has already been adopted.

On enabling environments for investment, the EU proposed deleting language that would limit stakeholder involvement. IRAN, supported by VENEZUELA, proposed removing specific reference to “foreign and domestic” investment.

On involving stakeholders in forest decision making, the EU, supported by AUSTRALIA, proposed moving this paragraph to the section on principles. The US opposed, noting its importance as a national commitment. CANADA, supported by IRAN,

proposed merging the text with a paragraph on stakeholder participation. SWITZERLAND provided alternative text on promoting active participation and empowerment of major groups in developing, implementing and evaluating SFM policies and programmes at all levels.

On developing, promoting and implementing voluntary instruments, participants debated, *inter alia*, whether to single out certification. After protracted debate, the original text was retained, which specifies “including certification.”

Regarding fostering access for households and communities to forest resources and markets, the EU, opposed by the US, COLOMBIA and ARGENTINA, requested deleting fostering access “where appropriate.”

On monitoring and assessing forest conditions, BRAZIL, opposed by SWITZERLAND, requested deletion of a reference to agreed criteria and indicators (C&I). The AFRICAN GROUP, INDONESIA and MALAYSIA proposed text on using national C&I. CHINA, supported by PAKISTAN, the AFRICAN GROUP and INDIA but opposed by SWITZERLAND, said actions should be taken on a voluntary basis. CUBA proposed text reflecting that actions depend on national capacities and conditions. The RUSSIAN FEDERATION proposed using C&I based on national priorities and taking into account internationally agreed C&I.

JAPAN proposed a new subparagraph on promoting forest law enforcement and governance to eradicate illegal practices. The US proposed five new subparagraphs on: scientific and technological innovations for SFM; sharing and use of best practices; promoting implementation of national forest programmes, C&I and good business practices through public-private partnerships; strengthening forest law enforcement and combating illegal logging and corruption; and creating transparent and effective markets for products and services.

**RELATIONSHIP TO OTHER INSTRUMENTS:** The EU sought clarification on who would undertake the task of increasing interaction with other instruments. Supported by the RUSSIAN FEDERATION, INDIA, CUBA, MALAYSIA and MOROCCO, the EU suggested moving the paragraph to the section on enhanced cooperation. The US, questioning whether the NBLI could provide direction to the UNFF, preferred deleting the paragraph.

**SEVEN THEMATIC ELEMENTS AND PROPOSALS FOR ACTION:** The Secretariat reported on ongoing work on clustering and simplifying the IPF/IFF Proposals for Action (PfAs) and relevant UNFF and ECOSOC resolutions under the seven thematic elements of SFM, with a view to assisting national SFM implementation and monitoring and reporting of progress towards achieving SFM. He explained that this section of the text requested the development of annexes to this end.

BRAZIL, supported by COLOMBIA, expressed doubts on, *inter alia*: whether it was necessary for the instrument itself to cluster and simplify the PfAs, rather than only facilitate their implementation; and if development of these annexes would assist with national reporting, since the Global Objectives are more comprehensive than the thematic elements.

NEW ZEALAND supported the idea of developing such annexes as part of the UNFF's multi-year programme of work (MYPOW), but said their completion prior to the instrument's adoption was unlikely. COSTA RICA and the AFRICAN GROUP requested deleting the section. COSTA RICA, the EU and AUSTRALIA noted that this work may be more appropriate under the MYPOW. The EU, the US and URUGUAY noted that the thematic elements should be part of the conceptual framework behind the instrument. AUSTRALIA suggested a separate section on SFM, addressing, *inter alia*, SFM definitions, the seven thematic elements, and taking into account relevant PfAs. Several participants requested that references to reporting be placed in the section on monitoring, with MEXICO specifying inclusion of quantifiable voluntary national objectives.

The US questioned whether this clustering should be taken up by a policy document, and proposed text stating that, *inter alia*, the thematic elements provide a coherent and useful reference framework for SFM and constitute an indicative global set of criteria for SFM.

**INTERNATIONAL TRADE IN FOREST PRODUCTS:** CANADA, supported by many, suggested that as a voluntary agreement, the chapeau should read "participating states should" instead of "member states commit to." CHILE countered that because the whole instrument is voluntary, stronger language is needed.

The US, supported by many, proposed alternative text on encouraging trade in forest products and investment in the forest sector by removing trade barriers and by developing and implementing open and predictable and non-discriminatory international rules for trade and investment. INDONESIA agreed, adding text on further promoting market access for products from sustainably managed and legally harvested forests. INDIA argued that "sustainably managed" implies legally harvested, and proposed deleting the latter. The RUSSIAN FEDERATION, PAKISTAN and CHILE requested more time to discuss the issue with trade experts.

The US, supported by the RUSSIAN FEDERATION, the EU and NORWAY, suggested replacing several similar paragraphs with text promoting a mutually supportive relationship between trade and environment and facilitating trade in legally harvested products. CANADA suggested adding "which are legally traded." BRAZIL preferred reference to illegal "trade" instead of "harvest." The AFRICAN GROUP preferred taking actions to prohibit trade in illegally harvested forest products.

On cooperation on forest law enforcement and governance, the US proposed revised language on combating illegal harvesting of, and associated trade in, timber, wildlife, and non-timber products. CHINA, supported by MALAYSIA and opposed by INDIA, the US, SENEGAL and IRAN, proposed deleting reference to wildlife.

JAPAN, supported by the EU, proposed deleting language on operation of voluntary certification and labeling schemes in accordance with national legislation. The US, supported by NEW ZEALAND, proposed replacing national legislation with "international obligations." AUSTRALIA, supported by NEW ZEALAND, proposed that voluntary certification and labeling schemes not be used as "unjustified discrimination or disguised restrictions" rather than as "disguised protectionism," and MALAYSIA proposed "non-tariff barriers."

On promoting valuation systems that internalize environmental and social costs of forest products, the US, supported by CANADA, MEXICO and INDIA, argued this was not related to trade and should be moved to another section. IRAN, supported by SWITZERLAND, requested retaining the paragraph.

The EU proposed a new subparagraph on public procurement policies and AUSTRALIA, on assessing forest certification schemes. The RUSSIAN FEDERATION, the US, MALAYSIA, the AFRICAN GROUP and INDIA expressed reservations about both proposals.

On addressing illegal forest-related practices through greater information sharing and international cooperation, NEW ZEALAND, CHINA and IRAN supported deleting language directing the UNFF to carry this out. CHINA preferred that "efforts be made to" address these practices. IRAN proposed deleting reference to international cooperation. The US and the AFRICAN GROUP supported deleting the paragraph.

Regarding the trade-related section, MAJOR GROUPS called for: addressing poverty reduction as impacted by international trade; highlighting economic development that benefits forest dependent people; and discouraging trade of timber products from places where land tenure issues remain unresolved.

**RESEARCH:** The International Union of Forest Research Organizations highlighted a joint initiative on science and technology to be launched at UNFF-7, which would support the work of the UNFF.

IRAN proposed adding "scientific activities" to the section's title, while the EU preferred the title "Technical and Scientific Activities." On the role of science and research in SFM, the US proposed that states resolve to strengthen contributions of science and research. The EU, supported by FIJI, proposed promoting international cooperation, including through South-South cooperation and triangular cooperation, and appropriate international, national and regional institutions. The EU also proposed language referring to scientific and technological innovations, including those that help indigenous and local communities undertake SFM. PAKISTAN proposed undertaking collaborative research and development with technical and financial support from developed countries.

On encouraging states to strengthen linkages between science and policy, MEXICO and IRAN preferred not singling out developing countries, and IRAN suggested enhancing research capacity in developing countries.

**PUBLIC AWARENESS AND EDUCATION:** SINGAPORE proposed replacing the entire section with text on resolving to promote and encourage understanding of, and the measures required for, SFM, including through, *inter alia*: enhancement of forest education capacity; the media and the inclusion of these topics in education and awareness programmes; and supporting such programmes amongst major groups.

MAJOR GROUPS, supported by SWITZERLAND, proposed alternative text on promoting and encouraging universal access to formal and informal education, and extension and training programmes.

On supporting education on SFM among youth, women and major groups: CANADA proposed adding indigenous peoples; IRAN added all stakeholders; INDIA proposed adding local communities; and PAKISTAN favored forest-dependent communities.

### IN THE CORRIDORS

Wednesday was a busy day in Conference Room Two and its environs. Some delegates expressed hope that the text produced by a drafting group on voluntary timebound national targets will put this issue back on the table, after it was sidelined at previous sessions. Some developing country participants declared that the added value of the instrument should be a firm commitment to provision of financial resources, noting there would be no agreement without this. Other delegates lamented the continued weakening of language on the grounds that this instrument is non-binding, arguing its voluntary nature should allow for use of stronger language. Yet others felt that until consensus is achieved on the instrument's underlying *raison d'être*, the text will continue to reflect widely divergent views. Nonetheless, all were pleased with the quick and smooth reading of the text, and expressed confidence in the Chair's ability to maintain momentum.

## UNFF EXPERT GROUP HIGHLIGHTS: THURSDAY, 14 DECEMBER 2006

On Thursday, 14 December, the United Nations Forum on Forests (UNFF) open-ended *ad hoc* expert group on the consideration of the content of the non-legally binding instrument (NLBI) on forests convened at UN Headquarters in New York. In the morning and afternoon plenary sessions, delegates considered the draft composite text of the NLBI. Participants focused on means of implementation, technical assistance, monitoring, assessment and reporting, and the structure of the instrument.

### PLENARY

**MEANS OF IMPLEMENTATION: Finance:** IRAN, supported by CHINA, PAKISTAN, CUBA and BRAZIL, proposed modifying a paragraph on securing political will to strengthen means of implementation into a chapeau applicable to the entire section.

The US, supported by JAPAN, SWITZERLAND and AUSTRALIA, proposed alternative text linking means of implementation with assisting countries to meet the Global Objectives. NORWAY proposed that this be linked to the pursuit of national targets. The AFRICAN GROUP, supported by INDIA, CHINA and others, requested that funding be "new and additional." CUBA, the AFRICAN GROUP, IRAN and the EU supported retaining a subparagraph on reversing the decline in official development assistance (ODA) for SFM.

CHINA, the AFRICAN GROUP, INDIA and PAKISTAN supported a subparagraph on mobilizing and providing significant new and additional resources for SFM. The EU, supported by EGYPT, added language on supporting national forest programmes, and integrating forest issues in national development programmes and, where appropriate, poverty reduction strategies. MALAYSIA supported "enhanced" voluntary contributions. IRAN said reference to contributions to "existing" forest-related funds was too limiting, and opposed an exhaustive list of forest-related funds.

Regarding alternative funding options, CHINA, PAKISTAN, CUBA, MALAYSIA, the AFRICAN GROUP, VENEZUELA, MEXICO and IRAN supported the option on establishing a new global forest fund/ financing mechanism/ forest development fund. CANADA, the EU and SWITZERLAND preferred the option on assessing and reviewing current funding mechanisms. The US preferred discussing this issue under the MYPOW.

MALAYSIA stressed the need for "dedicated" financial resources for "implementing SFM," BRAZIL added "sufficient" financial resources, CUBA added reference to developing countries, and URUGUAY suggested applicability to "all types of forests." Supporting creation of a new fund, IRAN said use of existing funds may adversely impact financing in other areas, such as combating desertification, but that improving, strengthening, and giving new mandates to existing funds could

also be considered. Noting this is one of the most critical issues of the NLBI, Chair Hoogeveen urged delegates to consult informally before UNFF-7.

On inviting CPF members to support countries in accessing additional funding, the EU noted the need to link forest activities with achieving the MDGs. IRAN and INDIA proposed deleting the paragraph. The AFRICAN GROUP, supported by CHINA and PAKISTAN, proposed adding reference to mobilizing funding.

On inviting the GEF to consider support for SFM, the US explained this would be considered by the GEF Council in the next few months and proposed deleting the paragraph. INDIA, the AFRICAN GROUP, the EU and PAKISTAN preferred to retain the paragraph with minor modifications. On inviting international financial institutions to consider ways to generate access to resources, the US, opposed by IRAN, PAKISTAN, CHINA, INDIA and the AFRICAN GROUP, said it was not appropriate to invite bodies to undertake actions and proposed its deletion.

On creating an enabling environment for investment in SFM, the US said this was a national measure. MALAYSIA disagreed, stating this was both a national and international measure.

On initiating and strengthening public-private partnerships to promote implementation of national forest measures, the US, supported by PAKISTAN, IRAN and URUGUAY, proposed including this under National Measures. INDIA, supported by the AFRICAN GROUP, but opposed by SWITZERLAND, proposed deleting reference to promoting implementation of criteria and indicators for SFM.

On developing innovative financial mechanisms for generating revenue for SFM, the US, supported by GUATEMALA, added reference to debt reduction mechanisms. COSTA RICA, supported by GUATEMALA, proposed text on generating carbon emission reduction credits through forest cover maintenance and recovery. SWITZERLAND, supported by MEXICO, added reference to payments for ecosystem services. INDIA, COLOMBIA, CHINA, the AFRICAN GROUP and others opposed all three proposals.

On creating financial measures to support small land owners or users, MAJOR GROUPS, supported by the EU, MEXICO, SWITZERLAND and the AFRICAN GROUP, provided alternative text on financial mechanisms supporting forestry-related rural development for the benefit of forest-dependent local peoples, especially in developing countries. MEXICO preferred local "communities" rather than "peoples."

INDIA, MALAYSIA, VENEZUELA and CHINA requested deleting a paragraph on the clean development mechanism (CDM). PAKISTAN proposed text on requesting financial institutions to allocate CDM funds for afforestation and reforestation projects. MEXICO, supported by CAMBODIA and GUATEMALA, proposed text on developing CDM strategies for the participation of developing countries in market-based mechanisms, and requested reference to mechanisms to reduce deforestation.

On fostering access to forest resources and markets, MAJOR GROUPS suggested reference to compliance with International Labor Organization core standards. CHINA, MALAYSIA, IRAN and INDIA supported the subparagraph on supporting livelihoods and income diversification, while the US proposed including it under National Measures, and the AFRICAN GROUP under Incentives.

The US proposed moving a subparagraph on improving regional and international coordination to this section on Means of Implementation. BRAZIL proposed a new subparagraph on developing a mechanism of positive incentives to finance developing country efforts to reduce the loss of forests and implement SFM.

**Incentives:** On adopting measures to act as incentives for SFM, JAPAN, supported by IRAN, NEW ZEALAND and AUSTRALIA, requested deleting reference to incentives, suggesting that the NBLI in itself should be an incentive. The MAJOR GROUPS suggested broader analysis of incentives through the MYPOW.

On member states encouraging remunerative returns from sustainably managed forests, AUSTRALIA outlined that government intervention in this matter is impractical and that only the market can determine returns. JAPAN, supported by the US, NEW ZEALAND and AUSTRALIA and opposed by MALAYSIA, proposed deleting the paragraph.

**Capacity building and transfer of environmentally sound technologies (ESTs):** The US proposed merging several paragraphs in this subsection, suggesting alternative text promoting capacity building, technical assistance and access to and transfer of ESTs to enable countries to implement national policies and measures aimed at reversing the loss of forest cover and increasing the area of protected and sustainably managed forests.

CHINA, PAKISTAN and the AFRICAN GROUP proposed maintaining a separate subparagraph on promoting transfer of technology to and capacity building in developing countries. The EU preferred to include a subparagraph on promoting participation and empowerment of forest-related stakeholders under National Measures.

EGYPT, INDIA and MEXICO supported retaining a paragraph on strengthening capacity to address illegal practices and illegal international trade in forest products, BRAZIL and MALAYSIA preferred its inclusion under National Measures, and the US argued for inclusion under both sections. The AFRICAN GROUP requested deleting "illegal" before international trade. Noting sensitivities over referencing illegal international trade, the US suggested referring to illegal logging, or illegal practices, and associated trade.

CHINA opposed including a subparagraph on combating wildlife poaching and related trafficking, while INDIA and NORWAY supported its retention. PAKISTAN added "in accordance with national legislation and policies," while CHILE underscored adherence to international obligations. BRAZIL, supported by EGYPT, VENEZUELA, the AFRICAN GROUP and MALAYSIA, proposed that, if retained, reference to trafficking of forest-related biological resources should also be included. The US pointed to potential difficulties with this proposal.

The US proposed moving to the preamble text on recognizing that access to and transfer of technologies are essential for attaining the purpose of the instrument.

On promoting effective protection, use and related benefit sharing of traditional knowledge, BRAZIL requested addition of "according to national legislation," IRAN and VENEZUELA preferred deleting reference to benefit sharing, and the US and INDIA suggested moving the text to National Measures. CHINA, SOUTH AFRICA and PAKISTAN preferred the original formulation and placement. BRAZIL proposed new text on freeware technology in promoting SFM implementation.

SMALL FOREST LAND OWNERS suggested removing "non-legally binding" from the title of the instrument, explaining that this, along with weak language in the text, undermines the agreement.

**TECHNICAL ASSISTANCE:** On promoting the provision of technical assistance to states, IRAN, supported by PAKISTAN, CUBA and the AFRICAN GROUP, noted

that technical assistance should be provided specifically to developing countries and countries with economies in transition. The EU preferred that all states practice technical cooperation. Noting that technical assistance is one modality of ODA, the US said this issue had been adequately addressed elsewhere in the text. MEXICO called for a reference to providing technical assistance based on recipient country priorities.

**MONITORING, ASSESSMENT AND REPORTING:** AUSTRALIA, supported by EGYPT, the EU, SWITZERLAND, MEXICO and PAKISTAN, proposed merging two paragraphs on monitoring progress in implementation of national measures toward achieving the Global Objectives, and utilizing criteria and indicators. IRAN, supported by the EU, the AFRICAN GROUP, SWITZERLAND, MEXICO and PAKISTAN, proposed adding reference to achieving national goals and targets.

On submitting national reports to the UNFF on a voluntary basis and inviting the CPF to report to the UNFF, the EU, supported by MEXICO, IRAN, PAKISTAN and AUSTRALIA, stated these should be separated into two paragraphs. AUSTRALIA noted that the NLBI cannot invite the CPF to report to UNFF.

**STRUCTURE OF THE INSTRUMENT:** In the afternoon, delegates debated the structure of the NLBI. The US urged adopting a structure accessible to people outside the process, consolidated and clearly delineated according to national and international obligations, and removing sections normally associated with legally binding instruments. AUSTRALIA agreed and suggested combining the preamble and principles and adding a section on SFM.

IRAN suggested, *inter alia*, merging sections on international and regional organizations, and technical assistance and means of implementation. The EU recalled that many activities are relevant at both international and national levels, and requested that the section on use of terms be deleted. BRAZIL proposed a new structure including: preamble; principles; purpose; scope and Global Objectives; national and international policies and measures; means of implementation; institutional and working modalities; and adoption.

NEW ZEALAND supported a compact structure, including: the preamble with principles; purpose with Global Objectives; SFM definition and seven thematic elements; national policies and measures; and international measures with means of implementation. CHINA suggested achieving a balance between national and international measures, and moving the section on technical assistance under means of implementation. NORWAY supported consolidating multiple sections, as proposed by the US, Australia and New Zealand. SENEGAL urged examining the relationship of the NLBI with existing forest-related agreements.

MAURITANIA suggested consolidating text under: preamble; strategy for SFM; means of implementation; and institutional framework. MEXICO and CHILE suggested that it may be premature to determine a detailed structure.

### IN THE CORRIDORS

Some experts expressed frustration that the discussion of the instrument's structure had been introduced too late in the proceedings, as changes to this will ultimately affect the composition of individual sections. Many agreed that too much time was taken by interventions lining up on either side of an argument, as opposed to first getting the full range of ideas on the table and leaving negotiations for UNFF-7, where they will inevitably be reintroduced.

Yet the buzzword of the week, "value added," was oft repeated, with developing countries figuring out what additional benefits they will get out of the NLBI, and developed countries ascertaining if the NLBI will go beyond existing voluntary agreements and merit additional funding. This harkens back to the age-old question: which should come first, commitment or means of implementation?

**ENB SUMMARY AND ANALYSIS:** The *Earth Negotiations Bulletin* summary and analysis of the UNFF open-ended *ad hoc* expert group on the consideration of the content of the NLBI on forests will be available on Monday, 18 December 2006 online at: <http://www.iisd.ca/forestry/unff/ahnbi/>