

New forest treaty agreed

The agreement under which ITTO operates is re-negotiated, with some new features added

A NEW TREATY has been agreed that will reinforce work to bring tropical forests under sustainable management and increase the role of the tropical timber trade in sustainable development.

ITTO, which was created in 1983, aims to both conserve tropical forests and assist countries to develop economically. The treaty under which it operates—the International Tropical Timber Agreement (ITTA)—is renegotiated periodically because of a built-in expiry clause and to take into account changes in global forest policies and the world timber trade.

More than 180 negotiators from governments and international organisations met for two weeks in January 2006 to finalise the agreement. It contains several changes that are likely to lead to significant improvements in the Organization's work.

The Organization's longstanding philosophy of using tropical forests in a sustainable way for economic development is stated explicitly in the new agreement. The two key objectives are:

"to promote the expansion and diversification of international trade in tropical timber from sustainably managed and legally harvested forests and to promote the sustainable management of tropical timber producing forests ..."

Related to the first objective, the Organization will, among other things, help improve the competitiveness of wood products relative to other materials, boost the marketing of tropical timber from sustainably managed and legally harvested sources, and share information on certification and other aspects of the international timber market.

In pursuit of the second key objective, the Organization will help countries to improve forest law enforcement and governance, address illegal logging and related trade in tropical timber, and undertake sustainable forest management and forest restoration. It will also strengthen the capacity of countries to gather and report data on the tropical timber trade and forest management.

The agreement acknowledges the role of ITTO in assisting countries to pursue sustainable development and alleviate poverty and encourages forest-dependent indigenous and local communities to achieve sustainable forest management.

ITTO relies for much of its work on funds contributed on a voluntary basis, up to now mostly by the governments of Japan, Switzerland and the United States. To help boost such contributions the new agreement creates a sub-account for thematic sub-programs, which, some donors say, will lead to greatly increased funding for specific areas of work. There are also changes to assessed contributions, with activities such as the production of the *Tropical Forest Update* and Market Information Service, which are currently funded through projects, and other communications and outreach activities to be funded 80% by consumer member countries and 20% by producers to a maximum of one-third the general administrative budget.

ITTO's Executive Director, Dr Manoel Sobral Filho, said that the new agreement will help ITTO build on its past sustainable development successes.

"People want neither poverty nor environmental degradation," he said. "ITTO believes that natural tropical forests can be both



Negotiators at work: Alhassan Attah (centre), Jürgen Blaser (second from left) and UNCTAD staff discuss the finer points of the agreement during an informal working group.

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conserved for future generations and put to economic use to alleviate poverty and contribute to national development. This new agreement articulates this belief and gives material support for it through innovative funding mechanisms."

Dr Sobral said that many people think the conservation of tropical forests and the development of the tropical timber trade are mutually exclusive.

"On the contrary, the one is essential for the other," he said. "Without conservation there can be no long-term trade. Without trade, the forests will be cleared for agriculture because, one way or another, the people living in tropical countries will continue to demand economic development.

"ITTO's role has been, and will continue to be, to help governments, companies and communities to improve the management of their forests and the marketing of their products."

The independent environmental news service the *Earth Negotiations Bulletin* (ENB) reported the negotiations from start to finish and was upbeat about the outcome.

"Certainly, the new ITTA is born at a time when international cooperation on forests could use an infusion of new energy," it said.

According to the ENB, many activist environmental groups may not be willing to concede legitimacy to an organisation with overriding objectives that include promoting the expansion of the international trade in tropical timber.

"Yet the fact that the ITTO keeps chugging away, together with the increased potential that the new agreement brings to its work, may eventually make ITTO one of the most effective international organizations in pursuing the goals of both ending tropical deforestation and increasing the well-being of the people and communities that depend upon tropical forests."

The ITTA, 2006, is expected to come into force in 2008 and will operate for ten years, with the possibility of extensions of up to eight years. ITTO will continue to function under the ITTA, 1994, until the new Agreement is ratified.

For a detailed report on the negotiations go to <http://www.iisd.ca/forestry/itto/itita4/>.

The TFU asked three key negotiators of the ITTA, 2006 to present their views on the new agreement

Daniel Birchmeier
Swiss delegation

- 1) *The current agreement is due to expire at the end of this year. What motivated your government to negotiate a successor agreement?*

Motivations included:

- the importance of the ITTA: it is the only international agreement with some binding character directly relating to tropical forests and forest products;
- positive experiences with the ongoing work;
- the efficient work of the Organization;
- the Organization's balanced mix of policy and project work; and
- the constructive policy dialogue and knowledge exchange concerning all major issues relating to tropical timber and the management of its resource base.

- 2) *How would you characterise the new agreement?*

The new agreement has taken up emerging issues, reflecting the experiences and work of the Organization in the past, especially its most recent years. At the same time it is forward-looking enough to cope with future challenges.

- 3) *How has it changed?*

The scope has widened towards new fields such as trade in non-wood forest products and considerations in respect to the valuation and trade of tropical forest service functions, but also with regard to illegal logging and related trade. ITTO can now play an even more important role as a platform for the exchange of experiences, and feed into other ongoing processes.

- 4) *Please highlight what you see as the key improvements in the new agreement.*

The new agreement has a potentially more attractive structure—with the establishment of thematic programs—to allow a wider set of donors to contribute financially to the realisation of the objectives. It also contains some reforms of the system for assessed contributions, which will ultimately broaden and make more predictable the financial support for the Organization, particularly increasing its ability to sustain the recurrent operational activities of fundamental importance for the Organization. A longer duration of the agreement (for an initial ten years, with scope for a maximum of 18 years) helps the Organization to focus on the realisation of its objectives. Finally, the text of the agreement is better structured than that of the ITTA, 1994, containing less detail but more clarity.

- 5) *What effects, if any, do you think the changes will have on the operation of the Organization and the achievement of its mandate?*



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This is difficult to say at this stage. Some possible consequences include:

- less micro-management by the Council and increased responsibility for the executive director and the secretariat in realising the objectives of the agreement;
- more responsibility for the executive director in the financial management of the Organization, including fundraising and securing a stronger involvement of additional donors;
- more flexibility for the Organization in addressing emerging issues in respect to tropical forest management and timber trade and in developing innovative measures to secure the sustainable management of the resource base of tropical timber; and
- the consolidation or even upscaling of the role of ITTO in the international forest regime and in the trade-related multilateral landscape.

The work of ITTO under the new ITTA will continue to require a highly qualified staff.

- 6) *Were you disappointed by any of the outcomes, or lack of outcomes? What were they?*

There were no major disappointments: negotiations are ultimately an act to find the right compromise. We appreciate the high level of compromise that was made by all the participants. The agreement gives substantial flexibility to the executive director and the Council to design future work. The way the different issues (budgeting, handling of thematic programs, etc) will be addressed will offer a clearer answer to this question.

- 7) *What steps, if any, are needed to prepare members and the Organization for the new agreement?*

There will need to be substantial preparatory work, including discussions among members, in view of the organisation of work under the new agreement. The new budget process will be challenging, especially initially, and there will be many discussions on managing the transition between agreements. The new agreement will also require review and the revision of a number of elements of the project cycle.

Reflection concerning a possible extension of the current executive director's term in view of a smooth and efficient transition to the new agreement could be helpful.

8) *Do you expect most current members to join the new agreement?*

Yes, we do hope so and will do our best ourselves to ratify as soon as possible.

9) *What is your vision for ITTO over the next decade?*

The Swiss government foresees an objectives-focused policy dialogue by the Council that tackles the relevant issues to secure the resource base and a continuous flow of forest products from legally and sustainably managed sources. The results of such dialogue could feed the international forest and trade-related regimes and effectively highlight the specific situation of tropical forest and timber production countries. We also hope for the effective reporting on trade in timber and other forest products as well as on the status of the resource base for tropical timber and other forest products, and project work in producer member countries that is more thematic than in the past and which contributes effectively to realising the objectives of the new agreement. If ITTO can achieve its objectives, it will make a substantial contribution to broader development goals.

Daniel Birchmeier is at the Swiss Government's State Secretariat for Economic Affairs (seco)



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Dr B.C.Y. Freezailah **Malaysian delegation**

ITTO is a unique organisation in which producer and consumer member countries are equal partners, and civil society and trade and industry groups provide vital inputs. It is also a source of accurate and balanced information on tropical forests, about which there is often much exaggeration with emotional overtones. ITTO also provides assistance to producer members through project activities to promote and catalyse the care, protection and sustainable use of tropical forest resources.

It is therefore not surprising that the international community was most anxious to negotiate a successor agreement to the ITTA, 1994 to ensure that ITTO continues its good work. Though the recent negotiations were difficult, both producer and consumer countries showed much flexibility and goodwill to successfully conclude negotiations and adopt the ITTA, 2006. With such commitment, present members of ITTO may be expected to accede to the ITTA, 2006. I hope Malaysia will be one of the first to do so.

During the negotiations, certain proposals were advanced to make ITTO more green (eg change its name to the International Tropical Forest Organization), dilute its commodity focus (by merging the committees dealing with forest industries and market intelligence), and possibly slow its pace of work and activities (convene only one session of the Organization's governing body, the International Tropical Timber Council—ITTC—per year). Fortunately, most of these proposals were not adopted, but the fact that they emerged in the recent negotiations must be viewed as worrisome.

Currently the ITTC and its committees meet twice a year, normally in May and November. The November session is always held at headquarters in Yokohama, Japan, whilst the first session of the year is held in a producer member country. This is important in securing vital political support and commitment from producer member countries, apart from facilitating the wider dissemination of the ITTO message. Although members finance their participation at these meetings, logistical arrangements are funded from voluntary contributions, which may decrease under the new ITTA. ITTO will then be forced to meet only once a year, and only at its headquarters. This will no doubt lead to a serious loss in momentum; the Organization's response time will be increased from six to twelve months. More seriously, without any ITTC session in a producer country, ITTO and its message will become remote and diluted, which will lead to an erosion of political commitment and sense of urgency. It is because of this that producer countries responded with a special paper rationalising the need to maintain existing arrangements on the frequency and venue of ITTC and committee sessions. Hopefully, donors will come to the rescue.

In the ITTA, 2006, the basic administrative costs will continue to be shared equally between producer and consumer members. However, a new component has been created in the Administrative Account to finance core operational costs, which will be shared among members in the proportions of 20% for producers and 80% for consumers. Thus, under the ITTA, 2006, producers will contribute to costs (albeit only 20%) related to development work of the Organization that were previously met entirely by voluntary contributions. This must be noted as a major commitment on the part of producers.

As in the previous two agreements, the pursuit of sustainable forest management (SFM) continues to be at the heart of the ITTA, 2006. Both producers and consumers have responsibilities. Currently, voluntary financial resources to fund pre-projects, projects and activities are unpredictable, inadequate and declining, with contributions from only a few donors. Indeed, many approved projects cannot be implemented for lack of funds. Yet, during the negotiations, proposals were made to increase the scope of the new ITTA; indeed, the number of objectives has increased.

Thus, issues related to objectives and financial resources proved most problematic during the negotiations. The objectives, which fall mainly on the shoulders of producer members, and the financial resources, which consumer donor members are expected to contribute, must be linked to ensure the balance between the rights and responsibilities of producer and consumer members. To this end, producers argued that financial resources should be predictable, adequate and from a wider donor community. The indicative amount proposed was US\$200 million annually, which is only a fraction of what is estimated to be required to fund priority actions to promote SFM in the tropics. Eventually producers compromised, with text on '... the need for enhanced and predictable financial resources from a broad donor community to help achieve the objectives ...' in the preamble, and on '... mechanisms for the provision of new and additional resources with

a view to promoting the adequacy and predictability of funding ...' in the objectives, in addition to language in other articles urging adequate funding. In addition, a Thematic Programmes Sub-account was created in the Special Account to facilitate funding. Any mention of the amount of funds needed, even in an informal statement, was dropped in a spirit of compromise.

The effective implementation of the ITTA, 2006 requires the cooperative vigilance of civil society in a constructive engagement, as it does the positive contributions of the private sector. With ITTO's broad membership working hand-in-hand with civil society and the private sector, and with the support of its host city, Yokohama, and the host government, Japan, the ITTA, 2006 offers a ray of hope. Achieving Objective 2000 has been mission impossible, but hopefully with renewed commitment and actions under the ITTA, 2006 by all parties, ITTO will make it mission possible.

Dr Freezailah is a former executive director of ITTO and current chairman of the Malaysian Timber Certification Council and was part of the Malaysian delegation to the negotiations for a successor agreement to the ITTA, 1994.



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Enzo Barattini **Delegation of the European Commission**

Q1* In general terms the European Commission (EC) and the European Union (EU) member states are (and have been) strongly supportive of the ITTA, 1994. Consequently we participated in the renegotiation with the clear intention of achieving a positive result—although not at all costs, if the effect was to denature the spirit of the ITTA, 1994. Moves that could have led to this included, for example: abandoning the principle of linking the agreement to commodities or losing flexibility on finances; extending the coverage to forests other than tropical; or including forest services and other matters falling under the competencies of other organisations and institutions.

Before proposing that the EU participate in negotiations for a successor agreement, the EC undertook an independent external assessment of the ITTA, 1994. This highlighted the added value of EU participation in the Organization, evaluated the advantages and disadvantages of a new agreement, and identified the Organization's positive achievements alongside those areas in which positive results had not been achieved. This study also guided the EC in its preparation of guidelines for the negotiation. The member states were involved in this and the decision to renegotiate was taken unanimously.

Q4 In our opinion it is very important that the agreement now addresses—for the first time in an international pact—the question of strengthening the capacity of members to improve forest law enforcement and address illegal logging. It also encourages the support of SFM with due regard to local communities dependent on forests. Therefore, the new ITTA will be a more efficient instrument in alleviating poverty—given the importance of timber (and timber products) to many developing countries. Also for the first time, the new ITTA dictates that part of the Organization's financial resources are to be allocated for 'operational costs'. This will allow more efficient planning of the Organization's work program. I also appreciate improvements in the flexibility given to the executive director for decision-making. Finally, from a strictly EU point of view we also largely applaud the provisions of Article 36 (on 'signature, ratification, acceptance and approval').

Q5 The above improvements give additional weight to the new ITTA as an innovative instrument. If the International Tropical Timber Council (the Organization's governing body) is not paralysed by discussions on financial issues such as the resources to be allocated to 'operational costs' and the size of the administrative budget, and if members fulfill their financial commitments towards the administrative costs, the agreement will certainly operate in a better and more efficient way compared to the present. This consideration also includes the increased power afforded the executive director.

Q6 In general terms I can express my satisfaction with the outcomes of the negotiations. I note that the major purposes of the EC in this negotiation have been achieved, although I have to recognise that the financial issue was very critical (notably for those EU member states with little or no trade in tropical timber).

Q7 The Organization has to clarify its internal structure and may need to better allocate (or reallocate) existing human resources for the implementation of the new objectives and challenges. As said above, in better defining its operational costs the Organization and its members must avoid confrontation. We may also need to review the Organization's existing policies in order to ensure that they conform with the new rules.

Q8 I hope that all current members ratify the new agreement. Within the EU the process has already started with the translations of the text into all EU languages; the substantive discussions will take place in the second part of the current year. Personally, I believe that through the new financial framework we have given a satisfactory outcome to all members. It would be extremely detrimental to the goals of the Organization if members decided to remain outside, especially after the favourable specific conditions that have been introduced. I also hope that newcomers will join the ITTA 2006, although the costs quite often represent an insurmountable barrier.

Q9 After the failure of other major international discussions on forests, notably at the United Nations Forum on Forests, I consider the ITTA to be the sole instrument regulating trade in timber and addressing SFM and other important issues such as illegal logging. I can easily believe that this unique instrument will benefit from this privileged position for most of the next decade.

Enzo Barattini is at the European Commission's Directorate-General for Development.

**Numbers refer to the questions responded to by Daniel Birchmeier.*

Brazil gets new forest law

The country has adopted a law designed to promote responsible timber harvesting in national forests

THE BRAZILIAN federal parliament recently passed a law on the management of public forests that will have a significant impact on sustainable forest management (SFM) in the Amazon.

The law on the management of public forests for sustainable production (*Lei de gestão das florestas públicas para a produção sustentável*) was first put before parliament in February 2005 after a national process of debate and consultation (see *TFU* 13/3) and was approved by the Chamber of Deputies in July 2005. It was signed by Brazil's president, Luiz Inácio Lula Da Silva, in February this year.

The law sets out the approach to be taken in the allocation of timber concessions in public forests—those forests located on federal lands—for sustainable production involving the private sector, communities and other potential stakeholders. It also creates the *Serviço Florestal Brasileiro* (Brazilian Forest Service—BFS), which will be responsible for the implementation of the law, and a National Forest Development Fund (*Fundo Nacional de Desenvolvimento Florestal*).

The enactment of the new law has been hailed by many commentators ... as an important step in addressing illegal logging and deforestation in the Amazon.

Under the law, forest concessions will be allocated through a bidding process conducted in accordance with a separate law (promulgated in 1993) on the procurement of goods and services (Law 8.666/93). Communities and non-governmental organisations (NGOs) might be favoured by this process above private-sector companies, because Law 8.666/93 exempts non-profit organisations from normal bidding procedures and other requirements. In accordance with Article 26 of the new forest law, concession fees will be set on a case-by-case basis and will take into consideration the characteristics of the forest, its location and other aspects. Under the new law, 20% of all revenue from land-use will go to the BFS and the Brazilian Institute of Environment and Renewable Resources (IBAMA).

Transparency

Transparency in the process will be provided under Law 8.666/93 and also by the new law. Bidding documents will be available to interested parties, and all other documents of the process will be posted on the internet.

The new law addresses the safeguarding of environmental, social and economic values in some detail. Under Article 26, bids will be judged on price, but only after they demonstrate that operations will cause the least environmental impact and the largest generation of direct social benefits, will be efficient, and will add most value to products and environmental services in the concession area. The bidding document will outline all the required criteria for environmental, financial, economic and social evaluations.

Will the system encourage SFM?

The enactment of the new law has been hailed by many commentators, including from within the environmental NGO community, as an important step in addressing illegal logging and deforestation in the Amazon. Suspicion remains among some about concession systems in general, but the transparency and comprehensiveness of the Brazilian model—addressing legal, environmental and social issues—should counter many of the problems experienced by such systems in the past.

More than 80% of the forested land in the Amazon belongs to government—including Indian reserves, national parks, national forests (FLONAS), extractivist reserves, biological reserves and other categories of protected areas—but to date there has been little attempt to implement SFM on these lands (see page 8 for a rare example). Although the total area of land that will be affected by the law in the short to medium term is likely to be quite small (in the order of 1–3 million hectares), observers say that legalising the economic use of federal forest lands for the production of timber and non-timber products will facilitate the development of forest industry, increase employment and revenues, and generally improve conditions for local communities. At the moment, most illegal occupation is on federal land. Forests under concessions will be better protected from invasion and clearance for agriculture—the main cause of deforestation in the Amazon.

The success of the new law will depend very much on the capacity of the BFS and IBAMA to enforce it. It will take time and investment to develop the necessary expertise within the BFS; its efficiency, and its independence from political influence, will be key factors in the widespread adoption of SFM on Brazil's federal lands.

This article was compiled by Ivan Tomaselli and Alastair Sarre.

Model forest certified in the Amazon

A forest administered by the government of Acre, a small Brazilian state in the western Amazon, was certified recently by SmartWood, a program of the Rainforest Alliance accredited by the Forest Stewardship Council. The 65 000-hectare Antimary State Forest (*Floresta Estadual do Antimary*), which is administered by the Technical Foundation of Acre State (*Fundação de Tecnologia do Estado do Acre*), has been the subject of a long-running ITTO project (PD 94/90 Rev.3 (I)). In 2003, about 17 000 m³ were harvested from an area of about 2200 hectares; annual production is expected to increase to about 52 000 m³ in the longer term. According to the certificate, the forest is "a well-managed source of wood products whose forest management practices adhere to strict environmental and socioeconomic standards in accordance with the principles and criteria of the Forest Stewardship Council". The Antimary State Forest is the first public forest certified in the Amazon.