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# CHAPTER 7

## THE NEGOTIATION OF A SUCCESSOR AGREEMENT TO THE INTERNATIONAL TROPICAL TIMBER AGREEMENT, 1983

### 7.1 Introduction

This chapter will describe and analyse the first intergovernmental negotiations on a forest-related issue to occur in the post-Rio world following the United Nations Conference on Environment and Development (UNCED), namely the negotiation of a Successor Agreement to the International Tropical Timber Agreement, 1983 (hereafter the ITTA 1983). Agreement on a new text was reached in January 1994, shortly before the ITTA 1983 was due to expire on 31 March 1994.

Without wishing to engage in unnecessary repetition the most salient points from Chapter 6 which have a bearing on this chapter are as follows. Firstly the countries of the developed North attempted to promote a Global Forests Convention (GFC) before the Rio conference. These efforts were resisted by the G77, led by Malaysia and India. This chapter will show that the North has remained in favour of a GFC since the UNCED. Secondly, the tropical forest countries attempted to strike a bargain with the North in which they would agree to implement some measure of forests conservation in return for *inter alia* financial resource transfers and technology transfers. These issues were also to become subjects of contention in the ITTA negotiations. It will be seen below that other substantive questions arising in the negotiations were the scope of the Successor Agreement (namely whether it should cover tropical timber or all timber), the degree of commitment to conservation objectives, trade discrimination against tropical timber and

the future of ITTO project work.

This chapter will detail the negotiations for the Successor Agreement, starting with the preparatory stages. A chronology of the most significant meetings, conferences and seminars in the negotiation of the new Agreement is shown in Table 11 below. Note that gatherings outside the ITTO/UNCTAD negotiating process are listed; their relevance will become clear in the sections that follow.

## **7.2 The Preparatory Process**

The first Preparatory Committee meeting (PrepCom) was preceded by an informal working group meeting at the US State Department, Washington (24-25 September 1992). No observers were present at this meeting which was chaired by Andrew Bennett of the UK Overseas Development Administration. The working group was composed of seven participants from producer countries (Brazil, Ghana, Indonesia and Malaysia) and eleven from consumer countries (European Community, Japan and the USA). No formal written record was kept of the group's discussions, and no official statement was issued. Participants expressed their views in a personal capacity, and not as representatives of governments or groups. The working group considered comments submitted to the Chairman from a total of thirteen countries; these had been collated into a working document by the ITTO Secretariat.<sup>1</sup> Following discussions on this document the Chairman of the group prepared an "Issues and Options"<sup>2</sup> paper to be introduced at the first PrepCom meeting.

The first PrepCom was held in parallel with the ITTC's 13th session in November 1992 at Yokohama. A significant development at this session was WWF's withdrawal from all ITTO national delegations. This decision had been taken the previous month<sup>3</sup> and was designed to apply pressure on

TABLE 11 - MEETINGS, CONFERENCES AND SEMINARS OF SIGNIFICANCE IN THE NEGOTIATION OF A SUCCESSOR AGREEMENT TO THE INTERNATIONAL TROPICAL TIMBER AGREEMENT, 1983

DATE	PLACE	MEETING
<b>1992</b>		
24-25 September	Washington DC	Informal Working Group meeting at the US State Department
11-24 November	Yokohama	First Session of the PrepCom 13th Session of the ITTC 11th Sessions of the Permanent Committees
<b>1993</b>		
22-30 January	Quito	Second Session of the PrepCom
30 January	Quito	First Special Session of the ITTC
13-16 April	Geneva	UN Conference on the Negotiation of a Successor Agreement to the ITTA 1983, Part 1
7-8 May	Atlanta	Symposium, <i>Forests and the Environment: A US Response to the Rio Earth Summit</i>
11-19 May	Kuala Lumpur	14th Session of the ITTC 12th Sessions of the Permanent Committees
16-17 June	Helsinki	Second Ministerial Conference on the Protection of Forests in Europe
21-25 June	Geneva	UN Conference on the Negotiation of a Successor Agreement to the ITTA 1983, Part 2
11-13 August	Yokohama	Informal Consultations (participants invited by the President of the UN Conference)
13-18 September	Kuala Lumpur	Fourteenth Commonwealth Forestry Conference
27 Sept - 1 Oct	Montreal	Conference on Security and Cooperation in Europe (CSCE) Seminar of Experts on the Sustainable Development of Temperate and Boreal Forests
4-15 October	Geneva	UN Conference on the Negotiation of a Successor Agreement to the ITTA 1983, Part 3
10-17 November	Yokohama	15th Session of the ITTC 13th Session of the Permanent Committees
<b>1994</b>		
10-26 January	Geneva	UN Conference on the Negotiation of a Successor Agreement to the ITTA 1983, Part 4
26 January	Geneva	Second Special Session of the ITTC

national delegations to expand the scope of the new Agreement to embrace all timbers. WWF also felt that by withdrawing from ITTO delegations they could highlight the absence from national delegations of other interested NGOs.<sup>4</sup>

Delegations divided into two caucuses at Yokohama, namely the producers' caucus and the consumers' caucus, which met in closed session. Amha Buang of Malaysia was

elected as the producers' spokesman while Milton Drucker of the USA was elected as spokesman for the consumer caucus. The "Issues and Options" paper had noted several differing views on renegotiation. These differences became prominent when discussions commenced at Yokohama. The remainder of this section will detail and analyse the positions of the four main sets of actors involved in the negotiating process - namely the producer delegations, the consumer delegations, the environmental NGOs and the timber trade organisations - as they were articulated by the end of the preparatory process.<sup>5</sup>

The central dispute was the scope of a renegotiated ITTA, with disagreement focusing on whether or not the Agreement should include all timbers. The consumer countries advocated a continuation of the existing tropical-timber-only format. The Malaysian delegation formally tabled a proposal that the Agreement be expanded to include all timbers.<sup>6</sup> Following this proposal the producers subsequently adopted a position in favour of an expanded international timber agreement for all the world's forests in which the producer/consumer distinction would be replaced by a developed country/developing country distinction. The former would undertake to provide the latter with financial resources to achieve sustainable forest management. The producers cited the UNCED Statement of Forest Principles to support their arguments. It was inconsistent, they argued, for the consumer countries to sign the UNCED document, which related to all the world's forests, and then to discriminate between tropical and non-tropical forests in the first post-Rio forest-related negotiations.

The producer countries received support from the environmental NGOs on the question of scope. A common concern of the producers and the NGOs was that there should be no trade discrimination between tropical and non-tropical timbers. The NGOs also noted that many temperate timber species are substitutable for tropical timber, and pointed to the attention sections of the timber industry have been

paying to Siberia's forests since the collapse of the Soviet Union.<sup>7</sup>

The commonality between the producers' and the NGOs' positions is worthy of further comment. Chapter 4 noted that during the TFAP restructuring process the NGOs and the tropical forest countries were divided on the question of NGO participation in a Consultative Group, with the former pushing for national and international NGO participation, and the latter seeking to limit NGO involvement by advocating a traditional intergovernmental format within the FAO. There is a striking difference here with the common ground established between the NGOs and producer country delegations during the negotiations under consideration in this chapter where the two sets of actors formed an alliance to push for an expansion of the scope of the new Agreement. What explains this difference?

The answer lies in the distinction between an actor's overall strategy and the tactics adopted to pursue this strategy. During the ITTA renegotiations the producers and the NGOs agreed on tactics, while their strategies differed profoundly. Both favoured expansion of the scope of the new Agreement, but for different reasons. While advocating an expansion of scope, the NGOs simultaneously argued for a contraction of the mandate of the new Agreement which should focus purely on trade and trade-related issues. Disillusioned with the poor conservation track record of the ITTO, the NGOs favoured a reduced role for projects dealt with by the ITTO's Permanent Committees on Reforestation and Forest Management and on Forest Industry although, in arguing that a new Organization should focus primarily on trade-related issues, they did see a continuing role for projects coming under the auspices of the Permanent Committee on Economic Information and Market Intelligence. In arguing this the NGOs favoured a fundamental revision of the ITTO's Permanent Committee structure. The NGOs considered that the ITTO did not have the competence to deal properly with forest conservation and that other mechanisms

were better suited to dealing with conservationist objectives.<sup>8</sup> However as tropical and non-tropical timbers are substitutable there was a need for an holistic view of the global trade in a new international timber trade organisation. The producers also favoured an expansion of scope but, in continuing to favour a high project profile for the new Organization, disagreed with the NGOs on its mandate. Despite this difference, the two groups of actors had sufficient common ground to offer support to each other throughout the negotiation process. This is in marked contrast to the TFAP restructuring debate where the tropical forest governments argued for a restriction of NGO participation in a Consultative Group so that, not surprisingly, no cooperation between the two sets of actors was possible.

The consumers and producers disagreed on some fundamental points. As noted earlier, the consumers favoured a continuation of the tropical-timber-only format; in an effort to break the unity of the producers' caucus they argued that an expansion of scope would marginalise the interests of small tropical timber producing countries. Whereas the producers favoured a renewed emphasis on further processing in the new Agreement, the consumers advocated that further processing should be limited solely to tropical timber from sustainable sources. The consumers favoured an agreement giving a greater emphasis to conservation objectives, with the ITTO guidelines receiving mention in the new Agreement. There was a strong emphasis on national reporting in the consumers' position: national reporting requirements were to be strengthened and should include the progress made by the producers towards Target 2000. The consumers also favoured tightening the ITTO's purse strings: projects should meet the objectives of the new Agreement if they are to qualify for funding; there should be a greater emphasis on post-project evaluation with project reports introduced; and a new and strong Permanent Committee on Finance and Management should be introduced to oversee the

ITTO's financial expenditure. The consumers advocated that the new Agreement mention the importance of local communities and indigenous peoples. In this they differed slightly with the NGOs, most of whom wished to see the new Agreement recognise the ancestral land rights, and not merely the "importance", of indigenous peoples. Finally, there was one important consumer objective that was not pursued in the negotiations; it will be argued below that although many consumer governments continued to favour a GFC, for various reasons they did not consider the ITTA negotiations to be a suitable forum in which to pursue this objective.

While the producer countries received support from the NGO community, the consumers were backed by the timber trade organisations which also favoured a remit covering only tropical timber. Prior to the first PrepCom, representatives from the timber traders held a series of consultations "aimed at forging a consensus on how the ITTA should be strengthened"<sup>9</sup> from which there emerged a firm trade view. This favoured a tropical-timber-only agreement containing commitments to the ITTO guidelines and Target 2000, including annual reports by members towards Target 2000. The traders advocated that the international tropical timber trade should be maintained "at least at its present value and possibly with the prospects of increased revenue".<sup>10</sup> The FAO, as they had during the UNCED process, supported the North's view, with their observer stating that the FAO believed that a new agreement "should remain focused on tropical timber, and not be broadened to cover non-tropical timber, or non-wood forest products".<sup>11</sup>

Although there were no significant differences between the timber trade and the consumer countries, some differences may be discerned between the environmental NGOs and producer countries. The first concerns Target 2000. NGOs agreed that Target 2000 was not achievable at current levels of trade and they therefore argued for the promotion of a high-value/low-volume trade. Most NGOs wished to see Target

2000 written into an expanded agreement, although it should be noted that some NGOs did not, most noticeably Friends of the Earth (FoE) who felt that to insist on this point could break the producers/NGO alliance.<sup>12</sup> The producers appeared divided on this issue. Many opposed any mention of the Target, while others stated that if it was to be included there should also be quantified statements of the resources needed to attain sustainability. The latter view can be seen as an attempt to strike a bargaining issue-linkage between Target 2000 and financial resource transfers.

Indeed, such a linkage helps explain the second difference between the NGOs and the producers, namely on projects. The producers remained, in line with their UNCED claims for financial transfers and technology transfers on a grant or concessional basis, keen on a high profile for projects, funded primarily by the developed countries. However, and as previously noted, consistent with their view that the mandate of the new Organization should embrace trade-related issues only, NGOs favoured a reduced role for project activity in the tropical forests and in the timber industry.

Thirdly the NGOs, many of whom had lobbied for the adoption of financial and non-financial incentives at the ITTO, argued that the new Agreement should provide for incentives. Here the NGOs found some common ground with the consumers, many of whom, and in particularly the UK, continued to favour incentives. However a difference existed between the consumers and the NGOs on this issue: the former supported the promotion of incentives for the sustainable management of tropical forests; the latter supported the promotion of trade-related incentives for all timbers. The producers, who it will be recalled had previously blocked the introduction of incentives in the ITTO (see Section 5.5.7, Chapter 5), did not share either view and were opposed to any mention of incentives in the new Agreement.

In addition there were other issues that the NGOs wished included in a new agreement that the producers showed

no enthusiasm for. For example, and as previously noted, the NGOs favoured strong provisos for consultation with local communities and indigenous peoples. The NGOs also wished to see clauses against the illegal timber trade written into the new Agreement (see Chapter 2). NGOs had raised this issue several times at ITTC sessions, and in November 1992 concerted NGO campaigning against the illegal trade occurred in Yokohama where the first PrepCom for the Conference was held alongside the ITTC's 13th session.<sup>13</sup> The Global Legislators Organisation for a Balanced Environment-Japan (GLOBE-Japan), one of four autonomous member organisations of GLOBE International,<sup>14</sup> has also lobbied the ITTO on this issue; in December 1991 a representative of GLOBE-Japan wrote to the ITTO's Executive Director pressing for the Organization to address the illegal trade which, they believed, "fall's within the purview of ITTO's mission".<sup>15</sup>

A further position where the NGOs and the consumers shared some common ground was the need for clear standardised reporting on all trade-related issues. In this the NGOs shared a position in common with the timber traders as well as the consumers, both of which advocated strengthened reporting requirements. The NGOs supported national reporting in part to expose the illegal trade. This was a position that the producers, sensitive to possible erosions of sovereignty, did not share.

However the differences between the producers and the NGOs did not prove to be significant, and the producers/NGO alliance was firmly established by the end of the first PrepCom. Indeed the Malaysian Minister for Primary Industries cited research by WWF International which showed that temperate deforestation was increasing,<sup>16</sup> and called upon NGOs to focus further on temperate forest destruction.<sup>17</sup> The alliance between the two sets of actors lasted until the end of the negotiation process.

The producers' and consumers' caucuses met in closed session at Yokohama and did not exchange drafts during the PrepCom.<sup>18</sup> Following deadlock<sup>19</sup> the ITTC voted to convene

a second session of the PrepCom in Quito in January 1993.<sup>20</sup>

Between the two PrepComs the 5th ministerial-level meeting of the Malaysian-Indonesian Joint Working Group on Forestry reiterated the line taken by the producer countries at the first PrepCom.<sup>21</sup> Meanwhile the European Commission announced that it supported the inclusion of Target 2000 in a new tropical-timber-only agreement.<sup>22</sup>

An indication of how little consensus had been reached at Yokohama occurred when the second PrepCom in Quito continued to use the Washington "Issues and Options" paper as the main working document.<sup>23</sup> As at Yokohama, all producer and consumer caucus meetings were held in closed sessions. However, a NGO representative was permitted to make joint NGO statements to each caucus.

Table 12 below shows the positions of the four main groups of actors by the end of the preparatory process. At the end of the Quito PrepCom the First Special Session of the ITTC was convened. This recommended institutional arrangements for the Conference which were then conveyed by the Executive Director of the ITTO to the UNCTAD Secretary-General.

### **7.3 First Part of the Conference, Geneva, 13-16 April 1993**

Following the two PrepCom sessions, which were open to ITTO members only, the process moved to the UNCTAD at Geneva where all UNCTAD members were eligible to partake. The institutional arrangements recommended by the First Special Session of the ITTC were adopted. An Executive Committee of the Whole (or Main Committee) was established. Wisber Loeis of Indonesia was elected as the President of the Conference in which capacity he chaired meetings of the Executive Committee of the Whole. Two Vice-Presidents were elected, namely Yolanda Goedkoop van Opijnen (Netherlands) and Jorge Barba (Ecuador). In addition, two Committees were established reporting to the Executive Committee of the Whole, namely Committee 1, dealing with economic and technical clauses (chaired by David Boulter of Canada), and

TABLE 12 POSITIONS OF DELEGATIONS, ENVIRONMENTAL NGOs AND TIMBER TRADERS AT THE PREPARATORY COMMITTEE MEETINGS FOR THE UNITED NATIONS CONFERENCE FOR A SUCCESSOR AGREEMENT TO THE INTERNATIONAL TROPICAL TIMBER AGREEMENT, 1983.

PRODUCER COUNTRIES	CONSUMER COUNTRIES	ENVIRONMENTAL NGOs	TIMBER TRADERS
An expanded Agreement to include all timbers. The producers/consumers distinction to be replaced with a developed/developing countries distinction.	A revised Agreement, dealing solely with tropical timbers. (Expansion to deal with all timbers would marginalise the interests of small tropical timber producers.)	<b>SCOPE</b> An expanded Agreement dealing with all timbers.	A revised Agreement dealing with tropical timbers
Two schools of thought: (1) Target 2000 should not be incorporated into an expanded Agreement; (2) Any mention of Target 2000 to be accompanied by a quantified statement of the resources needed to attain the Target.	Target 2000 to be written into a revised Agreement.	<b>TARGET 2000</b> Most NGOs favoured inclusion of a clearly defined Target 2000 to be written into an expanded ITTA. (Some NGOs did not lobby for this, arguing that to do so ran the risk of breaking the producers/NGO alliance.)	Target 2000 to be written into a revised Agreement.
Projects to be an integral part of an expanded Agreement. New and additional financial resources to be made available by developed countries to fund projects.	Projects should meet the objectives of a revised Agreement to qualify for funding. A greater emphasis on post project evaluation. Project progress reports to be introduced.	<b>PROJECTS</b> The ITTO does not have the competence to deal with a heavy project burden. Most project work should focus on trade-related issues, such as economic information and market intelligence.	
No need for new provisions for national reporting.	National reporting requirements to be strengthened with producer members to report on, <i>inter alia</i> , progress towards Target 2000.	<b>NATIONAL REPORTING</b> Clear standardised reporting on all trade-related issues is essential, in part to expose the illegal timber trade.	Reports by all members on, <i>inter alia</i> , progress towards Target 2000.
Basic objectives to be retained, but expanded to all timbers. The special needs of developing countries to be provided for: financial transfers; technology transfers on a grant or concessional basis. Emphasis on further processing of tropical timber in producer countries	Greater priority to be given to conservation. ITTO guidelines to receive mention in the new Agreement. Further processing of timber from sustainable sources only. Incentives to promote sustainable tropical forest management.	<b>MANDATE</b> Contraction of the mandate to deal solely with trade-related issues. A holistic view of the global timber trade is required. Elimination of the illegal timber trade. The ancestral land rights of indigenous peoples to be respected. Incentives to promote a sustainable global timber trade.	A revised Agreement should include Articles providing for commitments to Target 2000 and ITTO guidelines.
There should be no unilateral bans or boycotts against tropical timber, and no trade discrimination between tropical and non-tropical timbers.	A new Permanent Committee on Finance and Management to be established.	<b>OTHER NEGOTIATING POSITIONS</b> An emphasis on the promotion of a high-value/low-volume trade. The Permanent Committee structure requires fundamental revision	International trade to be maintained at least at its present value, with prospects for increased revenue.

Committee 2, dealing with financial and administrative clauses (chaired by Eugene Capito of Gabon).<sup>24</sup> The spokesmen for the two caucuses remained the same as at the PrepComs, namely Amha Buang of Malaysia and Milton Drucker of the USA. Note also that, as in the ITTO, the twelve governmental delegations of the European Community (EC) formulated joint negotiating positions and voted as a bloc.

The First Special Session of the ITTC had also decided upon the arrangements for NGO participation at the Conference. Originally there had been some confusion over this. With invitations to the Conference issued by UNCTAD, and not by the ITTO, some NGOs had been concerned that only NGOs registered with the Economic and Social Council (ECOSOC)<sup>25</sup> of the UN would be invited. However these concerns were allayed when it was announced that all NGOs which had attended ITTC sessions would also be invited.<sup>26</sup>

Originally only two parts of the Conference were scheduled. The first part of 13-16 April 1993 opened with two main documents on the table; the ITTA 1983, and a comparative tabulation of the producers' and consumers' proposed texts which were composed by the two caucuses prior to the Conference.<sup>27</sup> Both the producers' and the consumers' proposed texts included a reference in the Preamble to the 8th session of the UNCTAD (UNCTAD VIII). Concluded in February 1992 this adopted *A New Partnership for Development: The Cartagena Commitment*, as well as a shorter declaration, *The Spirit of Cartagena*.<sup>28</sup>

The first part of the Conference saw neither producers nor consumers move from the positions agreed at the PrepComs. Few significant developments occurred. The producers staked a claim for access to Western technology to help in forest conservation.<sup>29</sup> Agreement was reached that the new Organization should be based in Yokohama, but there was no consensus concerning the scope of a new agreement. Representatives of Indonesia, Brazil and the Philippines made statements in favour of expansion, while the EC, USA, Japan and Canada favoured retention of the tropical-timber-

only format.<sup>30</sup> The WWF accused the USA, Canada and Sweden of being the countries leading consumer opposition to expansion.<sup>31</sup> After four days the first part of the Conference ended in deadlock.

#### **7.4 Developments between the First and Second Parts of the Conference**

Between the first and second parts of the renegotiation Conference the ITTC's 14th session convened in Kuala Lumpur in May 1993 where the renegotiation featured in the discussions. Following informal consultations between the Chairman of the ITTC and the President of the Conference a Reconciliation Group was formed "to explore areas of convergence" between the consumers' and producers' proposed texts.<sup>32</sup> This met five times during the session. The work of the Group, which was of a non-binding nature, centred on streamlining a Composite Text based on the proposed texts of the producers and consumers.<sup>33</sup> The outcome of the Group's work was a series of minor textual amendments, and no substantive progress was made in reconciling the positions of the two caucuses.

The ITTC's 14th session was marred by a physical assault by the Sarawak Director of Forests on the Executive Director of WWF Malaysia. This incident ended with the latter falling into the swimming pool of the Crown Princess Hotel where the ITTC session was being staged. The assault occurred following an argument concerning the ITTO Mission to Sarawak. NGOs, including WWF, have continued to lobby both the state government of Sarawak and the Malaysian government on the continuing deforestation of Sarawak since the ITTO Mission recommended that the annual cut of timber logged in the state be reduced by 30% (see Chapter 5). This recommendation has not been fully implemented. After the incident some NGOs considered boycotting the rest of the session.<sup>34</sup> However, a boycott did not materialise, and the NGOs remained and continued arguing for expansion of the

scope of the Agreement.

In an effort to overcome the polarised positions between the producers and the consumers Milton Drucker, the consumers' spokesman, circulated a paper compiled on the basis of informal consultations seeking to deal with areas of producer concern at the 14th session. This proposed that timber traded should not face discrimination based on its geographical origin and that nothing in the renegotiated Agreement "would justify the restraint of trade".<sup>35</sup> A second point in the paper was that, while consumers would not wish a commitment to Target 2000 for non-tropical timbers to be written into the new Agreement, there could be

a commitment by consumer members of the ITTO, to consider their own shift towards producing supplies of non-tropical timber in international trade from sustainably managed sources.<sup>36</sup>

NGOs, most of whom wished the new Agreement to include a commitment to Target 2000 for all timbers, subsequently accused the consumers of applying "double standards" with respect to tropical and non-tropical timbers.<sup>37</sup>

In June 1993, one month after the Kuala Lumpur session, the Second Ministerial Conference on the Protection of Forests in Europe convened in Helsinki.<sup>38</sup> Thirty-eight European countries attended, with three observer countries, namely the US, Canada and Japan. Five joint statements emerged from the conference,<sup>39</sup> none of which contained a commitment to sustainable management of European forests similar to the ITTO's Target 2000. After NGO lobbying<sup>40</sup> a proposal from the Netherlands<sup>41</sup> for Target 2000 to be written into the Helsinki resolutions was blocked within the European Community and opposed by Sweden.<sup>42</sup> The most significant development with respect to the ITTA negotiations was an announcement by the US delegation that, "The US is committed to the national goal of achieving sustainable management of its forests by the Year 2000".<sup>43</sup>

Two factors explain this *volte face* by the USA. The first is the change in the US administration from Presidents Bush to Clinton in January 1993. Al Gore, Clinton's running

mate in the 1992 presidential campaign, has strong environmentalist credentials: he led the US legislators' delegation to the UNCED in Rio;<sup>44</sup> and at the time he announced his candidacy for Vice-President of the USA he was President of GLOBE International. The change in US policy on the environment in general and towards Target 2000 in particular can, in large measure, be attributed to Gore's influence.<sup>45</sup>

The second factor that helps explain the shift of US policy on Target 2000 concerns NGOs. There is evidence of considerable US NGO lobbying prior to the Helsinki meeting pressing the US government to agree to Target 2000 within an expanded ITTA. In March 1993 a joint paper by the National Wildlife Federation, the Sierra Club and FoE was sent to the US government providing a rationale for US support for an expanded agreement. Aware that the US remained committed to a GFC after UNCED, the paper urged the US to support an expanded ITTA arguing that unless there was a resolution of the producer-consumer stalemate "it will be impossible to begin a productive international process towards such an agreement".<sup>46</sup> One month later the President of WWF-US wrote to an assistant to President Clinton on the ITTA negotiations urging the US delegation to support an expanded ITTO which should then "make a more concerted effort to achieve its Target 2000".<sup>47</sup>

Although this lobbying did not result in the US government adopting a position favouring an expansion in scope, it was instrumental in causing it to reconsider its position on Target 2000. Shortly before the ITTC's 14th session a two day symposium on *Forests and the Environment: A US Response to the Rio Earth Summit* was convened in May 1993 in Atlanta chaired by former US President Jimmy Carter. While the symposium was in progress it received a letter from Vice-President Gore. Noting the ITTO's efforts "to develop a policy to manage sustainably rainforests", the letter concludes that, "The President and I strongly support that effort, and believe that all forests - tropical,

temperate and boreal - should be sustainably managed".<sup>48</sup>

Despite the fact that Gore's letter did not explicitly commit the US government to support for either Target 2000 or an expanded ITTA, it was welcomed by NGOs at the ITTC's 14th session<sup>49</sup> which convened in Kuala Lumpur shortly after the Atlanta symposium. An interesting question therefore is how far Drucker was mandated by other consumer delegations at Kuala Lumpur to include reference to consumer support for the sustainable management of non-tropical forests outside the ITTO. The reluctance of most European countries to support a commitment to Target 2000 for their own forests at Helsinki suggests that Drucker - who would certainly have been aware of the letter from Gore to Carter, and possibly also aware that the US was planning to make a statement in support of Target 2000 at Helsinki - was attempting to rally the consumers around a US-inspired position, and that his paper at Kuala Lumpur was not based on a joint-consumer position. Nonetheless, Drucker's proposal was eventually to prove decisive in breaking the deadlock.

#### **7.5 Second Part of the Conference, Geneva, 21-25 June 1993**

Less than one week after the Helsinki conference the second part of the negotiating Conference commenced in Geneva. Although events since the first part had seen divisions appear among the consumers' caucus on adoption of Target 2000 for non-tropical timbers outside the ITTO, they still remained committed to an agreement covering tropical timber only. Once again no agreement was reached, with Target 2000 and scope remaining the central points of contention. The question of financial resources was a further contentious issue, with producer countries claiming that financial assistance from the producers was necessary, if sustainable forest management was to be achieved. Some consumer delegates sought to deflect attention on the issue of trade discrimination by claiming that the UN Commission on Sustainable Development, scheduled to deal with forests in 1995, was the appropriate forum for dealing with this

issue. NGO representatives responded that the CSD will have too heavy a schedule to deal thoroughly with trade discrimination.<sup>50</sup>

At the end of the second part of the Conference it was agreed a third part would be necessary.<sup>51</sup> The Conference President announced that he would convene informal discussions in Yokohama, prior to the third part, and issued a discussion paper in advance of this meeting.<sup>52</sup>

#### **7.6 Developments between the Second and Third Parts of the Conference**

The meeting called by the President was held in Yokohama in August 1993 with fourteen individuals in attendance. With the exception of the President and the producers' and consumers' spokesmen, all individuals attended in their personal capacities.<sup>53</sup> NGOs were not permitted to attend, although a statement was forwarded to the meeting by representatives from WWF-International and the National Wildlife Federation, USA. This noted that none of the suggestions in the President's paper addressed the "over-arching issue" of scope.<sup>54</sup> The exact details of the informal meeting, which was held in closed session, are not known, although it is clear that the meeting was unable to reconcile the central points of contention. The President issued a revised discussion paper which was on the table at the third part of the Conference in October 1993. One noteworthy point from this document concerned ITTO-collated statistics. It was noted that producer countries held the view that "notwithstanding the outcome of the discussions on the scope of the Agreement" information on non-tropical timber "should be provided in order to attain transparency in the market".<sup>55</sup> The President added his personal authority to this point, arguing that there was "a compelling necessity of taking a global perspective".<sup>56</sup>

Prior to the third part two significant international

forestry meetings were held, namely the Fourteenth Commonwealth Forestry Conference held in Kuala Lumpur (13-18 September 1993) and a Seminar of Experts on the Sustainable Development of Temperate and Boreal Forests held under the auspices of the Conference on Security and Cooperation in Europe (CSCE) in Montreal (27 September - 1 October 1993).

The 14th Commonwealth Forestry Conference, with its theme of *People, The Environment and Forestry - Conflict or Harmony*, was the first to be held since the UNCED, where all Commonwealth governments had adopted the Statement of Forest Principles. Consistent with the strong line taken by the Malaysian government on forests during the UNCED process and the ITTA negotiations, the Malaysian Prime Minister, Dr. Mahathir Bin Mohamad, referred in his opening speech to many of the producers' concerns, including a claim that discrimination between tropical and non-tropical timbers was "a glaring case of double standards and a clear contradiction to the decisions of UNCED".<sup>57</sup> The claim for "new and additional resources" and "access to environmentally-sound technologies on favourable terms" was also stated.<sup>58</sup> However, no reference to the negotiating process was made in the list of recommendations the conference issued.<sup>59</sup>

The CSCE forests seminar, hosted by Forestry Canada, was convened with the objective of defining the criteria for the sustainable management of forests in Europe and North America in line with the UNCED Statement of Forest Principles. No joint closing statement, declaration or list of recommendations was issued. In the absence of any formal statement from the seminar, the observations of NGO representatives are worth recording here, and the following account draws upon the recollection of Simon Counsell of FoE and Martin Mathers of WWF-Scotland.<sup>60</sup>

For most of its duration the seminar divided into two workshops, one dealing with social and economic criteria of sustainability, and the second dealing with environmental and ecological criteria. Many of the delegates in attendance

were also ITTO representatives. Representatives of some ITTO producer countries were also invited as observers, including Cameroon, Ghana, Gabon and Papua New Guinea. The invited ITTO producer countries were viewed by the consumers as among the "weaker" members of the ITTO producer caucus. Some of the CSCE delegates attempted to impress upon the ITTO producer delegates that the vast majority of the consumers were dealing with the sustainable management of their own forests outside the ITTO, therefore an expansion of scope to ensure sustainable management of non-tropical forests was unnecessary.

#### **7.7 Third Part of the Conference, Geneva, 4-15 October 1993**

Most of the two weeks of the third part of the Conference were spent in informal working groups as opposed to formal committee meetings. NGOs were initially excluded from these meetings, although after protest they were permitted to attend.<sup>61</sup> Some of the consumers made significant moves towards the producers' position, while continuing to advocate a tropical-timber-only format. An early development was the commitment by Australia to "the goal of achieving sustainable management of its own forests by the year 2000".<sup>62</sup> This was followed by a statement from Canada that it was prepared to associate itself "with sound internationally-agreed-upon measurements [including] association with Objective 2000 of the ITTO".<sup>63</sup> (The third part of the Conference saw references to "Objective 2000" rather than "Target 2000"; the reasons for this minor semantic shift are not clear.) By now three consumer countries had agreed to observe Target 2000 outside the ITTO. Although no other consumer delegations made such a commitment, a draft non-paper was "leaked" from the consumer caucus, indicating that some consumers favoured a formal statement within the ITTO in favour of Target 2000.<sup>64</sup>

The EC moved to allay another producer concern, namely

unilateral trade discrimination. The spokesman stated that the EC did not support "the use of trade restrictions of any type" and favoured "language which assures Members that unilateral trade measures cannot be taken" in the new Agreement.<sup>65</sup> This statement moved the EC behind one of the points made by Drucker at the ITTC's 14th session.

The third part also saw developments on the financial resources issue. The consumers issued a proposal advocating the establishment of an "Objective Year 2000 Fund". This proposed the establishment of a third ITTO account to be used "only for the implementation and management of approved projects and pre-projects relating to the attainment of the Objective Year 2000".<sup>66</sup>

The producers also submitted a proposal which laid claim to new and additional financial resources provided by the developed member countries to enable developing member countries "to meet the agreed full incremental costs to them of implementing measures which fulfil the Objective Year 2000".<sup>67</sup> This proposal was more of a normative statement than a realistic negotiating claim by the producers, and its real significance was that it suggested, for the first time, that the producers would accept mention of Target/Objective 2000 in the new Agreement, a move welcomed by the NGOs who criticised the consumers for not making a similar commitment.<sup>68</sup>

The only other significant event at the third part was a statement made by a Canadian indigenous peoples' NGO, namely the Central Region representative of the Nuu-Chah-Nulth Tribal Council. Noting the deforestation taking place in large areas of British Columbia, the representative informed delegates that blockading of logging roads, similar to the blockades in Sarawak, frequently occurs in Canada.<sup>69</sup> A statement by the Netherlands Committee of IUCN also noted concern at deforestation in Canada.<sup>70</sup> The two interventions, a source of irritation for the Canadian delegation, were part of a NGO tactic to support arguments in favour of an expanded agreement by drawing attention to the fact that

forest dwellers live not just in tropical forests but also in temperate forests, where the threat of deforestation is often as acute as in the tropics.

Overall, the third part of the Conference saw notable movement by the consumers towards the producers' position. However in the draft articles submitted by the President at the conclusion of the meeting the word "tropical" appeared throughout in square brackets, meaning there was still no consensus on the scope of the new Agreement.<sup>71</sup>

#### **7.8 Fourth Part of the Conference, Geneva, 10-26 January 1994**

Two days after the start of the fourth part of the Conference the European Union (EU)<sup>72</sup> stated that it was "fully committed to sustainable forest management ...notably in the framework of the Year 2000 Objective".<sup>73</sup> The EU statement also noted that this commitment should allow for the integration "of the aims of the ITTO Year 2000 Objective into a legally binding instrument covering all types of forests",<sup>74</sup> in other words a GFC.

By now Japan had also indicated its support for Target/Objective 2000,<sup>75</sup> and with the support of the USA, Canada and Australia previously pledged, the way was paved for a formal statement on this issue by the consumers. This was issued on 21 January 1994 and was based on the consumer non-paper "leaked" at the third part of the Conference. Endorsed by all members of the consumer caucus, the formal statement committed all consumers to "the national objective of achieving sustainable management of their forests by the year 2000".<sup>76</sup>

On the same day that the consumers issued their formal statement on Target 2000, a text for the International Tropical Timber Agreement, 1994 (hereafter the ITTA 1994) was agreed. This is appended to this thesis as Appendix D. The consumers' statement does not form a part of the ITTA

1994 and is not legally-binding, although mention of the consumers' commitment is made in the Preamble to the Agreement.<sup>77</sup> The commitment was one of two concessions made by the consumers in a compromise formula.<sup>78</sup> The second concession was the agreement to establish the Bali Partnership Fund, thus meeting in part the producers' claim for new and additional resources. (The reader will recall from Section 5.5.4, Chapter 5, that Bali is the venue where the ITTO's Permanent Committee on Forest Industry adopted Target 2000.) The clause on this Fund in the ITTA 1994 draws heavily on the consumer proposal for an "Objective Year 2000 Fund" made at the third part of the Conference.<sup>79</sup> In other words the Bali Partnership Fund will form a third ITTO account for projects and pre-projects designed to achieve Target 2000. In return for these two consumer concessions the producers dropped their insistence on expansion of scope, although they did succeed in inserting a clause that the scope of the Agreement shall be reviewed by the Council after four years.<sup>80</sup> The Agreement will enter into force on 1 February 1995 (if the requisite number of ratifications has been deposited by this date) for four years, with two options for three year extensions.<sup>81</sup>

At the conclusion of the Conference in Geneva on 26 January 1994 reservations were tabled by the EU and China, a clear indication that the text of the ITTA 1994 did not meet with the approval of all consumers. The reservations, and the reasons for them, will be considered in Section 7.9 below.

By the conclusion of the Conference a total of 65 countries had participated in the negotiations. Of these 50 were ITTO members and 15 were non-members.<sup>82</sup> After the closing of the Conference the Second Special Session of the ITTC was convened. This agreed that the ITTO would continue to operate under the auspices of the ITTA 1983 for a period not exceeding 18 months.<sup>83</sup> A minor, but interesting, procedural point here is that the Second Special Session of the ITTC was held in the same room as, and immediately after

the close of, the fourth part of the Conference, with the only changes being that the President of the negotiating Conference left the chair to make way for the ITTC Chairman, and non-ITTC members who had taken part in the Conference were expected to leave.

At this juncture let us remind ourselves that during the UNCED process the North favoured a GFC while the G77 was opposed. In what ways did these overall objectives inform the negotiating positions of the consumers and producers, particularly with respect to the scope of the new Agreement? In particular, why did the consumers not agree to an expansion of scope on the grounds that an international timber agreement would be a first step towards a GFC?

There are several reasons why the consumers were not prepared to use the negotiations towards this end. Firstly, and most obviously, the PrepCom process for the negotiations began in November 1992, just five months after the North suffered their GFC defeat at Rio. Rather than risk a further failure, the North kept the subject of a GFC off the agenda while simultaneously making clear that it remained an overall policy objective.<sup>84</sup>

Secondly, an expanded ITTA would not be a GFC (although it would undeniably contain features which a GFC may be expected to contain with respect to the timber trade). Here it is useful to consider what a GFC may look like. Two such drafts have so far been circulated. One was introduced in Chapter 4, namely the FAO draft GFC. The second is a draft produced by GLOBE International with the assistance of the Dutch NGO AIDEnvironment, the IIED and the Gaia Foundation. This draft was circulated at UNCED PrepCom 3 as a basis for informal discussions<sup>85</sup> and is appended to this thesis as Appendix E.

Despite the fact that the FAO and GLOBE International draft GFCs emanate from very different sources, certain features are common to both. These are the role of forests in national development policy, including fuelwood and energy requirements,<sup>86</sup> establishment of a national forest

policy,<sup>87</sup> regeneration of forest resources including reforestation,<sup>88</sup> observation, monitoring and surveying of forest cover,<sup>89</sup> the establishment of a national forest authority or service,<sup>90</sup> the establishment and management of protected forest areas,<sup>91</sup> indigenous forest peoples' rights,<sup>92</sup> prevention of air and water pollution,<sup>93</sup> biodiversity protection,<sup>94</sup> mitigation of the effects of climate change,<sup>95</sup> international cooperation,<sup>96</sup> scientific research,<sup>97</sup> education and public information<sup>98</sup> and the importance of Environmental Impact Assessments.<sup>99</sup>

It is emphasised that to date no government from the North has produced a draft GFC.<sup>100</sup> However, the fact that there is a high degree of similarity between the GLOBE International and FAO drafts, despite the fact that the two drafts emanate from non-governmental sources, provides some indication of the features that a finalised GFC may be expected to contain. Clearly if the countries of the North had chosen to use the ITTA negotiations to promote a GFC, they would have had to agree not only to an expansion of scope, but also to have successfully advanced the case for a large-scale expansion of mandate. It is worth emphasising that the ITTO is a commodity organisation which deals not with all tropical forests, or even with all tropical timber, but only with internationally-traded tropical timber. Now this is not to say that many of the issues noted in the preceding paragraph would be impossible to deal with in an expanded ITTA; it is possible that a commodity organisation such as the ITTO could expand its mandate, thus evolving into a fundamentally different type of organisation.<sup>101</sup> But most Northern governments are keen to secure a GFC at the very earliest opportunity and would have rejected a strategy that would probably have required several rounds of negotiations between ITTO members to complete. Rather than elect for an evolutionary model of, more or less, incremental change, the consumers appear to have considered that other options for a GFC were more likely to be successful. This leads onto our third point.

The negotiations began shortly after the proposal for a World Commission for Forests and Sustainable Development (WCFSD) was made (Chapter 4). Many consumer governments may have been of the view that a WCFSD offered a more promising track for a GFC. There are good reasons for such a line of thought. World commissions have previously helped to shift global agendas; as we saw in Chapter 6 (endnote 2), the United Nations Conference on Environment Development was convened by the General Assembly following a recommendation to this effect from the World Commission on Sustainable Development. If the WCFSD were to recommend a GFC this could provide both a renewed impetus and a new track for a GFC. Furthermore the fact that the Organising Committee for the WCFSD was established by Ola Ullsten, one of the authors of the TFAP Independent Review which recommended a GFC in 1990, would have suggested that the WCFSD could act as a political entrepreneur for a GFC in the eyes of many consumer delegations. Finally, the previous world commissions have established a good track-record for bridging North-South divisions and forging a new consensus.

Why therefore did the producers support an expansion of scope? As argued earlier, the producers/NGO alliance was one in which the two groups supported each other solely because their tactics, but not their strategy, were the same. The distinction is important. The NGOs, disillusioned with the ITTO as a possible conservation mechanism, wished to see its mandate restricted solely to trade-related issues. The producers supported an expanded scope in part because they wished all timbers to be dealt with by the same body to alleviate what they perceived as trade discrimination against tropical timber.

But there is a further possible reason why the producers may have favoured an expansion in scope, namely to defuse any subsequent pressures for a GFC. An expanded ITTA would not have been a GFC. However the existence of the former would have permitted the South to respond to any future Northern demands for the latter that, "If there is an

international timber agreement there is no need for a GFC".<sup>102</sup> Similarly, the consumers appeared to have resisted expansion for the same reason. Any subsequent consumer arguments that a GFC was necessary would have been weaker if an international timber organization was in place. Realising this the consumers elected to negotiate for a tropical-timber-only agreement.<sup>103</sup>

It is emphasised that there is no firm evidence for the above line of argument, which runs the risk of being branded retrospective rationalisation. Nonetheless, with the negotiations taking place so soon after the UNCED, and with the North making clear that it still wanted a GFC, there does appear to be, at the least, a very strong suspicion that the overall forest strategies of both North and South played an important and significant role in the negotiations, with both sides manoeuvring to determine how wide a possible future window of opportunity for a GFC would open. The South's policy of pushing for expansion can be seen as one designed to ensure that should, at a later date, the North demand a GFC, the window of opportunity would open only narrowly. Similarly the North, having failed to take advantage of the window of opportunity that opened during the UNCED process, wished to ensure that any future window of opportunity for a GFC will open as wide as possible.

#### **7.9 An Assessment of the International Tropical Timber Agreement, 1994**

The Conference ended with the *status quo* prevailing with regards scope. The consumers/timber-trader alliance prevailed over the producers/NGO alliance. This section will compare the ITTA 1983 with the ITTA 1994 and will provide an assessment of the latter, bearing in mind the history to date of the ITTO considered in Chapter 5.

A clause-by-clause comparative analysis of the ITTA 1994 compared with the ITTA 1983 reveals five new articles,

and ten substantially reworded articles. Note that textual amendments considered by the author as "minor" are not included in the latter category. A detailed breakdown of these changes appears in endnote 104.<sup>104</sup> A description of the significance of the main changes follows below.

It is noticeable that only three references to Target 2000 are made in the new Agreement, namely two in the "Preamble" and one in Article 1, "Objectives". No mention of Target 2000 is made in the main body of the text. While objectives of a legal agreement are, in a broad sense, "legally-binding", they are unlikely to have a real impact unless accompanied by references in the main body of the text to legally-binding implementation, review or monitoring mechanisms. This is not the case with Target 2000 in the ITTA 1994. Here it should be borne in mind that the producers only reluctantly agreed to mention of Target 2000 in the text at all, and they appear to have worked hard to ensure that references to it are kept to a minimum in the ITTA 1994.<sup>105</sup>

The consumers succeeded in their overriding objective of maintaining the tropical timber scope of the Successor Agreement. However, in addition to the establishment of the Bali Partnership Fund and the clause providing for a subsequent review of scope by the ITTC, the producers were able to obtain other concessions as part of the compromise formula. Firstly there is a clause on non-discrimination which notes that nothing in the Agreement authorizes "the use of measures to restrict or ban international trade in ...timber and timber products".<sup>106</sup> The insertion of this clause follows the Austria labelling case (Chapter 5), the statement made by Drucker at the ITTC's 14th session and the EC's statement at the third part of the Conference

Secondly, among the new objectives of the Agreement, there are clauses on the development of mechanisms for "new and additional financial resources" and on the transfer of technology "including on concessional and preferential terms and conditions, as mutually agreed".<sup>107</sup> The ITTA 1994 is

therefore the second intergovernmental forest document in which the South has succeeded in inserting clauses on these two bargaining claims, with the UNCED Statement of Forest Principles being the first (see Chapter 6 and Appendix C).

Finally, despite the fact that the producers were not successful in their efforts to expand the scope of the new Agreement, they did succeed in broadening the remit of the ITTO with respect to information sharing and statistics collation. Here the support given by Wisber Loeis, the Conference President, to the producer position on this issue after the Yokohama informal consultation appears to have been influential. A comparison between the ITTAs of 1983 and 1994 reveals a distinct change of emphasis in the articles on "Statistics, studies and information" and on the "Annual report and review". Whereas the ITTA 1983 emphasised "tropical timber", the ITTA 1994 lays stress on "timber". When the ITTA 1994 enters into force, the ITTO will be mandated to consider "relevant information on non-tropical timber".<sup>108</sup> The word "tropical" has also been deleted from some other clauses.

A rewording of Article 1(1) - formerly Article 1(h) of the ITTA 1983 on the development of "national policies aimed at sustainable utilization and conservation of tropical forests and their genetic resources"<sup>109</sup> - caused concern for some NGOs and consumer delegations at the end of the Conference. Firstly, the word "tropical" was deleted from the original ITTA 1983 Article 1(h). Secondly, a new proviso was added, namely "in the context of tropical timber trade". The amended article now reads

To encourage members to develop national policies aimed at sustainable utilization and conservation of timber producing forests and their genetic resources and at maintaining the ecological balance in the regions concerned, in the context of tropical timber trade.<sup>110</sup>

The producers had originally proposed during the Conference that the proviso be "in the interests of the tropical timber trade". NGOs and some consumer delegations argued successfully for the substitution of "context" for "interests". Nonetheless, certain members of the EU remained

sufficiently concerned to table a reservation on the clause at the end of the Conference, principally because it left unclear the degree to which the EU members would be accountable to the ITTO for the management of their forests.

Further EU reservations tabled concerned Article 1(g) on new and additional resources, which left unclear the amount of money that consumers would be expected to pay, and on the fact that no references to Target 2000 appeared other than in the Preamble and Article 1. The opinion of some delegations in the EU was that language was manipulated to cover differences which should have been subject to further negotiation. It should be noted that the reservations tabled by the EU did not represent common concerns of all EU members; rather the list is a collection of separate reservations by individual members. Meanwhile China also tabled reservations. One concern centred on the producer/consumer distinction, with China believing that she should be considered as falling into both categories. The second concern was that the Bali Partnership Fund will be used strictly for the disbursement of funds for ITTO producers, thus ruling China out of funding from this account.<sup>111</sup>

The confusion that has surrounded Target 2000 was not clarified in the ITTA 1994, indeed its meaning is now more ambiguous. The wording in the Agreement is different with respect to producers and consumers. Article 1 refers to a strategy "for achieving exports of tropical timber and timber products from sustainably-managed sources by the year 2000",<sup>112</sup> whereas the Preamble refers to "the commitment to maintain, or achieve by the year 2000, the sustainable management of their respective forests made by consuming members".<sup>113</sup> In other words, the commitment by the consumers is broader than that of the producers and applies to all forests as opposed to internationally-traded timber. A possible explanation here is that the consumers made a commitment (albeit not legally-binding) to a broad interpretation of Target 2000 in order that this can be used

as a future source of leverage to extract a similar commitment from the producers. Such an explanation would be consistent with the policy of many consumers of continuing to advocate a GFC, and would also explain the statement by the EU on the integration of Target 2000 into a legally binding instrument covering all forests (Section 7.8 above). There will certainly be further concentrated debate, both at future ITTC sessions and in other fora, on the meaning of Target 2000 and how it is to be applied to tropical and non-tropical forests.

There is evidence that NGO lobbying both at the ITTO and at other fora dealing with forest-related issues had some impact on the negotiations, with three references in the ITTA 1994 to issues on which NGOs have a campaigning history. Firstly, there is reference on the need to give "due regard for the interests of local communities dependent on forest resources".<sup>114</sup> Secondly, the need to "conserve and enhance other forest values"<sup>115</sup> receives mention. This would appear to be derived from the work of the LEEC in the incentives debate. This issue is one on which other NGOs have lobbied and which many consumer delegations also support. Finally, there is a reference to the need for the Permanent Committees to include information on "undocumented trade",<sup>116</sup> a veiled reference to the illegal trade against which, as was noted in Chapter 2 and Section 7.2 above, NGOs have long campaigned.

The increased emphasis on monitoring and evaluation is a feature of the new Agreement. The establishment of the Committee on Finance and Administration as the result of a consumer proposal during the PrepComs is an indication that the consumers are not prepared to make "blank cheque" donations to ITTO accounts, including the newly-established Bali Partnership Fund, without the establishment of strict criteria on project expenditure,<sup>117</sup> guarantees of prudent financial management and a follow-up process to determine the degree of effectiveness of money spent. The Agreement also empowers the Executive Director to suspend disbursement

of ITTO funds to projects and pre-projects "if they are being used contrary to the project document or in cases of fraud, waste, neglect or mismanagement".<sup>118</sup>

With UNCED failing to produce any legally binding agreement on forests, the ITTA 1994, if it enters into effect, is likely to be the only legal forest-related instrument operating at the global level.<sup>119</sup>

#### **7.10 Concluding Remarks**

The tension between timber production and forest conservation, so evident in the work of the ITTO throughout the lifespan of the ITTA 1983, was not resolved in the Successor Agreement which, like its predecessor, has been drafted in a way that suggests that the two objectives are simultaneously attainable. Despite the fact that NGOs and producer governments formed an alliance during the negotiations for the ITTA 1994, this is an area on which the positions of the two groups of actors were almost diametrically opposed during the history of the ITTO when the NGOs pressed for forest conservation, while the producers asserted that forests are a national sovereign resource to be exploited.

Chapter 5 described how the ITTO's mandate overlaps with other international institutions. There is evidence that ITTO delegations have taken advantage of the confusion this situation has engendered, by attempting to move debate on an issue or policy question from one institution to another. Take, for example, Malaysia's argument at the March 1992 meeting of the CITES conference that the ITTO was the appropriate forum to deal with trade restrictions on endangered tropical tree species (Section 5.6.4, Chapter 5). Given that the ITTO has never become involved in the endangered species debate there must be a suspicion that Malaysia, whose present government is opposed to any kind of restriction on the timber trade, was acting to block the proposal in CITES on the assumption - correct as subsequent events proved - that it would receive no attention at the

ITTO.

The problem of institutional overload on the forest issue has been compounded since then by the creation of the UN Commission on Sustainable Development (CSD). Consumer delegations to the second part of the Conference attempted to take advantage of this by suggesting that producer concerns on trade discrimination be dealt with by the CSD at its 1995 session. Again this can be seen as an attempt by a delegation to deflect unwelcome attention on an issue in one forum into another forum, presumably with the intention that the latter will be unlikely to have the time or the mandate to deal meaningfully with the issue in question. With progressively more environmental international institutions being created, and with more institutions receiving environmental mandates, this sort of tactic may become more commonplace in international environmental diplomacy, at least by those delegations who do not wish to deal meaningfully with a particular issue.

The future of the ITTO depends on several factors. Firstly, there is the question of whether the Organization will take decisive action on the labelling and incentives issues (see Section 5.5.7, Chapter 5). Secondly, there is the question of the composition of the ITTO's membership. Some former tropical timber producers are now net importers of tropical timber, and should this trend continue the falling number of producer countries may well effect the future functioning of the Organization. Thirdly, there is the question of the nature of the relationship of the ITTO (indeed of all commodity bodies) with the new World Trade Organization being created following the conclusion of the GATT Uruguay Round. Fourthly, there is the question of the ITTO's relationship with other international institutions with forest (or forest-related) and timber (or timber-related) mandates. With the ITTO now a TFAP co-sponsor (Chapter 4), the ITTO-TFAP relationship will presumably be closer than it was in the past. The World Commission on Forests and Sustainable Development will, if convened,

presumably pay particular attention both to the ITTO, and to its relations with other institutions. But from the viewpoint of those environmental NGOs that have lobbied the ITTO and its members, the most salient question is whether the ITTO that will operate during the lifespan of the ITTA 1994 will be more successful at promoting forest conservation than was the case throughout the validity of the ITTA 1983.

## Notes to Chapter 7

1. As noted in ITTO document PrepCom(I)/5, "Report of the First Session of the Preparatory Committee for the Renegotiation of the ITTA, 1983", 5 January 1993, para. 4, p. 7.
2. ITTO document PrepCom(I)/3, "Informal Working Group on ITTA Renegotiation, Washington DC, 24-25 September 1992 (Report by the Chairman)", 14 October 1992. This document became known within ITTO circles as the "Issues and Options" paper.
3. Letter from George J Medley, Director, WWF-UK, Godalming to Baroness Chalker, Minister of State, Overseas Development Administration, London, 3 November 1992.
4. Francis Sullivan of WWF, comments to the ITTO Working Group of the UK Tropical Forest Forum. Sullivan referred to principle 2(d) of the UNCED Statement of Forest Principles, which states that governments should provide for the participation of "interested parties": "UK Tropical Forest Forum, ITTO Working Group, Minutes of Meeting Held on 27 October 1992 at the WWF Offices, Beauchamp Place, 2-5 pm", para. 18, p. 6.
5. The positions of the producer and consumer caucuses, the environmental NGOs and the timber traders, as articulated by the end of the preparatory process, are collated from the following sources:
  - (1) *ITTO documents*: ITTO document PrepCom(II)/2, "Chairman's Paper for Second Session of the Preparatory Committee", 5 January 1993; ITTO document PrepCom(I)/3, *op.cit.*; ITTO document PrepCom(I)/5, *op.cit.*
  - (2) *UN document*: UN document TD/TIMBER.2/R.2, "Note by the Secretariat", 26 February 1993.
  - (3) *Unpublished statements or position papers by ITTO producers*: "Draft of Producer Countries: Preamble", 13 November 1992; "Statement by the producer spokesman on the key issues relating to the renegotiation of the International Tropical Timber Agreement (ITTA), 1983", Quito, Ecuador, 27 January 1993.
  - (4) *Unpublished position paper by ITTO consumers*: "Consumers: Preamble and Article 1", November 13, 1992.
  - (5) *Unpublished statements or position papers by environmental NGOs*: "First session of the Preparatory Committee for the renegotiation of the ITTA: Opening statement by WWF", Yokohama, 11 November 1992; "Environmental NGOs' statement to the 13th Session of the ITTC, Yokohama, 16th November 1992"; "NGO 'Non-paper': Issues and Options for the renegotiation of ITTA relating to the incorporation of timber from all forest types", 22 November 1992; "NGOs' statement to consumers on inclusion of temperate timber in the new Agreement", (undated); "Renegotiation of the ITTA: A WWF-UK Briefing Paper", undated.
  - (6) *Environmental NGO internal documents*: Friends of the Earth internal document, "Report on Attendance at Second Session of the Preparatory Committee on the Renegotiation of the ITTA (and other activities), Quito, 26-30 January 1993"; WWF International internal memorandum, "To Forest Working Group, From Chris Elliott

WWF International, Date 14 December 1992, Re Renegotiation of the ITTA".

(7) *Published sources*: Debra Callister, Renegotiation of the International Tropical Timber Agreement - Issues Paper. A Joint TRAFFIC/WWF paper, (Cambridge/Gland Switzerland: TRAFFIC/WWF International, October 1992); Brian Johnson, "Crisis in Yokohama", Timber Trades Journal, 28 November 1992. pp. 6-7.

6. Zulkifli Talib, "Indons to back timber proposal", The Star (Malaysia), December 4, 1992.

7. WWF International press release, "Quito - The end of the road for ITTO?", 24 November 1992.

8. The reader will recall from Chapter 5 that the WWF questioned the conservation credentials of the ITTO as early as 1988. Many NGOs now support the Forest Stewardship Council (FSC) established, largely as a result of the efforts of the WWF, in 1993 to deal with sustainable forest management at the forest concession, as opposed to the intergovernmental, level. Despite the fact that some NGOs, such as Friends of the Earth, declined to join the FSC because it granted voting rights to timber trading organisations, the FSC has received the endorsement and gained the support of a broad coalition of NGOs.

9. Arthur Morrell of the UK Timber Trade Federation speaking at the first PrepCom, ITTO document PrepCom(I)/5, op.cit., para. 41, p. 13.

10. Ibid., para. 42, p. 13.

11. "Thirteenth Session of the ITTO Council and Eleventh Session of its Permanent Committees, Yokohama, Japan, 16-21 November 1992, Statement by the FAO Representative".

12. In a comment that clearly demonstrates the importance attached to the producers/NGO alliance, Simon Counsell of Friends of the Earth argued that, "By supporting the Target, I believe we seriously risk alienating the producers, and thus losing their support for our other lobbying objectives"; Memorandum from Simon Counsell of Friends of the Earth-UK to Chris Elliott of WWF International, dated 4 June 1993, p. 2. Despite the opposition of Friends of the Earth the general position of the NGO community was in favour of inclusion of Target 2000 in the new agreement.

13. Anon., "ITTO must act on illegal timber trade", ECO, ITTO 13th Session, Yokohama, 23-24 November 1992, Number 4, pp. 1-2; "Environmental NGO statement to the 13th Session of the ITTC...", op.cit.: WWF International press release, "ITTO ignoring illegal timber trade", 12 November 1992.

14. GLOBE International is an organisation comprised of legislators from the European Parliament, the USA, Japan and Russia. Representatives of GLOBE-Japan have on occasion attended ITTC sessions registered as NGO observers.

15. Letter from Takashi Kosugi (Vice-President, GLOBE International), Wakako Hironako (Vice-President, GLOBE-Japan), Akiko Domoto (Vice-President, GLOBE-

Japan) and Hemmo Muntingh (President GLOBE-EC, Vice-President, GLOBE International) to the Executive Director, ITTO, dated 2 December 1991, sent to the author by Lena Lindahl, GLOBE-Japan, pers.comm. (fax), 4 August 1992.

16. Nigel Dudley, Forests in Trouble: A Review of the Status of Temperate Forests Worldwide. (Gland, Switzerland: WWF International, October 1992).

17. Anon., "Timber body must be expanded, says Keng Yaik", New Straits Times (Malaysia), November 11, 1992, and Fadzil Ghazali, "Lim on managing temperate forests: Broader Itto operations sought" Business Times (Malaysia), November 11, 1992.

18. As noted in ITTO document PrepCom(II)/2, op.cit., p. 2.

19. See Anon., "ITTO's Yokohama meeting ends in stalemate", Timber Trades Journal, 28 November 1992, p. 2, and Johnson, op.cit., pp. 6-7.

20. ITTO document ITTC(XIII)/16, "Decision 9(XIII), Renegotiation of ITTA, 1983", 24 November 1992.

21. Talib, op.cit.

22. In reply to a written question (No. 2615/92) from Hemmo Muntingh MEP the European Commission stated that the environmental aspect must be retained in the successor agreement and that Target 2000 "should be among the major goals of the next agreement". See, Official Journal of the European Communities, No. C 86, 26 March 1993, pp. 28-9. Muntingh's question was tabled on 27 October 1992; the reply of the Commission was dated 10 December 1992.

23. As noted in ITTO document, PrepCom(II)/2, op.cit., p. 2.

24. UN document TD/TIMBER.2/1/Add.1, "Provisional Agenda and Annotations", 24 February 1993, and ITTO document ITTC(XIV)/6, "Report of the First Part of the United Nations Conference for the Negotiation of a Successor Agreement to the International Tropical Timber Agreement, 1983, 13-16 April 1993, Geneva, Switzerland", 22 April 1993, para. 9, p. 4 and paras. 13-14, p. 5.

25. See Peter Willetts, Chapter 2 "Consultative Status at the United Nations", in Peter Willetts (ed.), NGOs at the UN: The International Influence of the Non-Governmental Organisations. (London: Christopher Hurst for the David Davies Institute, forthcoming).

26. Friends of the Earth internal document, "Report on Attendance at Second Session...", op.cit., pp. 5-6.

27. UN document TD/TIMBER.2/R.2, op.cit.

28. See UN document TD(VIII)/Misc.4, "A New Partnership for Development: The Cartagena Commitment", 27 February 1992.

The Cartagena Commitment contained more references supporting the producers'

joint negotiating position than the consumers'. The section on "environment and trade" recognised that "improved market access for developing country exports in conjunction with sound environmental policies, would have a positive economic impact" (para. 151, p. 46). Other clauses in this section would have found favour with tropical timber producer country governments: "Environmental policies should deal with the root causes of environmental degradation, thus preventing environmental measures from resulting in unnecessary restrictions to trade" (para. 152, p. 46); and "Donor countries are requested to continue contributing extrabudgetary resources to further strengthen UNCTAD's work on interlinkages between environment, trade and sustainable development..." (para. 155, p. 48).

29. Polly Ghazi, "Global campaign to save rainforests in danger of collapse", The Observer, 11 April 1993, p. 11.

30. ITTO document ITTC(XIV)/6, "Report of the First Part of the United Nations Conference...", op.cit., paras. 17, 19, 20, 21, 23, 24, 26 and 27, pp. 7-8.

31. WWF International press release, "ITTA renegotiations broaden forest debate", 13 April 1993; and Anon. (Reuters), "Canada urged to join tropical-timber accord", Toronto Globe and Mail, 17 April 1993.

32. "Chairman's Non-Paper, Informal consultations regarding a successor agreement to the International Tropical Timber Agreement, 1983, during XIV Session of ITTC", para 1. This document was subsequently circulated at the second part of the Conference as UN document TD/TIMBER.2/CRP.1, "Note by the UNCTAD Secretariat: Chairman's Non-Paper", 2 June 1993.

33. Ibid., para. 5, p. 1. For the Composite Text see: UN document TD/TIMBER.2/R.3, "Note by the Secretariat", April 1993.

34. WWF Malaysia press release, "WWF Malaysia defends stand on Sarawak: Reacts to personal attack on Executive Director", Kuala Lumpur, 13 May 1993.

35. This was attached as Annex I to: UN document TD/TIMBER.2/CRP.1, "...Chairman's Non-Paper", op.cit.

36. Ibid.

37. "Opening Statement presented by the environmental NGOs at the Fourteenth Session of the International Tropical Timber Council, Kuala Lumpur, 15 May 1993"; and Anon., "NGOs hit out at double standards of consumers", New Sunday Times (Malaysia), 16 May 1993.

38. The First Ministerial Conference on the Protection of Forests in Europe was held in Strasbourg in 1990. Two preparatory meetings were held in Geneva (October 1992 and March 1993) for the Helsinki meeting which was convened to deal, *inter alia*, with implementation by European countries of the UNCED Statement of Forest Principles.

39. These were: "General Declaration"; "Resolution H1, General Guidelines for the Sustainable Management of Forests in Europe"; "Resolution H2, General Guidelines for the Conservation of the Biodiversity of European Forests"; "Resolution H3, Forestry Cooperation with Economies in Transition"; and "Resolution H4, Strategies for a Process of Long-Term Adaptation of Forests in Europe to Climate Change". (Copies of these documents were supplied to the author by WWF International.)
40. Greenpeace International circulated a critique of the draft Helsinki resolutions, along with 10 recommendations to the Ministers, which noted "a lack of firm and clear commitments": "The Helsinki conference documents can and must be improved!, A Critique of the draft Declaration and Resolutions of the Ministerial Conference on the Protection of Forests in Europe", by Greenpeace International (undated). A joint IUCN-WWF statement also referred to this issue: "Helsinki, 16-17 June 1993, Presentation by Dr. Donald A Gilmour, IUCN, as part of a joint statement by IUCN and WWF".
41. It will be recalled from Chapter 5 that the government of the Netherlands is already committed to WWF's 1995 target.
42. Debora MacKenzie, "Timber: the beam in Europe's eye", New Scientist, 26 June 1993, p. 9.
43. Eldon Ross, head of the US delegation, cited by MacKenzie, Ibid.
44. The Guardian, 13 June 1992, p. 24.
45. Gore outlines his views on the environment in, Al Gore, Earth in the Balance: Ecology and the Human Spirit. (New York: Plume, 1993). Note that although this volume deals briefly with tropical rainforest destruction (pp. 116-120) it contains no mention of the ITTO.
46. "Broadening the Scope of the International Tropical Timber Agreement to Encompass Timbers From All Types of Forests: A Rationale for US Support, A discussion paper prepared by the Global Forest Policy Project of the National Wildlife Federation, Sierra Club and Friends of the Earth, March 11, 1993", p. 9.
47. Letter from Kathryn S Fuller, President, WWF-US, to Ms Eileen Claussen, Special Assistant to the President of the United States of America and Senior Director for Global Environmental Affairs, dated April 12, 1992.
48. Letter from Al Gore, Office of the Vice President, Washington DC, to The Honourable Jimmy Carter *et al*, Fernback Museum of Natural History, Atlanta, Georgia, dated May 7, 1993.
49. Anon., "US Rethinking on Forests: Will It Help A Global Timber Agreement?", ECO, ITTO 14th Session, Kuala Lumpur, 11-19 May 1993. Number 1, p. 2.
50. WWF International internal document, "Report on the Second Negotiating Session of the International Tropical Timber Agreement, Geneva, 21-25 June 1993", p. 1; and

"NGO Statement, 24 June 1993".

51. UN document TD/TIMBER.2/9, "Resolution adopted by the Conference", 28 June 1993.

52. "Negotiation of a Successor Agreement to the International Tropical Timber Agreement, 1983, President's Discussion Paper, 25 June 1993, 5 p.m.", (no document number). This identified five core issues: scope; trade discrimination; Target 2000; financial resources; and the functioning of the new Organization.

53. UN document TD/TIMBER.2/CRP.2, "Note by the UNCED Secretariat: President's Revised Discussion Paper", 24 September 1993, p. 1.

54. "Comments on President's 25 June 1993 Discussion Paper regarding the Renegotiation of the ITTA", August 4, 1993, submitted by Christopher Elliott (WWF-International) and William E Mankin (Coordinator of the Global Forest Policy project of National Wildlife Federation, Sierra Club and Friends of the Earth-USA).

55. UN document TD/TIMBER.2/CRP.2, op.cit., p. 5.

56. Ibid., p. 9.

57. "Speech by the Prime Minister Y.A.B. Dato Seri Dr. Mahathir Bin Mohamad at the Official Opening of the 14th Commonwealth Forestry Conference at the Shangri-La Hotel, Kuala Lumpur on Monday, 13th September 1993 at 10.00 a.m.", para. 9, p. 4.

58. Ibid., para. 12(d), p. 5

59. "14th Commonwealth Forestry Conference, Kuala Lumpur, 13-18 September 1993 - Recommendations". Six recommendations were addressed to governments, four to forest services, two to research organisations, and six to the Standing Committee on Commonwealth Forestry. For an assessment of the conference see Frans Arentz, "14th Commonwealth Forestry Conference", Tropical Forest Update. Volume 3, No. 5, October 1993, p. 16.

60. Simon Counsell, Friends of the Earth - England and Wales, pers.comm. (telephone conversation), 20 October 1993; and Martin Mathers, WWF-Scotland, pers.comm. (telephone conversation), 20 October 1993.

61. WWF International internal document, "Report on the Third Negotiation Session of the International Tropical Timber Agreement, Geneva, 04-15 October 1993", p. 2.

62. "Australian Statement to the Third Session of the UNCTAD Conference to negotiate a successor International Tropical Timber Agreement"; and UNCTAD press release, "Australia announces commitment to year 2000 target for sustainable management of all its forests", 6 October 1993.

63. "Canadian Statement, First Session of Executive Committee, ITTA INC 3, October 6, 1993".

64. "Draft Non-Paper (13.10.93): Statement by the Consumers". There are certain advantages to be gained by actors that issue non-papers: they float ideas for discussion while their informal nature means that they do not express a formal commitment to a policy position and they are not formally attributable. Note that non-papers, once floated, may be issued at a later date as official UN documents: see endnote 32 and Section 7.8.
65. "Third Session of Negotiations on a Successor Agreement to the International Tropical Timber Agreement, 1983, Statement on Behalf of the European Community and its Member States", Geneva, 15 October 1993" (no document number).
66. UN document TD/TIMBER.2/CRP.4, "Proposal by the Consumers, Article 18, Objective Year 2000 Fund", 12 October 1993, para. 5, p. 2.
67. UN document TD/TIMBER.2/CRP.3, "Proposal by the Producers, Article 18, Financial Resources and Mechanism", 7 October 1993, para. 1, p. 1.
68. "Statement of the Global Forest Policy Project at the closing of the Third Part of the Conference for the Negotiation of a Successor Agreement to the International Tropical Timber Agreement of 1983, 15 October 1993, Geneva"; "WWF closing statement at the closing of the Third Part of the Conference for the Negotiation of a Successor Agreement to the International Tropical Timber Agreement, 1983" (undated); WWF International press release, "Tropical timber agreement - deadlock continues", 15 October 1993;
69. "Statement of the Central Region of the Nuu-Chah-Nulth Tribal Council at the opening of the Third Part of the Conference for the Negotiation of a Successor Agreement to the International Tropical Timber Agreement of 1983, October 6, 1993", p. 2.
70. "Statement on behalf of the Netherlands Committee for IUCN, Geneva, 15 October 1993".
71. UN document TD/TIMBER.2/CRP.5/Rev.1, "Preparation of a Successor Agreement to the International Tropical Timber Agreement, 1983: Draft articles submitted by the President", 15 October 1993.
72. Following the final ratification by Germany, the Maastricht Treaty entered into legal effect on 1 November 1993. At the fourth part of the negotiating conference official UN documents referred not to the European Community, as was the case during the first to third parts, but to the European Union.
73. "European Union, Statement on the Sustainable Management of Forests in the European Union, Geneva, 12 January 1994", para. 3, p. 1. This was subsequently issued as a formal statement: UN document TD/TIMBER.2/L.7, "Statement on the Sustainable Management of Forests in the European Union by the European Union", 24 January 1994, para. 3, p. 1.
74. *Ibid.*, para. 6, p. 2.

75. Frances Williams, "Divisions remain over tropical timber accord", Financial Times, 12 January 1994, p. 34.

76. UN document TD/TIMBER.2/L.6, "Formal Statement by the Consumer Members", 21 January 1994, para. 6, p. 2.

77. UN document TD/TIMBER.2/L.9, "Draft International Tropical Timber Agreement, 1994", 25 January 1994, Preamble, p. 5.

78. David E Pitt, "Accord is reached on use of forests", New York Times International, 23 January 1994; and Frances Williams, "Compromise reached on tropical timber pact", Financial Times, 26 January 1994, p. 34.

79. UN document TD/TIMBER.2/L.9, op.cit., Article 21, p. 20; and UN document TD/TIMBER.2/CRP.4, "Proposal by the Consumers...", op.cit. While there are several difference between the consumers' proposal and Article 21 of the ITTA 1994, it is also clear that the former led to the drafting of the latter. Many important features of the consumers proposal appear in Article 21 of the ITTA 1994 on the Bali Partnership Fund, most noticeably that the Fund will be a third ITTO account solely for producers' pre-project and project work towards Target 2000.

80. UN document TD/TIMBER.2/L.9, op.cit., Article 35, p. 30.

81. Ibid., Article 41.1, p. 32, and Article 46, p. 35.

82. Of the 15 countries which were not ITTO members, nine were producers and six consumers. Of the nine producers, seven had also taken part in the negotiations for the ITTA 1983 without subsequently depositing articles of ratification for the Agreement. These were Costa Rica, Dominican Republic, El Salvador, Mexico, Myanmar (Burma), Tanzania and Venezuela. The other two countries were attending negotiations for an ITTA for the first time, namely Equatorial Guinea and Paraguay. Of the six consumers, two had taken part in the negotiations for the ITTA 1983, namely Bulgaria and Chile. The other four countries were attending ITTA negotiations for the first time, namely Afghanistan, Algeria, Bahrain and Slovakia.

83. Note that although it was due to expire on 31 March 1994, the ITTA 1983 may, by special vote of the ITTC, continue in effect until such time as the ITTA 1994 receives the requisite number of ratifications: UN document TD/TIMBER/11/Rev.1, "International Tropical Timber Agreement, 1983", Article 42.3, p. 18.

84. This chapter has already documented that the USA and the EU remain in favour of a GFC. Note also that Switzerland announced at the first PrepCom that it would pursue a GFC "independently of the results of any negotiation on tropical timber": ITTO document PrepCom(I)/5, op.cit., para. 35, p. 11.

In June 1993 a paper circulated by Canada at the second part of the Conference reaffirmed the commitment of that country's government to a GFC: "Canada's commitment to sustainable forestry is the same at home and abroad", Forestry Canada paper, June 1993.

In September 1992 a German-Japanese Expert Meeting on Tropical Forests held

in Berlin agreed upon "the desirability of an internationally-binding Forest Convention". See Anlage 13 of Bundesministerium für Ernährung, Landwirtschaft und Forsten, Schutz und Bewirtschaft der Tropenwälder: Tropenwäldbericht der Bundesregierung. 3 Bericht. (Bericht-Nr. B 245/93). (Bonn: March 1993).

The main consumer governments, namely the USA, Canada, Switzerland, Japan and the EU, are therefore still intent on pursuing a GFC. There are, of course, other tropical timber consumer governments - such as China, Australia, New Zealand and the Scandinavian countries - which have so far not expressed a post-UNCED policy position on the issue.

85. Bernardo Zentilli, Senior Programme Advisor (Forestry), UNCED Secretariat, pers.comm., (interview, Geneva), 24 September 1992.

86. GLOBE International, "Model for a Convention for the Conservation and Wise Use of Forests", April 1992, "Legal Text", Part II, Article 3, and FAO, "Possible Main Elements of an Instrument (Convention, Agreement, Protocol, Charter, etc.) for the Conservation and Development of the World's Forests", draft, Rome, 18.10.90, Articles V.1, V.13 and V.14.

87. GLOBE International, Ibid., Article 4, and FAO, Ibid., Article V.2.

88. GLOBE International, Ibid., Article 5 and FAO, Ibid., Articles V.2 and V.11..

89. GLOBE International, Ibid., Articles 6 and 19, and FAO, Ibid., Article V.4.

90. GLOBE International, Ibid., Article 7, and FAO, Ibid., Article V.3.

91. GLOBE International, Ibid., Articles 8 and 9, and FAO, Ibid., Article V.6.

92. GLOBE International, Ibid., Article 10, and FAO, Ibid., Article V.7.

93. GLOBE International, Ibid., Articles 11 and 12, and FAO, Ibid., Article V.15.

94. GLOBE International, Ibid., Article 14, and FAO, Ibid., Article V.8.

95. GLOBE International, Ibid., Article 15, and FAO, Ibid., Article V.10.

96. GLOBE International, Ibid., Article 17, and FAO, Ibid., Articles VI.1 to VI.3.

97. GLOBE International, Ibid., Article 18, and FAO, Ibid., Article V.16.

98. GLOBE International, Ibid., Article 20, and FAO, Ibid., Article V.12.

99. GLOBE International, Ibid., Article 22, and FAO, Ibid., Article V.5.

100. Indeed a possible further reason why the North did not use the ITTO negotiations to push for a GFC could be that no consumer government has moved beyond support for a GFC to a precise formulation of what such an instrument could look like.

101. Consider the case of the International Whaling Commission which was created primarily as a trading organisation. Over time it has changed its mandate to become more of a conservation organisation, although tensions between trade and conservation remain. I am grateful to Dr. Peter Willetts for drawing this to my attention during a challenging and interesting conversation on the strategies of the producers and consumers during the ITTA negotiations.

102. At the second PrepCom Malaysia stated that the negotiations were not an appropriate place to deal with the GFC question and that the new Agreement should focus on trade issues: Friends of the Earth internal document, "Report on Attendance at Second Session...", op.cit., p. 5.

103. Chris Elliott notes that one of the consumers' concerns was that "an expanded ITTA would reduce pressure for a forest convention": WWF International internal memorandum dated 14 December 1992, op.cit., p. 2.

104. The intention of this endnote is to abbreviate and summarise all the major changes in the ITTA 1994 compared with its predecessor, the ITTA 1983. There were five new Articles and ten substantially reworded Articles.

The five new Articles follow.

1. Article 21. The Bali Partnership Fund
  - a new ITTO account is established to help producing members make the investments necessary for Target 2000. The article proscribes the allocation of monies from this fund to producing members only.
2. Article 24. Policy work of the Organization
  - the ITTO should aim to integrate policy work and project activities.
3. Article 35. Review
  - the scope of the Agreement shall be reviewed by the ITTC four years after the Agreement's entry into force.
4. Article 36. Non-discrimination
  - the ITTA 1994 does not authorise measures to restrict or ban international trade in timber and timber products.
5. Article 48. Supplementary and transitional provisions
  - the ITTA 1994 is the successor agreement to the ITTA 1983.
  - acts by or on behalf of the ITTO or any of its organs under the ITTA 1983 shall remain in effect when the ITTA 1994 enters into force unless explicitly prohibited by the latter.

The ten substantially reworded clauses follow. Reference to the equivalent clause in the ITTA 1983 is italicised and appears in brackets.

1. Preamble (*Preamble, 1983*)

- mention of the New Partnership for Development and the Cartagena Commitment and the Spirit of Cartagena adopted at the eighth session of the UNCTAD,
- two mentions of the UNCED Statement of Forest principles, including reference to principle 10 on new and additional financial resources,
- the need to apply guidelines for all types of timber producing forests,
- the need to take a global perspective in order to improve transparency in the international timber market,
- two mentions of Target 2000, including one reference to the consumer countries' commitment to the Target.

2. Article 1. Objectives (*Article 1, 1983*)

There are six new objectives:

- to promote non-discriminatory timber trade practices,
- to contribute to the process of sustainable development,
- to enhance the capacity of members to achieve Target 2000,
- to develop and contribute towards mechanisms for the provision of new and additional financial resources,
- to promote the transfer of technology and technical cooperation, including on concessional and preferential terms,
- to encourage information sharing on the international timber market.

Other changes to Article 1 are:

- mention of principle 1(a) of the UNCED Statement of Forest Principles on the sovereignty of states over their natural resources,
- mention of the need to conserve and enhance other forest values,
- mention of "due regard for the interests of local communities".

3. Article 14. Cooperation and coordination with other organizations (*Article 14, 1983*)

- mention of consultation and cooperation with the UN Commission on Sustainable Development and CITES.

4. Article 25. Project activities of the Organization (*Article 23, 1983*)

- a list of new criteria to be taken into account when judging projects,
- a schedule and procedure to be established for submission, appraisal and prioritisation of pre-projects and projects,
- granting of powers to the Executive Director to suspend disbursement of funds if they are being used contrary to the project plan.

5. Article 26. Establishment of Committees (*Article 24, 1983*)

- establishment of a Committee on Finance and Administration.

6. Article 27. Functions of the Committees (*Article 25, 1983*)

- to review information on the undocumented timber trade,
- the Committees shall *inter alia* be responsible for effective appraisal, monitoring and evaluation of pre-projects and projects, follow-up the implementation of pre-projects and projects, and regular review of the ITTO's Action Plan,
- transfer of technology to be encouraged,
- the newly established Committee on Finance and Administration shall make

recommendations to the ITTC on the ITTO's budget and management operations, examine and make recommendations to the ITTC on actions needed to secure resources, and recommend modifications necessary to the Rules of Procedure and the Financial Rules.

7. Article 29. Statistics, studies and information (*Article 27, 1983*)
  - emphasis on non-tropical timber,
  - emphases on "tropical timber" in the ITTA 1983 amended to read just "timber".
8. Article 30. Annual report and review (*Article 28, 1983*)
  - in this article there are references to "members" and "timber" (whereas the equivalent clause in the ITTA 1983 saw reference to "producing members" and "tropical timber").
9. Article 43. Withdrawal (*Article 39, 1983*)
  - financial obligations to the ITTO incurred by a member shall not be terminated by withdrawal.
10. Article 46. Duration, extension and termination (*Article 42, 1983*)
  - the Agreement is valid for an initial period of four years, with two options for extension of three years each (compared with the ITTA 1983, which was valid for an initial period of five years with two options for extension of two years each).

105. At the second PrepCom in Quito the producers spokesman stated that Target 2000 should be seen as "a guiding target" and not "a deadline or ultimatum which would be made legally-binding to members through its formal inscription in the new Agreement": "Statement by the producer spokesman on the key issues ....", Quito Ecuador, 27 January 1993, op.cit., pp. 1-2.

106. UN document TD/TIMBER.2/L.9, op.cit., Article 36, p. 30.

107. Ibid., Article 1, paras. (g) and (m), pp. 6-7.

108. Ibid., Article 29, para. 1, p. 27.

109. UN document TD/TIMBER/11/Rev.1, op.cit., Article 1, para. (h), p. 8.

110. UN document TD/TIMBER.2/L.9, op.cit., Article 1, para. (l), p. 6.

111. The information in the last two paragraphs has been obtained from the following sources: WWF International internal memorandum, "To Forest Advisory Group, From WWF International, Date 24 January 1994, Re Renegotiation of the ITTA, 1983"; Simon Counsell of Friends of the Earth, pers.comm. (telephone conversation), 15 April 1994; and a confidential briefing from an EU delegate who wishes to remain anonymous, pers.comm. (telephone conversation), 15 April 1994. For a list of the reservations tabled by delegates, see UN document TD/TIMBER.2/15, "Summaries of statements made after the adoption of the Agreement at the closing plenary meeting of

the Conference on 26 January 1994", 22 March 1994.

112. UN document TD/TIMBER.2/L.9, op.cit., Article 1, para (d), p. 5.

113. Ibid., Preamble, p. 5.

114. Ibid., Article 1, para. (j), p. 6.

115. Ibid., Article 1, para (f), p. 6.

116. Ibid., Article 27, Para 1(c), p. 23.

117. Ibid., Article 25, para 2, p. 22.

118. Ibid., Article 25, para., 4, p. 22.

119. However some international legal instruments operating on a global level impinge upon forests issues. They are:

- (i) Convention on Wetlands of International Importance Especially as Waterfowl Habitat (Ramsar, 1971);
- (ii) Convention for the Protection of the World Cultural and Natural Heritage (Paris, 1972);
- (iii) Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) (Washington, 1973);
- (iv) Framework Convention on Climate Change (Rio de Janeiro, 1992); and
- (v) Convention on Biological Diversity (Rio de Janeiro, 1992).

Natural resource instruments operating at a regional level are:

- (vi) Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere (Washington, 1940);
- (vii) African Convention for the Conservation of Nature and Natural Resources (Algiers, 1968);
- (viii) Treaty for Amazonian Cooperation (Brasilia, 1978);
- (ix) Convention on European Wildlife and Natural Resources (Berne, 1979); and
- (x) ASEAN Agreement on the Conservation of Nature and Natural Resources (Kuala Lumpur, 1985).

With the exception of entries (iv) and (v), the above is reproduced from FAO document COFO-90/3(a), "Proposal for an International Convention on Conservation and Development of Forests", Rome, September 1990, Annex, "List of existing instruments relating to forests", p. 11.

# CHAPTER 8

## EXPLAINING THE NON-EMERGENCE OF A GLOBAL FORESTS CONSERVATION REGIME

### 8.1 Introduction

The main enquiry of this work is whether the analyses of the regime theorist explain the absence of such a regime? The four case studies of this work have been researched and written with the regime theory research questions posed in Section 1.6 firmly in mind. The evidence accumulated in Chapters 4 to 7 will now be drawn out and presented with respect to each of these research questions. The intention is that this process will reveal whether conditions that may have been conducive to the formation of a global forests conservation regime have arisen during the period covered in this work, namely from 1983 to 1994.

Of the four case studies of this thesis, only one, on the forests negotiations of the UNCED process (Chapter 6), involved a political process that considered all forests. Three of the case studies dealt with political processes focusing solely on tropical forests or tropical-forest-related issues. Two of these relate to one institution, namely the ITTO (Chapters 5 and 7). The third tropical-forest-only case study dealt with the TFAP (Chapter 4). It is necessary to stress that the case studies have examined four fundamentally different types of political process occurring at different stages throughout the period 1983-1994. Despite these differences, this chapter will demonstrate that some similarities occur across the four. It is intended that an application of the research questions to the case studies will reveal many of the concerns of the main actors, and the reasons why disagreements have arisen between them with respect to the global politics of forests

conservation.

Chapter 1 explored the notion of effectiveness, and it was argued that regime effectiveness should be defined as the maintenance of environmental quality. Adopting this definition of effectiveness, neither the TFAP nor the ITTO can be considered as tropical forest conservation regimes; tropical deforestation has accelerated during the time these two organisations have been in existence (Table 2, Chapter 3). Nonetheless, both have a strong conservation mandate, and both can be seen as *potential* tropical forest conservation regimes. The ITTO may also be seen as a trade regime, as it aims to promote the international trade in tropical timber.

Chapter 1 further noted the definitional and conceptual confusion surrounding the regime concept, and it was argued that regime theory does not question the current international political and economic systems. Following on from this, and adopting a neo-dependency argument, Chapter 2 argued that the problem of deforestation as a global phenomenon is rooted in the global political economy. Chapter 3 elaborated a forest conservation problematic. The findings of this thesis with respect to the forest conservation problematic will be presented in Section 8.4. Section 8.3 will summate the findings with respect to the role of NGOs. However, it is to the question of whether regime theory can explain why a global forests conservation regime has yet to emerge that we now turn.

## **8.2 Application of Research Questions: Regime Theory**

The reader will recall that the definition of a global forests conservation regime adopted in Chapter 1 was

*a form of international governance adhered to by governments and other relevant actors, the principal norm of which is that the world's forests should be effectively conserved, and which ensures that there is no net-loss of global forest cover.*

It will be recalled that there are two points of departure between this definition and mainstream regime theory.

Firstly, an emphasis is placed on non-state actors. Secondly, a minimal level of effectiveness is stipulated. With effectiveness considered to be the maintenance of environmental quality, no global forests conservation regime can be said to exist if net-deforestation continues.

This section will be dedicated to a consideration of the research questions elaborated in Chapter 1. The reader will recall that four main types of regime theory were outlined: power-based; interest-based; cognitive; and the wider international context. These categories of explanation should not be considered as mutually exclusive, and consequently some factors emphasised in one section will appear in a different guise in another section.

### **8.2.1 Power-based Explanations**

#### **Can an issue-specific hegemon be identified?**

As Chapter 1 argued, there is no overall hegemon with respect to international environmental politics. Furthermore, none of the case studies suggest the existence of an issue-specific hegemon. There are, of course, some very important forested countries. Brazil, for example, is the largest tropical-forest country, and the government of Brazil would undoubtedly be one of the most important and influential actors in a global forests conservation regime. However this is a long way from saying that Brazil is an issue-specific hegemon with the power to supply a global forests conservation regime.

#### **Was structural leadership exercised in favour of a regime?**

The exercise of economic structural power may contribute to regime formation. As Young notes, the "essential feature of structural leadership ... lies in the ability to translate structural power into bargaining leverage".<sup>1</sup> Note that there is a distinction between merely demanding a regime (Section 8.2.2 below) and the exercise of structural power in pursuit of a regime; the latter is backed by economic capabilities.

A distinction is made here between the exercise of structural power in a coercive manner and in a consensual manner. When structural power is exercised in a coercive manner, Actor A seeks to use its capabilities in its own perceived interests only, and in doing so seeks to induce Actor B to pursue a policy it is reluctant to adopt or even opposed to. When structural power is exercised in a consensual manner, Actor A seeks agreement with Actor B over the way in which its capabilities should be used.

In the TFAP, governments from the North have exercised structural power in a consensual manner by funding NFAP projects in agreement with host governments. The early support by the donor community in the formation of the Forestry Advisers Group (FAG) represents certain Northern governments using their economic capabilities (and certain NGOs using their financial capabilities) in an attempt to establish a tropical forests conservation regime. The funding of ITTO projects by the consumers also represents the exercise of structural power in a consensual manner, with the objective being the achievement of a sustainable tropical timber trade.

An attempt by the North to exercise structural power in a coercive manner occurred at the UNCED where certain European Community (EC) governments attempted to pressure the South into agreeing to post-UNCED negotiations for a Global Forests Convention (GFC). Some EC governments wished to link the negotiation of a GFC with that of a desertification convention, the intention being to bring the African governments into the pro-GFC camp. However, the tactic was not endorsed by all EC members, and when the US voiced support for a desertification convention the EC then dropped its insistence that the desertification and forests issues be linked.<sup>2</sup> The case of the UNCED represents a crude and unsuccessful attempt by certain EC governments to exercise structural power coercively.

Overall the evidence gathered indicates that actors from the North have, on occasion, been prepared to exercise

structural power with the intention of promoting a global forests conservation regime, although the use of such power has been neither coherent nor sustained. The North wishes to ensure that the world's forests, including tropical forests, are conserved. The South has linked conservation to bargaining claims, most of which the North has either ignored or disputed. In short, neither North nor South have used their capabilities to provide the other with incentives to cooperate. According to a power-based theory of regime formation, a trade-off between the power capabilities of both sides is necessary if a GFC, which could act as the framework within which a global forests conservation regime could emerge, is to be concluded.

One final power-based explanation will be considered, namely finance. The financial influence of governments in this respect is well-documented by regime theorists. However a frequent omission of regime theory is the role of non-state actors in regime formation; intergovernmental and non-governmental actors may also exercise influence derived from their financial capabilities. Table 5 detailed those actors donating money to NFAPs and it was seen that UN specialised agencies, other UN organs, intergovernmental organisations, regional development banks and NGOs have funded NFAPs. Although the FAO have not provided financial figures for this expenditure it is clear that, at least in the field of tropical forest conservation, the amount of money spent by actors on activities taking place under the auspices of another actor, in this case the FAO, is substantial. It seems reasonable to assume that similar such activity takes place in other areas of environmental cooperation. We can call such activity inter-institutional expenditure.

Governmental donors usually have guidelines on how inter-institutional expenditure is to be spent. Other, non-governmental, actors are equally keen to ensure that money donated is spent on projects meeting their approval. The relevance for the regime theorist is that inter-institutional expenditure, if accompanied by strict

guidelines, has the potential to transmit norms between actors.

It is necessary to add a note of caution here. Governmental actors from the North have far greater financial resources than, say, NGOs. To consider the expenditure of the latter among power-based theories of regime formation may seem to be a distortion of such theories. Nonetheless, in principle financial influence may be translated into normative influence. A possible research programme on inter-institutional expenditure could focus on, for example, the conditions attached to such expenditure by donors, and whether these conditions reflect the same or different norms. Such research should not merely consider governmental actors (still the main concern for Realists), or agencies such as the World Bank and the IMF (a concern for political economists), but should embrace the full diversity of actors engaged in such activity.

It is clear that if different actors were to adhere to different guidelines, normative consensus would be weak or non-existent.<sup>3</sup> Contrarily, if all or the vast majority of actors donating money on, say, tropical forests, were to insist on the overriding prevalence of conservationist objectives, this would play a role in norm transmission between actors, thus helping enforce forest conservation as an authoritative international norm. This could help to promote the emergence of a global forests conservation regime. However should the norms of actors fail to converge, clearly the potential for norm transmission would be weakened.

### **8.2.2 Interest-based Explanations**

Porter and Brown note that veto coalitions may arise during international negotiations, with a government joining a veto coalition if it perceives that it is in its interests to do so. Institutional arrangements, such as consensual decision-making procedures, can enable groups of states to block change. However, the concept of a veto coalition does

not solely involve interest-based factors. There may also be a power-based element, as possession of material capabilities may empower states to block the demands of other states.

In the case of the South these capabilities are, of course, their tropical rainforests. However the North also possesses relevant material capabilities. The history of international forest conservation initiatives since 1983 is one where the South has sought to create bargaining issue-linkages between tropical forest conservation and other issues. Initially such issue-linkages consisted of demands for increased aid flows, but more recently they have consisted of NIEO-related demands. These linkages are pertinent to any proper enquiry on veto coalitions. For a global forests conservation regime to emerge, not only is it necessary that no veto coalition against a regime is formed, but also that no veto coalition emerges against any issues linked by important forest states to forest conservation.

**Did governments from the South refrain from acting as a veto coalition against a global forests conservation regime?**

Government delegations from the South blocked initiatives designed to strengthen the TFAP. Tropical forest delegations represented in the FFDC prevented the establishment of an independent Consultative Group. With consensual decision-making procedures adopted by the FAO Ad Hoc Group, the approval of all actors for radical institutional reform was necessary. FFDC delegations, fearful of erosions of sovereignty, were not prepared to countenance giving NGOs a strong voice in such a Group. Governments from the South have therefore both partaken in, yet also blocked initiatives designed to strengthen, the TFAP.

Chapter 5 argued that the ITTO's consensual decision-making procedures prevented the introduction of innovative policy reforms designed to achieve a sustainable tropical timber trade. While the issues of incentives and labelling

have been on the ITTO agenda since 1989, due to producer opposition no ITTC decision has been passed that could be interpreted as a trade restriction. Like the TFAP, actors from the South have been involved in the ITTO while also acting as a veto coalition against reform.

In Chapter 6 on the UNCED process we saw the emergence of a veto coalition in the G77, led by India and Malaysia, which blocked the negotiation of a GFC. India and Malaysia exercised structural leadership against a regime arising from their status as important tropical forest countries and from the leading role they assumed on forests in the G77.

During the negotiations for the ITTA 1994 the consumers did not demand a GFC following their defeat on this issue during the UNCED process, although some consumers made it clear that they continued to favour a GFC. A further difference between the UNCED forests debate and the negotiations for the ITTA 1994 was that the South attempted to use its structural power not to block change proposed by the North, but to promote its own agenda. Aware of the leverage that the forests issue had given the G77 in the UNCED process, the producers pressed for an international timber trade agreement. As Chapter 7 described, the producers' demand for an expansion of scope was dropped as part of a compromise formula agreed upon by the producers and the consumers. Overall, however, the conclusion is that actors from the South have acted as a veto coalition against a global forests conservation regime.

**Did the North refrain from acting as a veto coalition against those issues linked by the South to forest conservation?**

By funding a limited number of NFAPs and ITTO projects, Northern aid agencies have met in part the claims of the South for increased aid flows. However they have not been prepared to meet the full project costs claimed by the South. Furthermore, claims by the ITTO producers for increased funding to meet the full costs of Target 2000 have

not been met by the consumers (see below). While the North has not acted as a veto coalition against the South's bargaining claims, neither has it been prepared to increase aid flows substantially within the TFAP and the ITTO.

As Chapter 6 described, bargaining in the UNCED forests debate was complex and issue-dense, with a wide range of NIEO-related demands linked by the South to forest conservation. While some commitment was made to increase aid flows at the UNCED, this did not meet the US\$125 billion UNCED Secretary-General Maurice Strong had advocated. The final figure pledged by the end of the conference was between US\$2.5-3 billion.<sup>4</sup> As Johnson suggests, the G77 may have been unable to maintain the unity of their opposition to a GFC if the North had been more willing to negotiate on financial resources and technology transfer prior to Rio.<sup>5</sup> Furthermore the North vetoed other forest-linked demands from the South, such as external debt relief and the reversal of net South-to-North financial flows. Hence two mutually reinforcing veto coalitions emerged during the UNCED process, with the intransigence of the North informing that of the South and *vice versa*.

As noted earlier, power-based factors also enter into a consideration of veto coalitions. A neo-Realist view would see the North resisting meeting the South's demands in order to protect its underlying economic power position: technology transfer on preferential and concessional terms would have resulted in lower returns on research and development costs; substantial financial transfers would have increased the taxation burden in Northern countries; and debt relief would have harmed Northern-based transnational banks. The overall result for the North would be a long-term decline of comparative advantages in international trade and finance. Hence our fourth category of explanation, the wider international context, inevitably enters into interest-based and power-based explanations. Similarly, the South feared that to accept a GFC on the North's terms would be to lose full and sovereign control of

a capability providing them with a source of leverage over the North, namely their tropical rainforests.

The problem of veto coalitions is a real one for those advocating a GFC. Noting that the CITES and the London Dumping Convention were negotiated outside the UN, Johnson has proposed that a similar course of action be pursued by the North for a post-UNCED GFC. This would avoid "the tyranny of consensus rule as we saw it practised in Rio".<sup>6</sup> To date, no proposal for GFC negotiations outside the UN has been made. If such negotiations were conducted on majority voting this could, in theory, circumnavigate a small veto coalition from the South. However, the united front presented by the ITTO producers in the negotiation of the ITTA 1994 suggests that South unity on the forests issue will be difficult to erode.

#### Was a regime demanded?

Section 8.2.1 considered the exercise of structural power in favour of a regime. However, actors may demand a regime without exercising structural power to this end; they may refrain from exercising structural power, or alternatively they may not possess it.

Table 9 of Chapter 6 detailed nine proposals for a global forests instrument. Two demands for a GFC emerged from actors involved with the TFAP, namely the Independent Review and the WRI review. Those governments demanding a GFC, through proposals by the G7 and the European Parliament, came only from the North. The question arises why Northern governments demanded a GFC. Traditional interest-based explanations of regime formation emphasise the realisation of mutual gains by actors. Actors may demand a regime if they anticipate that the pay-offs will exceed the costs. Regimes should be mutually beneficial, although inevitably the arrangements will satisfy some actors more than others. Such a line of reasoning does not easily explain the demand by Northern governments for a GFC: such a policy would not be pursued if these governments were

motivated solely by short to medium term pay-offs. Hence an alternative explanation must be sought.

The demand for a regime should be seen as arising from a collective shift in state-society relations in the North. Ruggie sees the post-war economic order as a compromise between two demands. The first was the desire of the post-war hegemon, namely the United States, to establish a liberal, multilateral, free-trading system. The second was the demand for social and economic stability, which was expressed by a new collective balance in state-society relations in the industrialised world. Ruggie refers to this as the embedded liberalism compromise.<sup>7</sup>

The role of social groups and NGO pressure in shifting state policy on the environment is one that International Relations scholars are increasingly recognising,<sup>8</sup> and explains the demand for a GFC. Environmental concerns in Northern societies challenge the Ruggie notion of embedded liberalism as a set of economic relations that is compatible with the requirements of domestic *social and economic stability*, and seeks instead to attain a set of economic relations compatible with global and domestic *ecological stability*. However a similar process has not occurred in the South, which remains preoccupied with domestic social and economic instability, and in particular perceived underdevelopment. Hence a regime was demand by the North, but not by the South.

Parliamentarians from the North continue to demand a GFC. It will be recalled that Chapter 7 briefly introduced the draft GFC of the Global Legislators Organisation for a Balanced Environment (Appendix E). In September 1993 the GLOBE International General Assembly renewed their call for a global regime for the conservation and wise use of forests.<sup>9</sup>

Attention will now turn to the role of entrepreneurial leadership, with consideration being given to both state and non-state actors.

### Is there any evidence of entrepreneurial leadership?

Entrepreneurial leadership was exercised by the FAO secretariat in the establishment of the TFAP. The role of the government of the Netherlands in hosting the meeting that resulted in the formation of the FAG was a further example. The hiring of consultancies to draft ITTO guidelines and to investigate labelling and incentives involved a mixture of entrepreneurial and intellectual leadership (Section 8.2.3). Although the entrepreneurial component of such leadership is not as strong for the ITTO as for the TFAP it is nonetheless discernable.

The most prominent example of entrepreneurial leadership for a regime emerged in 1990 when the FAO attempted to act as a political entrepreneur by offering to host GFC negotiations. The UNCED Secretariat also exercised entrepreneurial leadership by convening a Working Party on Forests.

### Is there any evidence of a veil of uncertainty?

No veil of uncertainty existed with respect to the TFAP and the ITTO. A veil of uncertainty may contribute to regime formation by making it difficult for actors to judge in advance the costs and benefits of participation. However NFAP host governments/ITTO producers and NFAP governmental donors/ITTO consumers could, more or less, judge in advance the approximate costs and benefits of participation. The former benefitted as recipients of small packages of financial and technical aid. In exchange for this they were expected to make certain modest conservation commitments. However, tropical forest governments have successfully diluted such commitments by reference to the sovereignty of states over their natural resources. For the donors, the cost-benefit calculus should be reversed, with the costs of participation being the value of aid pledged, and the benefits being the conservation commitments extracted from tropical forest governments. These commitments can then be presented to Northern domestic public opinion as evidence

that Northern governments are actively seeking to attain global ecological security (see above).

No veil of uncertainty existed in the UNCED forests debate, with both North and South clearly anticipating that to meet the other's terms would be to compromise their long-term interests. The North feared that meeting the South's demands would erode its relative power position, with any benefits gained being exceeded by the substantial costs that would accumulate in the medium to long term. The South feared that agreeing to the concept of stewardship could lead to a long-term erosion of national sovereignty over its forests.

In the negotiations for the ITTA 1994 both producers and consumers could forecast in advance a cost-benefit calculus. The consumers were aware that the producers' proposals for increased financial and technological transfers were formulated with the precise intention of increasing the producers' pay-offs at the expense of the consumers.

The next two sections will deal with bargaining and bargains. Here it is necessary to distinguish between *bargaining* as a negotiating process, and a *bargain* as an agreement between two or more actors. It will be recalled from Chapter 1 that Young concludes that the chances of regime formation are improved if actors engage in predominately integrative bargaining and that this is facilitated where a veil of uncertainty exists. It has been argued that there is no evidence of a veil of uncertainty. However, this is not in itself a sufficient condition to prevent actors engaging in integrative bargaining, although it certainly reduces its likelihood.

#### **Was bargaining of a predominately integrative nature?**

The evidence indicates that, while integrative bargaining has been discernable, overall the bargaining between actors on the forests issue in the period under consideration has been predominately distributive in nature.

For example, there are indications that at times bargaining in the ITTC and its Permanent Committees was driven by a search for mutually beneficial solutions. The adoption of Target 2000 is the most obvious example. There is also evidence that much of the debate on project work was of an integrative nature, with consumer delegations adding their expertise to that of the producers.

Against this must be balanced the fact that agreement among actors on the issues at stake, an important precondition of integrative bargaining, is not in evidence. The producers have been reluctant to debate meaningfully the labelling and incentives issues that were placed on the ITTO agenda, following NGO lobbying, by the consumers. Further lack of agreement concerns the producers' claims for extra resources to meet Target 2000, an issue which the consumers have yet to recognise (see below). In short, there has been no search for effective and durable forest conservation initiatives by all actors within the ITTO.

The case of the ITTO therefore reveals evidence of both integrative and distributive bargaining. This should not surprise us; as Osherenko and Young note "bargaining is a mixed-motive activity"<sup>10</sup> with actors seeking to attain relative gains even while searching for mutual gains. Of these two bargaining types, distributive bargaining is more in evidence than integrative bargaining in the ITTO.

In the UNCED forests debate there was no agreement on the issues at stake and consequently the focus of the two sides differed. Furthermore, a recurring theme in the negotiations was that both North and South pursued positions of self-interest, with the latter attempting to achieve relative gains and the former seeking to maintain its comparative advantages in the global political economy. Both sides sought to shift the responsibilities of the other. The North attempted to shift the jurisdictional boundaries of forests conservation by invoking "stewardship". Governments of the South, however, refused to recognise this concept which they perceived could restrict the use of forests

within their geographical domain. Instead they sought to redefine the jurisdictional responsibilities of the North with respect to debt relief, reversal of net South-to-North financial flows and other NIEO-related claims. By linking forests to these issues the South, correctly perceiving that forest conservation was a highly salient issue to the North, effectively put up the price of a regime.<sup>11</sup> In the final analysis, realising the demands of the NIEO was more salient to the South's perceived interests than forest conservation. Forest conservation was a salient issue to the North, owing to the shift in state-society relations described earlier, but of greater importance was the maintenance of a competitive role for its business and industry.

In the UNCED forests debate the South negotiated from a position of increased strength in comparison to some of the previous NIEO negotiations when, as Renninger notes, the South had to cope with a "lack of significant bargaining power" because, in exchange for what was demanded, the South had relatively little to offer.<sup>12</sup> However the rise of forest conservation as an international issue has enhanced the value of the South's tropical forests which, in turn, has increased its bargaining leverage. Realising this, the South has attempted to translate the North's concerns on tropical forests into the hard currency of economic and political gain.

On a theoretical level this indicates that in international negotiations the mere possession of economic capabilities by an actor is no guarantee of bargaining strength. A cognitive factor inevitably enters the equation: the actor must also appreciate the full value which other actors assign to those capabilities if it is to maximise its bargaining position. Indeed it may be the case that the South has consciously taken the decision to delay signing a GFC or similar instrument in order to enhance further its position. As Osherenko and Young note,

Parties anticipating gains in relative bargaining strength over time are apt to be reluctant to reach a negotiated settlement today, while parties expecting

losses in relative bargaining strength will be anxious to conclude negotiations quickly.<sup>13</sup>

No evidence exists to suggest that this is the G77's strategy on forests, but it is certainly the case that, having appreciated the importance which the North attaches to tropical forest conservation, the G77 realises that it has gained an important source of bargaining leverage.

#### Were any bargains struck?

The evidence gathered suggests that a form of bargain between donors and tropical forest governments was central to the TFAP, despite the fact that no formal negotiations took place when the TFAP was created. The nature of the bargain is that tropical forest governments should receive aid from donors, and in exchange the former would agree to adhere to the NFAP planning and implementation process without being formally bound to firm, binding conservation targets. Donors have the advantage that while the NFAP host governments are not formally bound to conservation targets, the conservation of eco-systems (TFAP action programme 4) is expected to be an integral feature of all NFAPs. In short, a bargain was struck. Indeed the durability of the TFAP process, which has weathered both the 1990 legitimacy crisis and the failure of actors to agree upon a GFC, is proof that many actors continue to see tangible benefits in it.

A similar argument is advanced for the ITTO. Tropical forest producers benefit from financial and technical aid while there are no binding conservation targets. (As we saw in Chapter 5, a NGO criticism is that aid is the price the consumers pay for keeping the producers within the ITTO.) The advantage for the consumers is that such aid is disbursed at a forum with a conservation mandate.

No "global bargain" was struck at Rio. It was argued above that the North and the South acted as a veto coalition against the aspirations of the other. The validity of the bargaining issue-linkages made by the South was disputed by the North.

These findings suggest that actors are more likely to reach agreement where bargaining is relatively issue-specific, and that the chances of reaching agreement are progressively reduced when more issues are introduced into the bargaining equation. Only a small number of issues were involved in the TFAP and ITTO, and a modest bargain was reached. However a complicated dense nexus of bargaining issue-linkages was involved in the UNCED forests debate. This suggests that where bargaining is relatively issue-dense there will either be weak consensual agreement or no agreement at all. In short, complexity reduces the chances of agreement.

**Did all actors feel that their primary concerns were dealt with fairly?**

Many of the South's primary concerns on forests have not been voiced within the TFAP framework, which is an inappropriate one for dealing with issues such as debt relief and terms of trade. However the South articulated two concerns during the TFAP restructuring process, namely sovereignty and funding. Firstly, the role of NGOs in a Consultative Group was seen by tropical forest countries as a possible threat to their sovereignty. Secondly the FFDC, concerned about perceived "inadequate funding", called upon developed countries "to increase their [financial] support to TFAP".<sup>14</sup> With the North prepared to meet such demands only in part, the question of funding remains a concern for the FFDC.

The FAG was initially supportive of the TFAP. However, by 1990 some of the NGOs involved in the FAG felt that their primary concerns, namely forest conservation and local community participation, were being ignored, hence the WRI and WWF suspended funding. Chapter 4 noted that members of the FAG were dissatisfied with both the length of time of the restructuring process and the outcome of this process.

There is evidence that ITTO producers felt that they were expected to carry the burden of implementing

sustainable forest management without significant help from the consumers. For example, the Indonesian Ministry of Forestry has estimated that Indonesia requires a total of US\$20.2 billion to achieve Target 2000, and a further US\$637 million to implement the Indonesian NFAP until the year 1999.<sup>15</sup> An ITTO Expert Panel arrived at a preliminary estimate of US\$6.5 billion for Brazil to attain sustainable forest management by the year 2000.<sup>16</sup> It has not been suggested that the consumers should foot the entire bill of sustainable forest management; the Panel based its findings on a consultancy report which argued that many tropical forest countries fail to capture sufficient revenues from log sales and that if fees were increased "a considerable part of the additional resources needed for these programs could be borne by the producer countries", although the difference (a monetary or percentage figure is not given) would have to be borne by the consumers.<sup>17</sup> Extra aid allocations to cover this difference have so far not been forthcoming.

Chapter 6 argued that different understandings between North and South on the causes of deforestation was a recurring theme throughout the UNCED deliberations. While there was no doubt that the South introduced factors such as external debt in part as a bargaining chip, it is also true that such factors were introduced due to a genuine belief that the South is a "victim" of deforestation and, as in the case of the ITTO, that it was unjust for it to carry the full burden of conservation. Furthermore, certain actors in the South felt that the North was principally concerned with global environmental problems, such as climate change and deforestation, as opposed to those problems of a more local or regional nature, such as soil erosion and desertification. This helped engender suspicion in the South of the North's motives (Section 8.2.3 below).

Both the consumers and the producers succeeded in inserting clauses into the ITTA 1994 on issues that concerned them. The consumers, concerned at the way in which

aid money was spent, insisted on references to the monitoring of projects, including clauses mandating the Executive Director to suspend project funding where there was evidence of "fraud, waste, neglect or mismanagement".<sup>18</sup> Further consumer concerns that were dealt with included mention in the Agreement of Target 2000 and of "other forest values".<sup>19</sup>

Other contentious issues were dealt with to the producers' satisfaction. Following the Austria labelling case (Section 5.5.7), the producers pressed successfully for the ITTA 1994 to contain a clause prohibiting discrimination against the tropical timber trade. The establishment of the Bali Partnership Fund went some way to meeting the producers' claims for new and additional financial resources. The producers also succeeded in extracting a commitment from the consumers to Target 2000, albeit outside the ITTO. The negotiations for the ITTA 1994 therefore dealt successfully with some of the primary concerns of the producers and consumers. Overall, however, the evidence from the four case studies is that both state and non-state actors have major concerns outstanding on forests and on forest-related issues.

#### **Can any exogenous shocks be identified?**

The issue of deforestation represents more of a steadily-growing crisis than a sharp exogenous shock. The crisis has grown in the public consciousness and has come to the attention of policy-makers progressively over the last ten to fifteen years. It has not been a sudden occurrence such as the Bhopal chemical factory disaster or the Chernobyl nuclear power station explosion. Widespread concern at the high rates of tropical deforestation was certainly a factor that led to the creation of the TFAP and the insertion of a conservation component into the ITTA 1983. The satellite photographs of the Amazonian forest fires of 1987 is the closest example of an exogenous shock presented in this thesis (Chapter 3). Hence although there

was no sudden cataclysmic exogenous shock, there was a definite realisation of crisis.

### 8.2.3 Cognitive Explanations

#### Is there epistemic consensus on the causes of deforestation?

Chapter 3 argued that no epistemic consensus exists on the interrelationships between, and on the precise effects of, the various causal processes of deforestation. While many actors have views on the causes of deforestation, there is no broad-based transnational consensus. The result has been widespread disagreement on the policies that should be pursued in order to arrest deforestation. Chapter 6 argued that a recurring theme in the UNCED forests debate was disagreement between North and South on causes. With the interrelationships between the various independent variables contributing to deforestation remaining a subject of contention, the bargaining that has taken place on forest issues has not been epistemically informed; actors have not shared causal beliefs.<sup>20</sup> Furthermore, it is uncertain whether the existence of epistemic consensus on the causes of deforestation would have contributed to regime formation. Even where knowledge is consensual, self-interest remains a factor and actors may still try to achieve relative gains. The probability of an epistemic community playing a decisive role in regime formation is improved if its findings do not become embroiled with a bargaining issue-linkage battle for higher stakes. With the large number of issues linked by the South to the forests issue during the UNCED process, epistemic consensus on the causes of deforestation may not have been a sufficient condition to lead to regime formation.

#### Is there epistemic consensus on the effects of deforestation?

Chapter 3 argued that strong epistemic consensus existed on the effects of deforestation, especially reduced CO<sub>2</sub> absorption capacity and biodiversity loss. Epistemic

consensus on these effects is now widely accepted among a wide range of actors in international society, including actors involved in the four processes investigated in this work.

#### Is there any evidence of intellectual leadership?

In the TFAP it could be argued that the elaboration of the five action programmes and the NFAP round table process are examples of intellectual leadership. However, the relationship between the second and fourth action programmes was never clearly defined (see below). For example, the roles of NGOs and local communities in the NFAP process was not clear. NFAPs tended to reflect, rather than resolve, local conflicts of interest in tropical forests. Overall, the intellectual inputs made to the TFAP have not been sufficiently clear and unambiguous to warrant the term "intellectual leadership".

In the ITTO intellectual leadership was solicited by consumer delegations which hired consultancies to investigate the feasibility of labelling and incentives schemes. Such leadership was provided by actors such as the London Environmental Economics Centre and the Oxford Forestry Institute. However no policy reforms resulted from this leadership due to the ITTO's consensual decision-making procedures.

The most significant example of intellectual leadership presented in this thesis is the sovereignty/stewardship/burden-sharing formula enunciated in the FAO's draft GFC. This, it will be recalled, was adopted by the UNCED Secretariat as sovereignty/stewardship/common-responsibility. The formula attracted widespread support from the North but was eventually dropped following G77 opposition. No evidence of intellectual leadership emerges from the negotiations for the ITTA 1994.

Overall there is evidence of intellectual leadership, though only in the ITTO and in the UNCED forests negotiations. Oran Young has suggested that leadership is a

necessary, but not a sufficient condition, for regime formation.<sup>21</sup> The findings from this work support this view. There is evidence of both entrepreneurial and intellectual leadership, but such leadership has been insufficient for regime formation. It should be asked whether this situation is likely to change: what is the forestry leadership situation in the post-UNCED era? A study for the FAG focuses on this question:

Global forestry, despite its importance to economic development and environmental issues, lacks international leadership... shared responsibility for the development and conservation of the world's forests requires shared leadership with different actors providing leadership at different levels and times as necessary.<sup>22</sup>

The study concluded that shared leadership is emerging: the UN Commission on Sustainable Development (CSD) could become the highest authority for political leadership; the World Bank and the Regional Development Banks are "increasingly providing" financial leadership; while the FAO plays a key role in technical leadership.<sup>23</sup>

Here the emphasis on leadership is very different from that of most regime theorists who see leadership as a "one off" event that may catalyse regime formation. If effectiveness is to be a concern for the regime theorist, as this thesis has argued, then it is clearly insufficient to focus solely on factors leading to regime formation. A research programme should also be launched to establish those variables necessary to ensure continuing regime effectiveness, defined as the maintenance of environmental quality, in the long term.

The views from the FAG study suggest that leadership is such a variable. As we saw in Chapter 4, the momentum of the TFAP process slowed considerably following the 1990 legitimacy crisis. A cyclical relationship existed between FAO's position and the legitimacy crisis: FAO's perceived lack of leadership contributed to the legitimacy crisis, which in turn eroded further FAO's previously dominant position in forestry. International forestry leadership is

currently in a state of flux, with some actors looking to the proposed World Commission on Forests and Sustainable Development and to the CSD for clarity of vision.<sup>24</sup>

**Was there a common formula or metaphor around which actors' expectations converged?**

Overall no evidence emerges on the existence of a formula or metaphor around which actors' expectations have converged. The term "sustainable development" has been widely used by many actors in the TFAP process, but there has been no widely-accepted consensus as to how the concept can be applied to tropical forests, still less an articulation of the policies by which sustainable development in tropical forests can be achieved.

Following the presentation of the Poore report, the ITTC adopted an approved definition of "sustainable forest management" (Section 5.5.3), a concept which, like "sustainable development", seeks to harmonise development with conservation. The fact that the concept was endorsed by the ITTC lends it a certain normative weight and is proof that it has the endorsement of the ITTO membership. However, the concept of sustainable forest management remains ambiguous as actors have failed to agreed on the criteria to be included in it. Actors have agreed only on a concept, but not on its substantive content.

The sovereignty/stewardship/common-responsibility formula attracted support from the North, but not the South, in the UNCED forests debate. The latter, while approving of the concepts of sovereignty and common responsibility, disputed their linkage with stewardship.<sup>25</sup> The South attempted to introduce its own concepts, such as "partnership in additionality" and "compensation for opportunity cost foregone", while seeking to redefine "common responsibility" as "common but differentiated responsibility". In the UNCED process concepts and formulae were enunciated which attracted the support of governments from North or South, but not from both.

Interestingly the concept of burden-sharing was introduced to the ITTA renegotiations, but on this occasion the concept was raised by the South, and without linkage to stewardship.<sup>26</sup> Furthermore the South's UNCED concept of "common but differentiated responsibility" arose during the ITTC's 14th session when a speech by the President of the negotiation conference argued that the new ITTA should provide for new and additional resources "characterized by shared and differentiated responsibilities".<sup>27</sup> The consumers failed to agree to the introduction of this concept into the ITTA 1994. Overall, none of the case studies reveals evidence of a concept or formula around which all actors' expectations converged.

**Were key actors motivated by common interests? Was there a shared conception of the common good?**

It was argued above that governments from the South take part in the TFAP and the ITTO principally because these processes represent mechanisms for aid flows. While some governmental and non-governmental donors have been motivated by genuine conservationist intentions, Chapter 4 noted that many donors prefer industrial, as opposed to conservation, projects. The withdrawal of some international NGOs from TFAP funding and the opposition of many local communities to NFAPs are both indicative of the absence of a shared conception of the common good.

There are also indications that no shared conception of the common good exists in the ITTO. It becomes clear in Chapter 5, especially with respect to the labelling/incentives debate, that different actors within the ITTO have different views on the direction the Organization should be taking. A further indication is that the consumers have criticised the producers for failing to develop national guidelines based on the ITTO's guidelines, while the producers have criticised the consumers for not showing a greater conservation commitment towards temperate and boreal forests.

The absence of a shared conception of the common good emerges most strongly in the UNCED process. This chapter has argued that North and South have failed to use their capabilities in ways intended to induce cooperation from the other. There has been mutual suspicion of each others motives; consider the suggestion from the Malaysian delegate, Ting Wen Lian, that the FAO was being utilised by countries in the North to promote a GFC, and of the US negotiator, Curtis Bohlen, that countries from the South "were trying to get the money before agreeing to do anything" (Chapter 6). Such sentiments were also expressed at governmental level: the Malaysian Prime Minister urged the South to "speak together with one strong voice" (Chapter 6) while President Bush commented prior to Rio that he would not allow the USA's way of life to be threatened.<sup>28</sup>

Although the UNCED process was principally concerned with the common survival of humanity, there is no indication that key actors were truly motivated by the notions of intergenerational equity and responsibility to future generations, and neither North nor South were prepared to make sacrifices in order to realise long-term absolute gains for all humanity. Furthermore, North and South were informed by different vulnerabilities. The North felt vulnerable to global environmental degradation, while the South felt more vulnerable to underdevelopment, to poverty and to local environmental problems.

#### **Was there normative coherence?**

The absence of normative coherence is one of the prime reasons why a global forests conservation regime has yet to emerge. While there is agreement that the forests should be conserved, most influential state actors wish conservation to take place in a way that permits continued exploitation of the forests for timber and non-timber products. In all of the four case studies two conflicting norms have been expressed, namely that the forests be conserved, and that they also be developed. The WRI review on the TFAP suggested

that there was no single overriding norm:

FAO and various aid agencies viewed the TFAP primarily as a mechanism to harmonize development assistance in forestry, while WRI and others saw the TFAP as a vehicle to launch a broadly-based program to address the root causes of deforestation.<sup>29</sup>

This comment suggests a fundamental difference in expectations between the TFAP co-founders. There has been normative incoherence between the TFAP's five action programmes; the second action programme emphasises forest-based industrial development, while the fourth action programme stresses the conservation of tropical forest ecosystems. This has provided political space within which actors have contended over the meaning and intent of the TFAP. The restructuring process attempted to deal with this contradiction, and there is now a single goal, agreed at the March 1991 Geneva meeting, emphasising the "sustainable use" of tropical forests. However the TFAP restructuring process failed to yield a clear unambiguous conception as to how this goal should be achieved, and consequently ambiguities remain between conservation and developmental objectives.

Articles in the ITTA 1983 clauses espoused incoherent norms, namely Article 1(b), on the expansion of the tropical timber trade, and Article 1(h) on the conservation of ecosystems. The conclusions of the Poore report suggest that it is impossible simultaneously to expand the timber trade and to move that same trade towards sustainability. A recurring theme in the ITTO's work was disagreement among actors on the weight to be attached to the Organization's production and conservation mandates.

The UNCED process did not successfully deal with the relationship between development and the environment, a factor which is "suggestive of a broader failure of UNCED".<sup>30</sup> Hence the Statement of Forest Principles contains clauses on the need to conserve forests and on the rights of states to exploit and develop their forests, although there is no indication as to how this is to be achieved.

The normative incoherence of the ITTA 1983 reappears in

the ITTA 1994. Article 1(e) of the ITTA 1994 corresponds to ITTA 1983 Article 1(b) on the expansion of trade, while Article 1(l) of the ITTA 1994 corresponds to ITTA 1983 Article 1(h) on conservation. While Article 1(c) of the ITTA 1994 pays lip service to "sustainable development" this remains an undefined and ambiguous concept.

#### **8.2.4 The Wider International Context**

**Did a window of opportunity open when an agreement on global forests conservation could have been created?**

To Young, a window of opportunity for a regime opens "when a variety of contextual factors are aligned in ways that facilitate or even promote cooperation".<sup>31</sup> The Rio conference provided a clear window of opportunity for the negotiation of a GFC which could have provided the framework for a regime. Three factors aligned to open this window. Firstly, the UNCED was staged in Brazil, the country with the largest expanse of rainforest. Secondly, from the mid-1980s Brazil attracted international criticism on deforestation, and was under pressure to demonstrate good intentions regarding Amazonian conservation. Thirdly, and partially as a result of the second point, the President of Brazil during this period, Collor de Mello, launched a major shift in environmental policy, in particular on the Amazon.<sup>32</sup> Collor volunteered Brazil as the conference host and staked his prestige and reputation on its success.

The UNCED therefore provided an opening for the negotiation of a GFC, or at least a commitment to open GFC negotiations after Rio. A window of opportunity opened for the North to enlist the support of the world's largest tropical forest country. Despite the disputes that dominated the UNCED forests negotiations, when the UNCED was convened the G7 still hoped that Brazil could be enticed from the G77 position, and agree to support GFC negotiations after Rio.<sup>33</sup> However, the Brazilian government adopted a neutral position on this issue, neither stating its opposition to a GFC, nor rocking the G77 boat by siding with the G7.

Other factors in the wider international context help explain why the opening of this window failed to lead to the conclusion of a GFC. Wider neo-Realist considerations help explain the UNCED forests logjam, with North and South fearing a loss of power capabilities. Furthermore, and as Chapter 1 noted, theorists such as Hurrell, Keohane and Zacher indicate that interest-based theories cannot be viewed in isolation. When a government considers whether to join a regime, it does not solely evaluate the costs and gains that may arise from regime membership, but also takes into account those that may arise outside the regime. It appears to be the case that actors from the North and South have calculated that, if they were to agree to a GFC on the terms of the other, the long-term costs would exceed the long-term benefits.

Neither the producers nor the consumers considered using the negotiations for the ITTA 1994 to push for a GFC. The producers advocated expansion to push for an international timber trade regime (as opposed to a global forests conservation regime), while the consumers were reluctant to raise this issue following their defeat at the UNCED. Nonetheless, this case study is of relevance with regards to the wider international context. As Chapter 7 argued, North and South manoeuvred at the negotiations in order to attempt to influence how wide open any future window of opportunity for a GFC would be. The South wished to ensure that such openings would be narrow. The North wished to ensure any future window of opportunity would open as wide as possible.

#### **8.2.5 Conclusions on Regime Theory**

The evidence gathered from the four case studies illustrates that one of the central features of a regime, namely the convergence of actors' expectations, has not occurred. While actors agree that forests should be conserved there has been little convergence of expectations on the policies by which this should be achieved or the

institutional frameworks within which such efforts should be conducted. Different strands of regime theory provide different explanations for the failure to produce a global forests conservation regime. The following paragraphs will summarise these findings.

This chapter has considered eighteen research questions. The evidence assembled suggests that seven conditions existed during the period 1983-1994 that may be considered favourable to regime formation. Of the power-based findings there is evidence that structural power for a regime was exercised by governments from the North in both a consensual and a coercive manner. Of the interest-based findings it has been argued: that a regime was demanded; that there is evidence of entrepreneurial leadership; and that there was a limited sense of an exogenous crisis. Of the cognitive findings there is proof that epistemic consensus exists on the effects of deforestation and there is evidence of intellectual leadership. Finally, it has been argued that a window of opportunity opened for the negotiation of a GFC during the UNCED process. Clearly however these factors have not been sufficient conditions for regime formation.

Of the remaining eleven research questions, the findings suggest that the conditions were not conducive to regime formation. One power-based finding draws attention to the absence of an issue-specific hegemon.

Of the interest-based findings the concept of a veto coalition is pertinent to the TFAP and the ITTO, but is especially relevant to the case of the UNCED where the South blocked proposals for a regime by the North and where the North foiled the South's forest-linked demands. Other interest-based findings were that: there was no veil of uncertainty; distributive bargaining prevailed over integrative bargaining; and actors believed that their primary concerns had not been fairly dealt with. The number of issues under contention appears to play a significant role in determining whether a bargain is reached. Both the

TFAP and the ITTO are relatively issue-specific fora, where small bargains have been possible. However in the issue-dense UNCED negotiations no bargain was struck. Hence despite the failure of the UNCED forests negotiations, the TFAP and the ITTO continue to exist.

Cognitive findings emphasise: the absence of epistemic consensus on the causes of deforestation; the failure of actors to agree on a common metaphor; the fact that key actors were motivated more by self-interest rather than by a shared conception of the common good, a factor that led to mutual suspicions; and normative incoherence. Table 13 below provides a summary of our findings.

The evidence presented also indicates that a focus on the wider international context with respect to power-based and interest-based explanations is essential in explaining the non-emergence of a regime. According to such a view, a global forests conservation regime has yet to emerge because governments of North and South each fear a loss of economic power capabilities, with each adhering to a position essentially determined by a cost-benefit calculus based on self-interest, and with each fearing that the costs of a regime would exceed the benefits.

The main enquiry of this thesis is whether the analyses of the regime theorist can help explain the non-emergence of a regime. There are arguments both for and against this proposition. In favour it can be argued that the above analysis has utility in drawing attention to those factors that may have been conducive to regime formation. Seven factors, that regime theorists have demonstrated to be conducive to the formation of regimes in the past, have been shown to exist. Furthermore, the findings reveal that while these conditions existed, they were clearly insufficient for regime formation.

Against this it can be argued that the fact that a "favourable" condition exists need not necessarily be of significance; it may be the case that such conditions are

**TABLE 13 SUMMARY OF FINDINGS**

**Factors that may have been conducive to regime formation**

**Factors that were not conducive to regime formation**

*Power-based findings*

Structural power for a regime was exercised by the North in both a consensual and a coercive manner

No issue-specific hegemon

*Interest-based findings*

A regime was demanded

A veto coalition was established by actors in the North against the South's forest-linked demands

Evidence of entrepreneurial leadership

A veto coalition was established by actors in the South against a Global Forests Convention

Evidence of an exogenous crisis

No veil of uncertainty existed

Bargaining was predominately distributive as opposed to integrative

Bargains have only been reached in fora dealing with relatively issue-specific, as opposed to issue-dense, packages

Important actors believed that their primary concerns had not been fairly dealt with

*Cognitive findings*

Epistemic consensus exists on the effects of deforestation

No epistemic consensus exists on the causes of deforestation

Evidence of intellectual leadership

Actors have failed to agree on a common metaphor

Key actors have been motivated by self-interest rather than a shared conception of the common good

There has been normative incoherence between conservationist and developmental objectives

*Wider International Context*

A window of opportunity for a Global Forests Convention opened during the UNCED process

not necessary conditions for the formation of a global forests conservation regime, despite the fact that regime theorists have demonstrated that they have contributed to the formation of regimes in the past. Furthermore, it can be argued with justification that the existence of "favourable"

conditions does not in itself reveal the necessary conditions for regime formation. It may be the case that some, but not all, of the necessary conditions are already in place. Alternatively, it may be the case that none of the necessary conditions are in place. Hence one criticism against the research and findings of this work would be that the necessary conditions for the formation of a global forests conservation regime have not been identified.

Overall, the findings reveal that a regime analysis has utility in explaining the non-emergence of a regime. An application of the analytical rigour of the regime theorist highlights those factors that were not in place during an attempt at regime formation. But it is more difficult to determine those other conditions that would need to exist in order for a regime to emerge. More research is necessary before such conditions can be authoritatively established. It would be necessary to consider several failed attempts at regime formation, and to compare and evaluate the results systematically before such conditions can be identified.

However an effort to identify the most important conditions should be made if this thesis is to have any utility for policy-makers. It is self-evident that certain conditions will be more important than others, and it is suggested that the probability of establishing a global forests conservation regime will be improved if the following conditions are met. The propositions are made both to suggest further lines of research by regime theorists and for consideration by policy-makers.

The first proposition concerns veto coalitions. As long as the South vetoes a regime and the North vetoes the South's bargaining issue-linkages, no regime is possible. However, actors from North and South are unlikely to cease acting as veto coalitions unless their primary concerns are fairly dealt with. For the North these concerns include binding compliance mechanisms and the existence of a genuine conservation commitment by governments from the South, while the South's concerns are principally those articulated in

the NIEO programme. If the North were to agree to meeting the South's demands, economic interests of the former would be threatened. The North is unlikely to agree to the demands of the South unless governments from the latter agree to conserve their forests, and to implement policy shifts within their territorial domain to this end. In short, both North and South would have to put to one side fears that they will lose power and agree to use their capabilities for the common good. Such an eventuality would first require the building of genuine trust between governments from the North and the South.

An essential part of problem solution is problem formulation. Hence the second proposition is that it is necessary for an epistemic community, recognised as authoritative by governments, to emerge that identifies the interrelationships between, and the more or less precise effects on the forest of, the causal factors of deforestation. It is necessary for more research to be conducted with the intention of achieving such epistemic consensus. Such a project will face many obstacles owing to the diverse social, political and economic conditions that exist in forested countries and regions, especially in the tropics. It may be necessary for researchers to seek to establish separate epistemic communities for separate countries or regions. Alternatively there could be one epistemic community engaged in separate analyses by country or region. It is noteworthy that the recently-published work of Katrina Brown and David Pearce attempts, using economic and statistical analyses, to examine and quantify the effects of the local and global causes of tropical deforestation.<sup>34</sup> Such work is very much in its infancy. Nonetheless, Brown and Pearce's work could be an important first step in epistemic community formation. However before an epistemic community can be said to exist, it is first necessary for Brown and Pearce's findings to be corroborated by other researchers, so that an authoritative transnational community, embracing individuals from a wide range of actors

from several countries, is established.

The third proposition centres on the normative incoherence between developmental and conservation objectives. This problem is one of the most serious facing those who advocate the negotiation of a GFC. A GFC that did not resolve this problem would, like the TFAP and ITTO, be open to differing interpretations by different actors. Ratification of such a convention would merely ratify the problem. The view that forests cannot simultaneously be conserved and developed is gaining currency, and the evidence assembled in this thesis strongly indicates that conservation cannot be achieved at current levels of forest development and at current levels of the timber trade. The World Commission on Forests and Sustainable Development will presumably consider this problem if it is convened.

Attention will now turn to the role of NGOs.

### **8.3 The Role of NGOs**

A commonality that links the case studies is the importance of international and local NGOs. One of the two roots of the TFAP is from an NGO, namely the WRI. The 1987 Bellagio Strategy meeting signified an attitudinal change within FAO on the role of local NGOs. The WRI and IIED have lobbied hard for increased local NGO participation in NFAPs. Within the TFAP framework international NGOs have withdrawn funding from NFAPs as a tactic to press for reform. Both the WRI and WWF did this, although both continued to contribute to the restructuring debate. The idea of a Consultative Group was first suggested by the WRI. Chapter 4 illustrated a rich seam of NGO activity, with evidence presented of widespread transnational networking among NGOs from developed countries and NGOs from tropical countries. NGOs have helped to feed into the NFAP process the concerns and views of local communities and indigenous peoples. Overall, NGO participation has been recognised as important and necessary by the FAO, government donors and some tropical-

forest governments.<sup>35</sup>

Chapter 5 described the roles that NGOs have played in the ITTO. An IUCN intervention in the negotiations for the ITTA 1983 led to the insertion of a conservation component in the Agreement. Other NGOs have been responsible for initiating the incentives/labelling debate, for contributing to the drafting of ITTO guidelines, for upholding the rights of indigenous peoples, and providing critiques of projects and policies. NGOs have displayed a high level of organisation amongst themselves at ITTC sessions. As with the TFAP, the WWF have also pressed for reform; in November 1992 WWF withdrew all their forest conservation officers from national delegations, although these officers have continued to attend ITTC sessions as observers. As with the TFAP, while signalling their disapproval, WWF remain prepared to engage in dialogue and debate.

All NGOs that had at some stage registered for ITTC sessions were permitted to attend the negotiations for the ITTA 1994. In addition all NGOs with observer status at the UN's ECOSOC were also permitted to attend. Chapter 7 detailed how the NGOs formed an alliance with ITTO producer delegations in an effort to expand the scope of the new Agreement. Although this strategy failed, it is nonetheless indicative of the increasing seriousness with which NGO views are treated at international negotiations.

NGOs played a high-profile role in the UNCED negotiations. As Chapter 6 argued, NGOs had some success in influencing the earlier stages of the forests debate. However the NGO draft introduced at PrepCom 4 did not impact upon the debate, and at Rio NGOs were excluded from the final round of negotiations on the Statement of Forest Principles.

The greatest contribution of the UNCED process with respect to NGOs lies in the roles they can play in the future. Not only will the links and networks developed during the UNCED process continue to play an important role in monitoring governmental and UN activity in the post-Rio

era, but the NGO arrangements within the UNCED process are now being used as a precedent for post-Rio NGO activity in the UN system. This precedent takes two forms.

The first involves the recognition that all NGOs which attended the UNCED may also apply to participate in subsequent environmental activity in the UN system. This has been the case with the CSD. As the CSD is a functional commission of the ECOSOC, all NGOs which already have Category I, II or Roster status with the latter may be accredited to the former. In addition, the ECOSOC decided that any NGO accredited to the UNCED could apply for, and expect to be granted, Roster status for the work of the CSD. NGOs that did not participate in the UNCED could apply before 15 April 1993 for Roster status with the CSD. These NGOs did not gain automatic accreditation and were admitted at the discretion of the ECOSOC.<sup>36</sup>

Secondly, the arrangements for NGO participation in the UNCED process have been referred to, at the time of writing, in five post-Rio UN General Assembly resolutions that have established international conferences.<sup>37</sup> To date the precedent has been used only with respect to environmental, or environmental-related, UN conferences. It remains to be seen if the institutional arrangements of the UNCED will be used as a precedent for non-environmental UN conferences.

#### **8.4 Application of Research Questions: The Forest Conservation Problematic**

Chapter 3 introduced the author's formulation of the forest conservation problematic, and it was argued that a solution of this problematic would increase the chances of the formation of a global forests conservation regime. This section will briefly consider how, if at all, the four processes reviewed in this thesis have sought to deal with the three dimensions of the problematic, namely the causal dimension, the institutional dimension and the normative dimension.

#### 8.4.1 The Causal Dimension

The case studies yield no evidence that the transnational causes of deforestation are being arrested, nor of a clear conception of the policies necessary to deal with this problem. With no epistemic consensus emerging on the causes of deforestation (Section 3.3, Chapter 3) this is not surprising. It has already been argued that while the forces of deforestation can be identified, there is no agreement on their precise effects.

The TFAP and the ITTO remain constrained by the intergovernmental system. National action cannot address global causes. A NFAP or an ITTO project can at best address only those causes that originate within a country. However in practice a NFAP or an ambitious ITTO project cannot address many of these causes; attempts to do so are likely to draw accusations of interference in national sovereign affairs or of "eco-colonialism" by tropical forest governments. Hence despite the renewed emphasis on the need to "address the root causes of tropical deforestation"<sup>38</sup> in the TFAP, no serious consideration has been given to dealing with causes that have their loci in the global political economy. The ITTO has rarely debated causes, focusing almost entirely on trade-related issues and projects. The question of causes did not arise in the negotiations for the ITTA 1994.

The UNCED process presented a real opportunity to address the structural causes of deforestation meaningfully. This opportunity was not taken, and the UNCED forests debate became the arena for a complicated bargaining issue-linkages battle between North and South. The UNCED was a standard United Nations conference, involving the negotiation of agreements between governments, and no attempt was made to obtain binding agreements from non-state actors contributing to environmental destruction. Despite NGO protests, one area of international activity not covered by the UNCED was the role of TNCs. One NGO campaigner notes that negotiations resulted in "repeated deletion of Agenda 21 references to

TNCs during PrepCom 4" resulting in "a text which gives them free reign to pursue their activities without any accountability".<sup>39</sup> Many business and industrial interests attended the UNCED with NGO status, a factor that irritated many traditional NGOs who were neither pacified nor impressed by the creation of the Business Council for Sustainable Development (BCSD) by some leading industrialists. The BCSD's view that environmental conservation should take place within the free market was heavily criticised by NGOs. WWF's view is typical of many in the NGO community;

Opportunity for substantial discussion within UNCED on the role of business and industry was in effect sidetracked by the creation of the Business Council for Sustainable Development which ...made no suggestions for concrete action plans.<sup>40</sup>

WWF have called for governments and international institutions to adopt, by 1995, a regulatory framework for TNCs that will establish global environmental standards and implement environmental cost accounting.<sup>41</sup> However no such process has been initiated at the time of writing (December 1994). While some TNCs have been prepared to adopt unilateral guidelines, such as in the oil industry (Chapter 2), there is no guarantee that TNCs will cease engaging in activities that degrade the environment. Such guidelines have so far served only to integrate environmental concerns into TNC activities, rather than to constrain and restrict such activities by a genuine conservation imperative.

An effective global forests conservation regime must deal with and arrest structural causes, yet TNC operations remain an area of international activity beyond independent control. There remains a need for the development of mechanisms to scrutinise and regulate their activities. Indeed the same can be said for other transnational non-state actors whose activities impact upon forests. It is necessary to ensure that genuine conservation-orientated norm-governed behaviour is adhered to by non-state actors such as TNCs, regional development banks, the UN and its

agencies and even NGOs.

There are two reasons why a new regulatory framework is necessary. The first is the failure of traditional institutions such as governments and UN organs to deal successfully with the complex global dynamics that give rise to environmental problems such as deforestation.<sup>42</sup> International economic activity cuts across the state system, while traditional international diplomacy ignores the global economic dynamics that gave rise to environmental degradation. The failure to contain deforestation is symptomatic of this failure. A problem that is generated at the global level has to be tackled by collective global action.

Secondly, to tackle phenomena such as TNCs' activities would be to challenge a great many powerful vested political, economic and financial interests, principally in the North. Clearly, if some TNCs were to ensure that conservation came before profit, while others ignored conservationist norms, the latter would gain a comparative advantage over the former. A new regulatory framework is necessary to ensure that all such interests abide by the same standards, and that they are accountable to the wider international community.

#### **8.4.2 The Institutional Dimension**

The second dimension of the forest conservation problematic is the institutional dimension. The development of new regulatory mechanisms for TNCs and other transnational actors will clearly require new institutions. Chapter 3 argued that the development of new institutions is also necessary to give all forest stakeholders, especially those at the local level, a voice in policy-making. Is there any evidence from the four case studies of a new type of polity, in which forest stakeholders from all levels of international society are represented?

Following the 1990 TFAP legitimacy crisis there was a genuine effort to create an innovative type of institution,

namely the Consultative Group, in which a diversity of state and non-state actors would have been represented. Such a Group would have had only advisory functions. However had it been created in line with the 1991 Geneva recommendations, with an emphasis on NGO and local community representation, it could have broken the mould of international forest politics. By now it is clear that this attempt failed and the Group, which met for the first time in Rome in December 1994, is a traditional intergovernmental institution with both the rights of NGO participation and the type of NGO that can participate heavily restricted. This suggests that a significant anti-NGO lobby exists among tropical forest governments.

The ITTO has probably the most open arrangement offered by any intergovernmental organisation for NGO access. Nonetheless, the ITTO remains a standard intergovernmental organisation. The ITTO Mission to Sarawak did provide an opportunity for a new type of institution to be created. The Mission, led by the Earl of Cranbrook, investigated the sustainability of forest management practices in Sarawak between November 1989 and March 1990.<sup>43</sup> The Mission's membership was composed of ten forestry experts from nine countries.<sup>44</sup> Although the Mission visited some local communities, the views of local people did not receive extensive consideration. The Mission investigated only the technical aspects of forest sustainability and ignored broader social concerns. The Mission did not visit the settlements most affected by logging, despite receiving written invitations to do so.<sup>45</sup> Cranbrook, when asked by the author to comment why the Mission did not pay greater attention to the complaints of local communities, replied that the Mission adhered to its terms of reference<sup>46</sup> which were worded so as to be acceptable to the Malaysian government "without whose approval the Mission would not have proceeded".<sup>47</sup> Once again the clash between genuine NGO participation and the recourse of governments to national sovereignty becomes apparent.

With respect to the UNCED process the attendance at the PrepComs and at Rio of an unprecedented number of NGOs, including business and industry, was a recognition that the environmental crisis cannot be solved by governments acting alone. However at Rio the venues for the NGO Global Forum and the main conference were several miles apart, and in effect there were two separate debates. Despite the high rate of NGO participation, NGOs' views did not impact on the later stages of the UNCED forests debate in any significant way. At present there is no agreement on a formal mechanism by which NGO views can be fed into intergovernmental negotiations other than the traditional methods of lobbying and pressure group activity.

Despite the fact that governmental actors prevail in international decision-making, a consensus emerges from all case studies that the voices of local communities should be heard. The 1991 Geneva recommendations on the TFAP emphasised that the revamped TFAP should "ensure the participation of rural communities...".<sup>48</sup> Although the needs of local communities did not receive mention in the ITTA 1983, indigenous peoples and local NGOs have attended ITTC sessions and have on occasion participated in ITTO projects. Local participation receives mention in the UNCED Statement of Forest Principles<sup>49</sup> and in the ITTA 1994.<sup>50</sup> However, at present such views are heard in existing institutions dominated by governments, rather than receiving equal treatment in new institutions. Local community participation remains a concession rather than a right.

At the time of writing no new polity or political process has emerged or been developed that successfully integrates the views of actors from all levels of international society. There remains a need, at least with the forests issue, for the development of polities that fully integrate the views and concerns of all actors with a stake in forest conservation and provide them with a fair and equitable voice in policy-making.

#### 8.4.3 The Normative Dimension

There was no attempt in the TFAP or the ITTO to deal with the normative dimension, namely to reconcile the three conflicting claims to forests as a global common, a national resource and a local common. Tropical forest government delegates continually asserted in the TFAP Ad Hoc Group that forests were a national resource.<sup>51</sup> Both the ITTA 1983 and the ITTA 1994 recognises the sovereignty of producer members over their forest resources.<sup>52</sup> However, and as mentioned above, participation of local communities is increasingly becoming an accepted practice in forest politics.

With respect to the UNCED, had the North and South adopted the sovereignty/stewardship/common-responsibility formula this could have helped bridge two of the competing claims to the world's forests, namely as a global common and a national resource. However the third claim, namely that forests are a local common, would not have been dealt with.

Chapter 6 noted that in the period before the UNCED, statements that referred to forests as a common heritage of mankind were made in Abidjan (in the African Common Position on Environment and Development) and in Caracas (by Venezuelan President Carlos Andres Perez at the Second Summit Level Meeting of the G15). These statements suggest that sovereignty was not as overwhelmingly important an issue for all Southern governments as debates at the UNCED PrepComs might suggest. These statements represent the first, and so far as is known the only, references from the South that forests may be seen as a global common and lead to the conclusion that some Southern countries could be prepared to negotiate over sovereignty. This suggests that there is a certain latitude in the South's position. It implies that a solution may be found to the normative dimension if the concerns of the South, such as the structural causes of deforestation and North-South inequities, are addressed by the North.

#### 8.4.4 Conclusions on the Forest Conservation Problematic

Chapter 3 argued that the three dimensions of the forest conservation problematic are interlinked and must be dealt with together. The evidence gathered here reinforces this view. It is clear that the causal dimension and the normative dimension are interlinked. The North cannot realistically expect the countries of the South to yield a fraction of their sovereignty over forests if their concerns, including those on the global causes of deforestation, are not addressed. Similarly, the North is unlikely to make such concessions unless it first receives genuine guarantees from the South of a positive commitment to conservationist norms. The South cannot expect the North to make such concessions if it continues to assert that forests are a national resource to be exploited in line with national policy.

In turn the causal dimension is linked to the institutional dimension in two ways. Firstly, and as previously argued, a new form of regulatory mechanism is necessary to arrest the transnational causes of deforestation. Secondly, the forests can only be saved with the active help of local communities. Frequently the forests are destroyed when local communities lose control over their forests to powerful outside interests. It is necessary that the voices of local communities who live in and rely on the forests are heard on a just and equal basis with those of other actors.

Here the institutional and normative dimensions become linked. The dominant norm that forests are a natural resource of the state serves only to empower the governments of the day and those economic interests with which they enter into a collaborative relationship. As we have seen, the recourse of developing countries to sovereignty thwarted the attempt to develop an independent Consultative Group for the TFAP and constrained the independence of the ITTO Mission to Sarawak. As long as governments assert the sovereignty of states over forests, there is no realistic

chance that new institutions can be created. If local communities are to have an equitable say in such institutions, it is first necessary to move towards a recognition of their claims that forests serve a function as a local common.

### **8.5 Conclusions**

Regime theory is a useful analytical tool that previous theorists are developing to explain regime formation. This thesis has investigated research questions suggested by regime theory in an effort to explain why, despite efforts by many actors in international society, no global forests conservation regime has emerged. Such an application has utility in highlighting those factors that were not in place during an attempt to establish a regime. However, a weakness of this approach is that it does not highlight those conditions that are necessary for regime formation and those that are not.

By arguing that environmental effectiveness, defined as the maintenance of environmental quality, is a necessary feature of a global forests conservation regime, Chapter 1 suggested that regime theorists should adopt a more critical perspective. Present regime theorists have tended to take the present structure of economic relations and the international state system as a given. Arguing that the problem of deforestation is an intrinsically complex one that is rooted in the global economic system, this thesis adopted a critical perspective and elaborated a forest conservation problematic. It is argued that an appreciation of this problematic, and an attempt to deal with it, should be a priority for all those seeking to establish a global forests conservation regime.

As well as lacking a critical perspective, regime theorists have also tended to deal solely with regime formation. It has been argued that an additional approach is needed, namely an investigation into those conditions necessary to ensure the long-term viability and

effectiveness of a regime. The views presented above suggest that leadership should be considered as such a factor, but there are no doubt others. For the next generation of regime theorists, it is recommended that a research programme be initiated that seeks to establish those conditions that play an important role in ensuring continuing regime effectiveness over the long term. Such a programme, if successful, would make a positive contribution to ensuring environmental conservation in the next millennium.

The environment is not a separate domain; it cross-cuts all areas of activity. There are several institutions that have a mandate in forests or the timber trade. As Chapter 5 demonstrated, there have been tensions between the ITTO on the one hand, and the GATT, TFAP and CITES on the other. For a global forests conservation regime to exist, all such institutions should be guided first and foremost by the norm of forest conservation. In addition there must also be agreement amongst such actors on principles. Clearly if actors disagree on their conceptualisation and on their definition of "sustainable forest management" and "indigenous forest peoples' rights" the chances of regime formation will be reduced, even if those same actors agree to adhere to the norm of forest conservation.

A regime should not be equated with a Global Forests Convention. It is possible that, given the continuing demand from elements in the North, a GFC may be concluded within the next ten years. However ratification of such a convention would not, initially at least, constitute a regime, although in due course a GFC could provide the framework within which such a regime could be established. Alternatively, a regime may emerge outside a convention. Over the long term a regime could emerge from the array of international political activity on forests taking place in the post-UNCED era. However it should be borne in mind that according to the definition adopted in Chapter 1 of this work, a global forests conservation regime may be said to exist only when there is no net-loss of forest cover. Hence

it may be some considerable time, possibly not within our lifetime, before a truly effective global forests conservation regime appears. The scale and the scope of the difficulties and complexities that will be encountered on the road to such a regime can hardly be overestimated.

## Notes to Chapter 8

1. Oran R Young, "Political leadership and regime formation: on the development of institutions in international society", International Organization, Volume 45, No. 3, Summer 1991, p. 289.
2. Stanley Johnson, "Authoritative Statement of Forest Principles", in Stanley Johnson (ed.), The Earth Summit: The United Nations Conference on Environment and Development. (London: Graham and Trotman, 1993), pp. 110-111.
3. Indeed, as we saw in Chapter 4, a common theme of the three reviews of the TFAP was that expenditure was agreed principally between donors and host governments, and not necessarily by the norm of forest conservation.
4. Ian Rowlands, "The International Politics of Environment and Development: The Post-UNCED Agenda", Millennium: Journal of International Studies, Volume 21, No. 2, Summer 1992, p. 213.
5. Johnson in Johnson (ed.), op.cit., p. 110.
6. Stanley Johnson, "Rio's forest fiasco", Geographical Magazine, September 1992, p. 28. See also Johnson in Johnson (ed.), op.cit., pp. 115-6.
7. John Gerard Ruggie, "International regimes, transactions and change: embedded liberalism in the postwar economic order", in Stephen D Krasner (ed.), International Regimes, (Ithaca NY: Cornell University Press, 1983), pp. 195-231.
8. Karen Litfin, "Eco-regimes: Playing Tug of War with the Nation-State", in Ronnie D Lipschutz and Ken Conca (eds.), The State and Social Power in Global Environmental Politics, (New York: Columbia University Press, 1993), p. 101, and Robert O Keohane, Peter M Haas and Marc A Levy, "The Effectiveness of International Environmental Institutions", in Peter M Haas, Robert O Keohane and Marc A Levy (eds.), Institutions for the Earth: Sources of Effective International Environmental Protection, (Cambridge MA: MIT Press, 1993), p. 14.
9. "Action Agenda: Towards a Global Regime for the Conservation and Wise Use of All Forests, Adopted unanimously by the 7th GLOBE International General Assembly, Tokyo, September 1, 1993".
10. Gail Osherenko and Oran R Young, The Age of the Arctic: hot conflicts and cold realities, (Cambridge: Cambridge University Press, 1989), p. 264.
11. Bernardo Zentilli, the Senior Programme Officer (Forests) of the UNCED Secretariat offered the following amusing analogy to the author. He referred to the North's interest in a GFC, and the South's subsequent attempts to link this demand to other issues, as the "oriental bazaar syndrome". If a customer wishing to purchase a rug in an oriental bazaar indicates to the owner the rug he wants most, the owner will raise the price. Similarly, when the North demanded a GFC, the South put up the price. Bernardo Zentilli, pers.comm. (interview, Geneva), 24 September 1992.

12. John P Renninger, "The Failure to Launch Global Negotiations at the 11th Special Session of the General Assembly", in Johan Kaufmann (ed.), Effective Negotiation: Case Studies in Conference Diplomacy. (Dordrecht, Netherlands: Martinus Nijhoff, 1989), p. 249.
13. Osherenko and Young, op.cit., p. 265.
14. FAO document FO:TFAP/92/Rep., "Report of the Second Session of the Ad Hoc Group on the Tropical Forests Action Programme, Rome, 5 May 1992", para. 9. p. 1.
15. ITTO document ITTC(XIII)/5 Add.1, "Assessments by Producing Members of Resources Needed to Attain Sustainable Management of their Tropical Forests by the Year 2000, Indonesia", 11 November 1992, p. 3.
16. ITTO document ITTC(XII)/7 Rev.1, "Report from the Expert Panel on Estimation of Resources Needed by Producer Countries to Attain Sustainability by the Year 2000", 13 April 1992, p. 30.
17. ITTO document ITTC(XII)/7, "Working document for ITTO Expert Panel on 'Resources needed by producer countries to achieve sustainable management by the year 2000'", by I S Ferguson and J Muñoz-Reyes Navarro, 9 March 1992. p. 22.
18. UN document TD/TIMBER.2/L.9, "International Tropical Timber Agreement, 1994", Article 25.4, p. 22.
19. Ibid., Article 1(f), p. 6.
20. On the subject of epistemically informed bargaining see Peter M Haas, "Epistemic Communities and the Dynamics of International Environmental Cooperation", in Volker Rittberger (ed.), Regime Theory and International Relations. (Oxford: Clarendon Press, 1993), pp. 188-190.
21. Young, op.cit., p. 302.
22. Tapani Oksanen *et al*, "A Study on Coordination in Sustainable Forestry Development, Prepared for the Forestry Advisers' Group", June 1993, p. 41.
23. Ibid.
24. Canadian International Development Agency, "Forestry Issues: Leadership in World Forestry" (Discussion Paper, undated). This paper was circulated at the sixteenth meeting of the Forestry Advisers Group, 25-28 May 1993, New York. It notes that the World Commission on Forests and Sustainable Development would assume "a very important leadership role in world forestry" (p. 5) and recommends that revitalisation of leadership in world forestry be a priority for the Commission on Sustainable Development (p. 7). Note that this paper is for discussion only and "is not official policy of the Government of Canada" (p. 1).

25. The concept of stewardship has previously provided a point of convergence for actors' expectation in an environmental regime in the case of the Svalbard archipelago. See Oran R Young and Gail Osherenko, "The Formation of International Regimes: Hypotheses and Cases", in Oran R Young and Gail Osherenko (eds.), Polar Politics: Creating International Environmental Regimes. (Ithaca NY: Cornell University Press, 1993), pp. 5-6.
26. UN document TD/TIMBER.2/R.2, "Note by the UNCTAD Secretariat", 26 February 1993, Article 18 of producers' proposal, p. 18.
27. "Statement by Mr Wisber Loeis, President of the UN Conference for the Negotiation of a Successor Agreement to the ITTA, 1983, before the Fourteenth Session of the International Tropical Timber Council, Kuala Lumpur, Monday, 17 May 1993".
28. President Bush refused to sign the Biodiversity Convention as he regarded it as providing an "open cheque" to the South; Neil Middleton *et al*, The Tears of the Crocodile: From Rio to Reality in the Developing World. (London: Pluto Press, 1993), p. 2. See also: Rik Turner and Nicholas Schoon, "West's lifestyle under fire", The Independent. 4 June 1992, p. 12. In April 1993, President Clinton subsequently announced that the US would sign the Biodiversity Convention: "Federal Information Systems Corporation, Federal News Service, April 21, 1993, White House Briefing".
29. Robert Winterbottom, Taking Stock: The Tropical Forestry Action Plan After Five Years. (Washington DC: World Resources Institute, June 1990), p. 4.
30. Rowlands, op.cit., p. 214.
31. Oran R Young, "Global Environmental Change and International Governance", Millennium: Journal of International Studies. Volume 19, No. 3, Winter 1990, p. 342.
32. For an analysis of the reasons for the change in Brazilian environmental policy in the period before the UNCED see Andrew Hurrell, "Brazil and the International Politics of Amazonian Deforestation", in Andrew Hurrell and Benedict Kingsbury (eds.), The International Politics of the Environment: Actors, Interests, and Institutions. (Oxford: Clarendon Press, 1992), pp. 398-429.
33. On this subject see Johnson, in Johnson (ed.), op.cit., p.108.
34. Katrina Brown and David W Pearce (eds.), The Causes of Tropical Deforestation: The economic and statistical analysis of factors giving rise to the loss of tropical forests. (London: UCL Press, 1994).
35. The roles NGOs can play in tropical forestry conservation was one of the themes of the Tenth World Forestry Congress. Note the paper presented by the Assistant Director General of the Forestry Department of FAO: C H Murray, "International Cooperation in Forestry", 10th World Forestry Congress, Paris, 1991: Proceedings. (Nancy: Ministère de l'Agriculture et de la Forêt, 1992), Volume 8, esp. p. 223. In the same volume see also Jeffrey Sayer, "The Role of Non-governmental Organizations

in Forest Resource Management", pp. 315-321 and Ralph W Roberts, "TFAP, An Evolving Process: Role of the TFAP Forestry Advisers Group", pp. 323-8. Roberts was then the FAG Chairman and he stressed that NGO participation was "essential to the TFAP process" (p. 326).

36. United Nations Secretariat, New York, "Notification", March 3, 1993.

37. See: (1) UN General Assembly resolution 47/176, "International Conference on Population and Development", para. 13; (2) UN General Assembly resolution 47/180, "United Nations Conference on Human Settlements (Habitat II)", adopted without a vote, 22 December 1992, para. 6; (3) UN General Assembly resolution 47/188, "Establishment of an intergovernmental negotiating committee for the elaboration of an international convention to combat desertification in those countries experiencing serious drought and/or desertification, particularly in Africa", adopted without a vote, 22 December 1992, para. 19; (4) UN General Assembly Resolution 47/189, "Convening of a global conference on the sustainable development of small island states", para. 18; (5) UN General Assembly resolution 47/192, "Conference on straddling and highly migratory fish stocks", adopted without a vote, 22 December 1992, para. 4. All the resolutions were adopted by the General Assembly without a vote on 22 December 1992 and use the language "taking into account the procedures followed in the process for the United Nations Conference on Environment and Development" or very similar wording. In addition resolutions 47/189 (para. 7) and 47/192 (para. 4) also refer to UN General Assembly resolution 46/168, para. 9, which *inter alia* invited to the UNCED in Rio all NGOs that had received accreditation by the end of the PrepCom 4.

38. FAO document CL 99/22, "Outcome of Meeting of Ad Hoc Group of Experts on TFAP", June 1991, Appendix B, para. 3, page B1.

39. Anon., "UNCED ignores ten critical issues", Third World Resurgence, Issue Nos. 24/25, August/September 1992. p. 12. The contributors to Third World Resurgence are among the leading NGO campaigners for full TNC accountability. See the articles in two special editions of Third World Resurgence: "Transnational Corporations Hijack Earth Summit", Issue No. 20, April 1992; and "TNCs Rule OK", Issue No. 40, December 1993.

40. World Wide Fund for Nature, UNCED - The Way Forward. (Gland, Switzerland: WWF International, September 1992), p. 10.

41. Ibid.

42. Kennedy argues that new challenges, including environmental degradation, make it more difficult for governments to control events and respond to change. See Paul Kennedy, Preparing for the Twenty-First Century. (London: HarperCollins, 1993), pp. 122-134. See also, Caroline Thomas (ed.), Rio: Unravelling the Consequences. (Ilford: Frank Cass, 1994).

43. ITTO Mission, "The Promotion of Sustainable Forest Management, A Case Study in Sarawak, Malaysia", April 1990 (unpublished), copy held by the Royal Geographical Society library, London, p. vii.
44. Ibid., p. 3.
45. Marcus Colchester, "The International Tropical Timber Organization: Kill or Cure for the Rainforests?", The Ecologist, Volume 20, No. 5, September/October 1990, p. 171.
46. See ITTO document ITTC(VI)/14, "Resolution 1(VI), The Promotion of Sustainable Forest Management: A Case Study in Sarawak, Malaysia", 24 May 1989.
47. Earl of Cranbrook, pers.comm. (interview, University of Keele), 31 August 1993.
48. FAO document CL 99/22, op.cit., Appendix B, paras. 8 and 9, p. B2.
49. UN document A/CONF.151/6/Rev.1, "Non-legally binding authoritative statement of principles for a global consensus on the management, conservation and sustainable development of all types of forests", 13 June 1992, para 2(d), p. 3.
50. UN document TD/TIMBER.2/L.9, op.cit., Article 1(j), p. 6.
51. See: FAO document FO:TFAP/91/Rep., "Report of the First Session of the Ad Hoc Group on the Tropical Forests Action Programme, Rome, 9 December 1991", para. 13, p. 2; FAO document FO:TFAP/92/Rep. (Second Session), op.cit., para. 15, p. 2 and para. 19, p. 3; FAO document FO:TFAP/92/Rep., "Report of the Third Session of the Ad Hoc Group on the Tropical Forests Action Programme, Rome, 4 September 1992", para. 11, p. 2.
52. UN document TD/TIMBER/11/Rev.1, "International Tropical Timber Agreement, 1983", Article 1, p. 8, and UN document TD/TIMBER.2/L.9, op.cit., Article 1, p. 5.

## BIBLIOGRAPHY AND REFERENCES

### Note

The Bibliography and References are divided into four sections.

*Section A, Main Bibliography*, lists all published materials consulted in the course of research for this thesis such as books, journal articles, magazine and newspaper articles and published position papers from governments, NGOs, UN agencies, intergovernmental organisations and other institutions.

*Section B, Important Unpublished Sources*, lists those unpublished sources that have been consulted by the author. However, this section does not include materials such as UN documents, statements and position papers circulated at conferences, press releases and internal documents from NGOs. Full details are provided in the endnotes of all those documents that have been referred to, or quoted from, in the text.

*Section C, Interviews*, lists individuals prominent in the field of global forest conservation interviewed by the author while researching this thesis. The majority of interviews were conducted face-to-face. Those that were conducted by telephone are annotated to this effect.

*Section D, Letters*, lists personal replies sent to the author by individuals prominent in the field of global forest conservation. The letters have provided detailed responses to specific questions posed by the author. The subject of the letter is underlined. Unless denoted "fax" (i.e. facsimile transmission), all letters were sent through the post. The author has also received numerous other more routine communications, both by post and by fax, in response to requests for information, many of which accompanied useful source material. These are not listed in this section.

All sections are listed in alphabetical order.

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# APPENDIX A

UN document TD/TIMBER/11/Rev.1

INTERNATIONAL TROPICAL TIMBER AGREEMENT, 1983

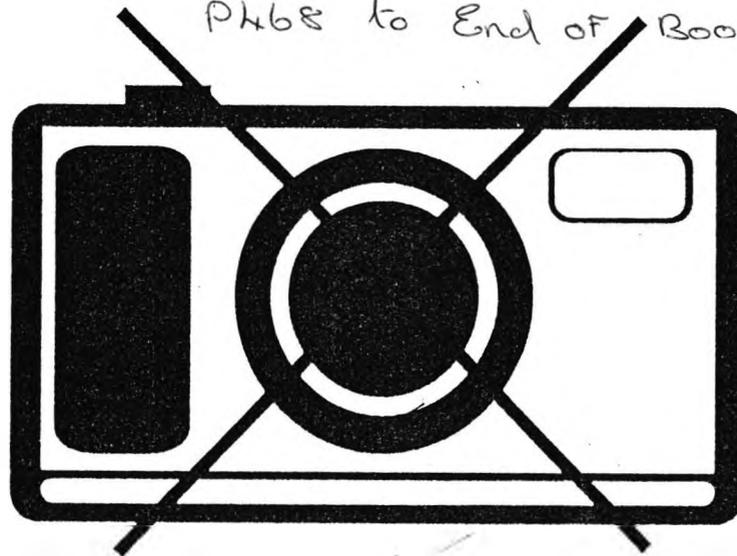
**INTERNATIONAL TROPICAL  
TIMBER AGREEMENT,  
1983**



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## CONTENTS

	<i>Page</i>
Introduction .....	1
List of States and organizations represented at the United Nations Conference on Tropical Timber, 1983 .....	4
Agenda of the United Nations Conference on Tropical Timber, 1983 .....	5
Resolutions adopted by the United Nations Conference on Tropical Timber, 1983 .....	6
International Tropical Timber Agreement, 1983 .....	7

## INTRODUCTION

1. The United Nations Conference on Trade and Development, in its resolution 93 (IV) of 30 May 1976 on the Integrated Programme for Commodities, requested the Secretary-General of UNCTAD to convene preparatory meetings for international negotiations on individual products and, as and when required, commodity negotiating conferences as soon as possible after the completion of such preparatory meetings. Pursuant to that resolution, six preparatory meetings on tropical timber were held between May 1977 and June 1982. During that period, two intergovernmental groups of experts were convened to examine research and development and market intelligence issues. The Sixth Preparatory Meeting, held from 1 to 11 June 1982, recommended that a Meeting on Tropical Timber be convened to further consider remaining institutional issues and requested the Secretary-General of UNCTAD to make provision with a view to convening a negotiating conference early in 1983.

2. Accordingly, pursuant to that request, a Meeting on Tropical Timber was held from 29 November to 3 December 1982 and the Secretary-General of UNCTAD convened the United Nations Conference on Tropical Timber, 1983, on 14 March 1983. The Conference, which was opened by Mr. Alister McIntyre, Deputy Secretary-General of UNCTAD, was held at the Palais des Nations, Geneva, in two parts: the first from 14 to 31 March 1983 and the second from 7 to 18 November 1983. Mr. Tatsuro Kunugi (Japan) was elected Chairman of the Conference, and Mr. Sunaryo H. Darsono (Indonesia) and Mr. Alfonso López Araujo (Ecuador) were elected Vice-Chairmen.

3. The Conference had before it draft texts submitted by Japan,<sup>1</sup> the Governments of tropical timber producing countries,<sup>2</sup> the Nordic countries, Finland, Norway and Sweden,<sup>3</sup> and the United States of America.<sup>4</sup> The UNCTAD secretariat prepared a working document containing these texts presented in tabular form.<sup>5</sup>

### Participation and credentials

4. Representatives of 69 States participated in the Conference. The first part of the Conference was attended by the representatives of 65 States, 64 attending as participants and one as an observer, and the second part by the representatives of 64 States attending as participants. Representatives of the European Economic Community participated in both parts of the Conference.

<sup>1</sup> TD/B/IPC/TIMBER/38 and Corr. 1.

<sup>2</sup> TD/TIMBER/R.2.

<sup>3</sup> TD/TIMBER/R.3.

<sup>4</sup> TD/TIMBER/R.4.

<sup>5</sup> TD/TIMBER/R.1.

5. In servicing the Conference, the UNCTAD secretariat was assisted by the secretariat of the Food and Agriculture Organization of the United Nations. A number of other United Nations bodies and specialized and related agencies of the United Nations, and two national liberation movements invited to participate pursuant to General Assembly resolutions 3280 (XXIX) and 31/152, sent observers to the Conference. Two intergovernmental organizations were admitted as observers by decision of the Conference.<sup>6</sup>

6. At each part of the Conference, the credentials of the representatives of States participating in the Conference were approved on the recommendation of the Credentials Committee.

### Structure of the Conference

7. At its 1st plenary meeting, on 14 March 1983, the Conference adopted its agenda<sup>7</sup> and its rules of procedure<sup>8</sup> and established an Executive Committee of the Whole to deal with agenda items 7 and 8 in closed session. It subsequently appointed a Credentials Committee to examine the credentials of the representatives of States participating in the Conference.<sup>9</sup>

### EXECUTIVE COMMITTEE

8. The Executive Committee, whose officers were the same as those of the Conference, held 26 meetings. At its 5th meeting, on 17 March 1983, it established a Legal Drafting Committee.<sup>10</sup> The Chairman convened, as and when necessary, an informal contact group to deal with a number of key issues pending in the Executive Committee. This Contact Group of the Chairman held 12 meetings. At its 26th meeting, on 18 November 1983, the Executive Committee, having examined a draft text of the International Tropical Timber Agreement, 1983, and the texts of two draft resolutions, decided to recommend them for adoption by the Conference.

### LEGAL DRAFTING COMMITTEE

9. The Legal Drafting Committee, the membership of which comprised Egypt, France, Gabon, Indonesia, Ivory Coast, Japan, Mexico, Philippines, Spain, Trinidad and Tobago, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America,

<sup>6</sup> For the list of States and organizations represented at the Conference, see page 4 below.

<sup>7</sup> TD/TIMBER/5, reproduced on page 5 below.

<sup>8</sup> TD/TIMBER/2 and TD/TIMBER 6.

<sup>9</sup> For the composition of the Credentials Committee, see paragraph 11 below.

<sup>10</sup> For the composition of the Legal Drafting Committee, see paragraph 9 below.

was established to examine the texts of articles referred to it for the purpose of ensuring consistency from the legal and linguistic standpoints, and to correct all linguistic, grammatical and typographical errors in the Arabic, English, French, Russian and Spanish texts of the Agreement.

10. The Legal Drafting Committee, which was chaired by Mr. Roger Taylor (United Kingdom), held nine meetings.

#### CREDENTIALS COMMITTEE

11. The Credentials Committee was appointed by the Conference at its 3rd plenary meeting, on 15 March 1983, with the following membership: Ghana, Thailand, Union of Soviet Socialist Republics, United States of America, and Venezuela. The Committee, which was chaired by Ms. Morella Ferrero (Venezuela), held two meetings and prepared two reports,<sup>11</sup> both of which were approved by the Conference.

#### Closure of the Conference

12. At its 7th (closing) plenary meeting, on 18 November 1983, the Conference established the text of the International Tropical Timber Agreement, 1983.<sup>12</sup> The United States of America reserved its position on article 10 and article 2 (8) of the Agreement. The Conference also noted the intention of the producing countries of Asia present at the Conference to pursue in the International Tropical Timber Council the question of a wider definition of tropical timber products resulting from further processing.

13. At the same meeting, the Conference, having noted a statement of financial implications,<sup>13</sup> adopted a resolution on the establishment of a Preparatory Committee for the International Tropical Timber Council and a final resolution.<sup>14</sup>

#### Main features of the Agreement

14. The main objective of the Agreement is to provide an effective framework for co-operation and consultation between tropical timber producing and consuming countries with regard to all relevant aspects of the tropical timber economy. The Agreement seeks to promote the expansion and diversification of international trade in tropical timber and the improvement of structural conditions in the tropical timber market; to promote research and development with a view to improving forest management and wood utilization; to improve market intelligence; to encourage increased and further processing of tropical timber in producing member countries; to encourage reforestation and forest management activities; to improve marketing and distribution of tropical timber exports of producing members; and to encourage the development of national policies aimed at sustainable utilization and conservation of tropical forests and their genetic resources and at

maintaining the ecological balance in the regions concerned.

15. In order to provide an international framework for the achievement of these objectives, the Agreement establishes an International Tropical Timber Organization, which will function through the International Tropical Timber Council and the following three permanent committees:

(a) Committee on Economic Information and Market Intelligence;

(b) Committee on Reforestation and Forest Management; and

(c) Committee on Forest Industry.

The location of the headquarters of the Organization will be decided on by the Council at its first session. At the first part of the Conference, Belgium, France, Greece, Japan, the Netherlands and the United Kingdom of Great Britain and Northern Ireland offered Brussels, Paris, Athens, the Tokyo Metropolitan Area, Amsterdam and London, respectively, as possible sites for the headquarters of the Organization. At the second part of the Conference, Indonesia offered Jakarta as a possible site for the headquarters.

16. The operational activities of the Council and the permanent committees fall into two basic categories. The first consists of arranging for the formulation and implementation of projects in the fields of research and development, market intelligence, further and increased processing, and reforestation and forest management. The second consists, *inter alia*, of continuously monitoring trade and ongoing activities in the tropical timber economy; reviewing regularly future needs of trade and the support and assistance being provided at various levels for the production of tropical timber; identifying and considering problems and possible solutions to them; conducting relevant studies; and encouraging increased transfer of know-how and technical assistance.

17. Under the criteria specified in the Agreement, projects should be related to the production and utilization of industrial tropical timber and yield benefits to the tropical timber economy as a whole. They should also be related to the maintenance and expansion of the international tropical timber trade and offer reasonable prospects for positive economic returns in relation to costs.

18. The International Tropical Timber Organization will seek finance for projects approved by the Council. Such projects may be taken up by another financing and executing agency, or they may be financed from funds in the Special Account, established under the Agreement, and carried out by an executing agency. Possible sources of finance for the Special Account are the Second Account of the Common Fund when it is established, regional and international financing institutions, and voluntary contributions from Governments or other sources.

19. The Agreement provides that the International Tropical Timber Organization shall, to the maximum extent possible, utilize the facilities, services and expertise of existing intergovernmental, governmental or non-governmental organizations, in order to avoid

<sup>11</sup> TD/TIMBER. 7 and TD/TIMBER. 9.

<sup>12</sup> Reproduced on page 7 below.

<sup>13</sup> TD/TIMBER. L.6 Add.1.

<sup>14</sup> TD/TIMBER. 10 and Corr., reproduced on page 6 below.

duplication of efforts in achieving the objectives of the Agreement and to enhance the complementarity and the efficiency of their activities.

#### Entry into force and duration

20. The Agreement is open for signature at United Nations Headquarters from 2 January 1984 until one month after the date of its entry into force by Governments invited to the United Nations Conference on Tropical Timber, 1983. For the Agreement to enter into force definitively, 12 Governments of producing countries holding at least 55 per cent of the total votes as set out in annex A to the Agreement, and 16 Governments of consuming countries holding at least 70 per cent of the total votes as set out in annex B to the Agreement, must either sign the Agreement definitively or deposit instruments of ratification, acceptance, approval or accession. If the requirements for definitive entry into force are not met by 1 October 1984, the Agreement will enter into force provisionally on that date or on any date within six months thereafter, if 10 Governments of producing countries holding at least 50 per cent of the total votes, as set out in annex A to the Agreement, and

14 Governments of consuming countries holding at least 65 per cent of the total votes, as set out in annex B to the Agreement, have either signed the Agreement definitively or have deposited instruments of ratification, acceptance or approval, or have notified the depositary that they will apply the Agreement provisionally.

21. If the requirements for definitive or provisional entry into force have not been met by 1 April 1985, the Secretary-General of the United Nations is requested to invite those Governments which have either signed the Agreement definitively, or have deposited instruments of ratification, acceptance or approval, or have notified the depositary that they will apply the Agreement provisionally, to meet at the earliest time practicable to decide whether to put the Agreement into force provisionally or definitively among themselves in whole or in part.

22. The Agreement will remain in force for a period of five years from the date of its entry into force, unless the Council decides to extend, renegotiate or terminate it. The Agreement provides that the Council may decide to extend the Agreement for not more than two periods of two years each.

**LIST OF STATES AND ORGANIZATIONS REPRESENTED AT THE  
UNITED NATIONS CONFERENCE ON TROPICAL TIMBER, 1983\***

**I. Participants**

Argentina	Liberia (first part)
Australia	Luxembourg**
Austria	Madagascar
Belgium**	Malaysia
Bolivia	Malta
Brazil	Mexico
Bulgaria	Netherlands
Burma (second part)	New Zealand
Canada	Nigeria (first part)
Central African Republic	Norway
Chile	Panama (first part)
Colombia	Peru
Congo	Philippines
Costa Rica	Republic of Korea
Denmark	Romania
Dominican Republic	Spain
(second part)	Sudan
Ecuador	Suriname (first part)
Egypt	Sweden
El Salvador	Switzerland
Finland	Thailand
France	Trinidad and Tobago
Gabon	Turkey
Germany, Federal Republic of	Union of Soviet Socialist Republics
Ghana	United Kingdom of Great Britain and Northern Ireland
Greece	United Republic of Cameroon
Guatemala	United Republic of Tanzania
Haiti (first part)	United States of America
Honduras	Venezuela
India	Viet Nam (second part)
Indonesia	Yugoslavia
Iraq (second part)	Zaire
Ireland	
Israel	
Italy	
Ivory Coast	
Japan	
Jordan (second part)	European Economic Community

**II. Observers**

	<i>State</i>
Burma (first part)	
	<i>United Nations</i>
Economic Commission for Europe	
United Nations Industrial Development Organization	
United Nations Environment Programme	
International Trade Centre UNCTAD/GATT	
	<i>Specialized and related agencies</i>
Food and Agriculture Organization of the United Nations	
International Labour Organisation	
International Monetary Fund	
	* * *
General Agreement on Tariffs and Trade	
	<i>Intergovernmental organizations</i>
African Timber Organization <sup>a</sup>	
Permanent Secretariat of the General Treaty on Central American Economic Integration <sup>b</sup>	
	<i>National liberation movements</i>
Pan Africanist Congress of Azania <sup>c</sup>	
South West Africa People's Organization (first part) <sup>d</sup>	

\* The full list of participants was distributed in documents TD/TIMBER/INF.1 and TD/TIMBER/INF.2 and Corr.1.

\*\* Belgium represented Luxembourg at the first and second parts.

<sup>a</sup> Participated by decision of the Conference at its 2nd plenary meeting, on 14 March 1983.

<sup>b</sup> Participated by decision of the Conference at its 1st plenary meeting, on 14 March 1983.

<sup>c</sup> Invited to participate pursuant to General Assembly resolution 3280 (XXIX).

<sup>d</sup> Invited to participate pursuant to General Assembly resolution 3115 (XXV).

AGENDA OF THE UNITED NATIONS CONFERENCE  
ON TROPICAL TIMBER, 1983

1. Opening of the Conference.
2. Adoption of the agenda.
3. Adoption of the rules of procedure.
4. Election of officers.
5. Credentials of representatives:
  - (a) Appointment of a Credentials Committee;
  - (b) Report of the Credentials Committee.
6. Establishment of an Executive Committee and of other committees as required.
7. Preparation of an International Tropical Timber Agreement.
8. Consideration and adoption of final resolutions.
9. Other business.

RESOLUTIONS ADOPTED BY THE UNITED NATIONS CONFERENCE  
ON TROPICAL TIMBER, 1983

RESOLUTION I

Establishment of a Preparatory Committee for the  
International Tropical Timber Council<sup>a</sup>

*The United Nations Conference on Tropical Timber,  
1983,*

*Desiring* to facilitate the establishment of the proposed International Tropical Timber Organization,

1. *Establishes* a Preparatory Committee for the International Tropical Timber Council to undertake the necessary preparatory work for the first session of the Council;

2. *Decides* that the membership of the Preparatory Committee shall be open to participants in the United Nations Conference on Tropical Timber, 1983;

3. *Requests* the Secretary-General of UNCTAD to convene a first one-week meeting of the Preparatory Committee after sufficient substantive preparatory work has been carried out and the relevant documentation distributed sufficiently in advance by the UNCTAD secretariat and up to one other one-week meeting if necessary;

4. *Requests* the Secretary-General of the United Nations, pursuant to article 37, paragraph 5, of the International Tropical Timber Agreement, 1983, to convene the first session of the International Tropical Timber Council as soon as possible after the entry into force of the Agreement;

5. *Further requests* the Secretary-General of the United Nations to recommend to the General Assembly that it provide the advances required for the meetings of the Preparatory Committee and for the first session of the International Tropical Timber Council, refundable

<sup>a</sup> The Conference adopted this resolution, having noted a statement of financial implications contained in TD/TIMBER/L.6/Add.1.

as soon as possible to the United Nations by the International Tropical Timber Organization.

*7th plenary meeting  
18 November 1983*

RESOLUTION II

Final resolution

*The United Nations Conference on Tropical Timber,  
1983*

*Having met* in Geneva from 14 to 31 March 1983 and from 7 to 18 November 1983,

*Expressing its gratitude* for the facilities and services provided by the Secretary-General of UNCTAD,

*Recording its appreciation* of the contribution made by the Chairman of the Conference and by its other officers, as well as by the secretariat,

*Having established* the text of the International Tropical Timber Agreement, 1983, in Arabic, English, French, Russian and Spanish.

1. *Requests* the Secretary-General of the United Nations to forward copies of the text of the Agreement to all Governments and intergovernmental organizations invited to the Conference for their consideration;

2. *Requests* the Secretary-General of the United Nations to arrange for the Agreement to be open for signature at United Nations Headquarters in New York during the period laid down in article 34 of the Agreement;

3. *Draws attention* to the procedures available to States and to intergovernmental organizations referred to in article 5 of the Agreement to become parties to the International Tropical Timber Agreement, 1983, and invites them to deposit the appropriate instruments to this end.

*7th plenary meeting  
18 November 1983*

# INTERNATIONAL TROPICAL TIMBER AGREEMENT, 1983

## CONTENTS

	<i>Page</i>
PREAMBLE .....	8
CHAPTER I. OBJECTIVES	
<i>Article</i>	
1. Objectives .....	8
CHAPTER II. DEFINITIONS	
2. Definitions .....	9
CHAPTER III. ORGANIZATION AND ADMINISTRATION	
3. Establishment, headquarters and structure of the International Tropical Timber Organization .....	9
4. Membership in the Organization .....	9
5. Membership by intergovernmental organizations .....	9
CHAPTER IV. INTERNATIONAL TROPICAL TIMBER COUNCIL	
6. Composition of the International Tropical Timber Council .....	9
7. Powers and functions of the Council .....	10
8. Chairman and Vice-Chairman of the Council .....	10
9. Sessions of the Council .....	10
10. Distribution of votes .....	10
11. Voting procedure of the Council .....	11
12. Decisions and recommendations of the Council .....	11
13. Quorum for the Council .....	11
14. Co-operation and co-ordination with other organizations .....	11
15. Admission of observers .....	11
16. Executive Director and staff .....	11
CHAPTER V. PRIVILEGES AND IMMUNITIES	
17. Privileges and immunities .....	12
CHAPTER VI. FINANCE	
18. Financial accounts .....	12
19. Administrative Account .....	12
20. Special Account .....	13
21. Forms of payment .....	13
22. Audit and publication of accounts .....	13
CHAPTER VII. OPERATIONAL ACTIVITIES	
23. Projects .....	13
24. Establishment of committees .....	14
25. Functions of the committees .....	14
CHAPTER VIII. RELATIONSHIP WITH THE COMMON FUND FOR COMMODITIES	
26. Relationship with the Common Fund for Commodities .....	15
CHAPTER IX. STATISTICS, STUDIES AND INFORMATION	
27. Statistics, studies and information .....	15
28. Annual report and review .....	15
CHAPTER X. MISCELLANEOUS	
29. Complaints and disputes .....	16
30. General obligations of members .....	16
31. Relief from obligations .....	16
32. Differential and remedial measures and special measures .....	16
CHAPTER XI. FINAL PROVISIONS	
33. Depositary .....	16
34. Signature, ratification, acceptance and approval .....	16

35. Accession.....	16
36. Notification of provisional application.....	16
37. Entry into force.....	17
38. Amendments.....	17
39. Withdrawal.....	17
40. Exclusion.....	17
42. Settlement of accounts with withdrawing or excluded members or members unable to accept an amendment.....	17
43. Duration, extension and termination.....	18
43. Reservations.....	18

#### ANNEXES

A. List of producing countries with tropical forest resources and/or net exporters of tropical timber in volume terms, and allocation of votes for the purposes of article 3 <sup>7</sup> .....	19
B. List of consuming countries and allocation of votes for the purposes of article 37.....	19
C. Statistical data and specific indicators needed as identified for the monitoring of international tropical timber trade.....	20

#### PREAMBLE

*The Parties to this Agreement,*

*Recalling* the Declaration and the Programme of Action on the Establishment of a New International Economic Order adopted by the General Assembly,<sup>1</sup>

*Recalling* resolutions 93 (IV) and 124 (V) on the Integrated Programme for Commodities adopted by the United Nations Conference on Trade and Development at its fourth and fifth sessions.

*Recognizing* the importance of, and the need for, proper and effective conservation and development of tropical timber forests with a view to ensuring their optimum utilization while maintaining the ecological balance of the regions concerned and of the biosphere,

*Recognizing* the importance of tropical timber to the economies of members, particularly to the exports of producing members and the supply requirements of consuming members,

*Desiring* to establish a framework of international co-operation between producing and consuming members in finding solutions to the problems facing the tropical timber economy,

*Have agreed* as follows:

#### CHAPTER I. OBJECTIVES

##### Article 1 OBJECTIVES

With a view to achieving the relevant objectives adopted by the United Nations Conference on Trade and Development in its resolutions 93 (IV) and 124 (V) on the Integrated Programme for Commodities, for the

<sup>1</sup> General Assembly resolutions 3201 (S-VI) and 3202 (S-VI) of 1 May 1974.

benefit of both producing and consuming members and bearing in mind the sovereignty of producing members over their natural resources, the objectives of the International Tropical Timber Agreement, 1983 (hereinafter referred to as "this Agreement") are:

(a) To provide an effective framework for co-operation and consultation between tropical timber producing and consuming members with regard to all relevant aspects of the tropical timber economy;

(b) To promote the expansion and diversification of international trade in tropical timber and the improvement of structural conditions in the tropical timber market, by taking into account, on the one hand, a long-term increase in consumption and continuity of supplies, and, on the other, prices which are remunerative to producers and equitable for consumers, and the improvement of market access;

(c) To promote and support research and development with a view to improving forest management and wood utilization;

(d) To improve market intelligence with a view to ensuring greater transparency in the international tropical timber market;

(e) To encourage increased and further processing of tropical timber in producing member countries with a view to promoting their industrialization and thereby increasing their export earnings;

(f) To encourage members to support and develop industrial tropical timber reforestation and forest management activities;

(g) To improve marketing and distribution of tropical timber exports of producing members;

(h) To encourage the development of national policies aimed at sustainable utilization and conservation of tropical forests and their genetic resources, and at maintaining the ecological balance in the regions concerned.

## CHAPTER II. DEFINITIONS

### *Article 2* DEFINITIONS

For the purposes of this Agreement:

(1) "Tropical timber" means non-coniferous tropical wood for industrial uses, which grows or is produced in the countries situated between the Tropic of Cancer and the Tropic of Capricorn. The term covers logs, sawnwood, veneer sheets and plywood. Plywood which includes in some measure conifers of tropical origin shall also be covered by this definition;

(2) "Further processing" means the transformation of logs into primary wood products, semi-finished and finished products made wholly or almost wholly of tropical timber;

(3) "Member" means a Government or an intergovernmental organization referred to in article 5 which has consented to be bound by this Agreement whether it is in force provisionally or definitively;

(4) "Producing member" means any country with tropical forest resources and/or a net exporter of tropical timber in volume terms which is listed in annex A and which becomes a party to this Agreement, or any country with tropical forest resources and/or a net exporter of tropical timber in volume terms which is not so listed and which becomes a party to this Agreement and which the Council, with the consent of that country, declares to be a producing member;

(5) "Consuming member" means any country listed in annex B which becomes a party to this Agreement, or any country not so listed which becomes a party to this Agreement and which the Council, with the consent of that country, declares to be a consuming member;

(6) "Organization" means the International Tropical Timber Organization established in accordance with article 3;

(7) "Council" means the International Tropical Timber Council established in accordance with article 6;

(8) "Special vote" means a vote requiring at least two thirds of the votes cast by producing members present and voting and at least 60 per cent of the votes cast by consuming members present and voting, counted separately, on condition that these votes are cast by at least half of the producing members present and voting and at least half of the consuming members present and voting;

(9) "Simple distributed majority vote" means a vote requiring more than half of the votes cast by producing members present and voting and more than half of the votes cast by consuming members present and voting, counted separately;

(10) "Financial year" means the period from 1 January to 31 December inclusive;

(11) "Freely usable currencies" means the deutsche mark, the French franc, the Japanese yen, the pound sterling, the United States dollar and any other currency which has been designated from time to time by a competent international monetary organization as being in fact widely used to make payments for international transactions and widely traded in the principal exchange markets.

## CHAPTER III. ORGANIZATION AND ADMINISTRATION

### *Article 3*

#### ESTABLISHMENT, HEADQUARTERS AND STRUCTURE OF THE INTERNATIONAL TROPICAL TIMBER ORGANIZATION

1. The International Tropical Timber Organization is hereby established to administer the provisions and supervise the operation of this Agreement.

2. The Organization shall function through the International Tropical Timber Council established under article 6, the committees and other subsidiary bodies referred to in article 24, and the Executive Director and staff.

3. The Council shall, at its first session, decide on the location of the headquarters of the Organization.

4. The headquarters of the Organization shall at all times be located in the territory of a member.

### *Article 4*

#### MEMBERSHIP IN THE ORGANIZATION

There shall be two categories of membership in the Organization, namely:

- (a) Producing; and
- (b) Consuming.

### *Article 5*

#### MEMBERSHIP BY INTERGOVERNMENTAL ORGANIZATIONS

1. Any reference in this Agreement to "Governments" shall be construed as including the European Economic Community and any other intergovernmental organization having responsibilities in respect of the negotiation, conclusion and application of international agreements, in particular commodity agreements. Accordingly, any reference in this Agreement to signature, ratification, acceptance or approval, or to notification of provisional application, or to accession shall, in the case of such intergovernmental organizations, be construed as including a reference to signature, ratification, acceptance or approval, or to notification of provisional application, or to accession, by such intergovernmental organizations.

2. In the case of voting on matters within their competence, such intergovernmental organizations shall vote with a number of votes equal to the total number of votes attributable to their member States in accordance with article 10. In such cases, the member States of such intergovernmental organizations shall not be entitled to exercise their individual voting rights.

## CHAPTER IV. INTERNATIONAL TROPICAL TIMBER COUNCIL

### *Article 6*

#### COMPOSITION OF THE INTERNATIONAL TROPICAL TIMBER COUNCIL

1. The highest authority of the Organization shall be the International Tropical Timber Council, which shall consist of all the members of the Organization.

2. Each member shall be represented in the Council by one representative and may designate alternates and advisers to attend sessions of the Council.

3. An alternate representative shall be empowered to act and vote on behalf of the representative during the latter's absence or in special circumstances.

#### Article 7

##### POWERS AND FUNCTIONS OF THE COUNCIL

1. The Council shall exercise all such powers and perform or arrange for the performance of all such functions as are necessary to carry out the provisions of this Agreement.

2. The Council shall, by special vote, adopt such rules and regulations as are necessary to carry out the provisions of this Agreement, including its own rules of procedure and the financial and staff regulations of the Organization. Such financial regulations shall, *inter alia*, govern the receipt and expenditure of funds under the Administrative and Special Accounts. The Council may, in its rules of procedure, provide for a procedure whereby it may, without meeting, decide specific questions.

3. The Council shall keep such records as are required for the performance of its functions under this Agreement.

#### Article 8

##### CHAIRMAN AND VICE-CHAIRMAN OF THE COUNCIL

1. The Council shall elect for each calendar year a Chairman and a Vice-Chairman, whose salaries shall not be paid by the Organization.

2. The Chairman and the Vice-Chairman shall be elected, one from among the representatives of producing members and the other from among the representatives of consuming members. These offices shall alternate each year between the two categories of members, provided, however, that this shall not prohibit the re-election of either or both, under exceptional circumstances, by special vote of the Council.

3. In the temporary absence of the Chairman, the Vice-Chairman shall act in his place. In the temporary absence of both the Chairman and the Vice-Chairman, or in the absence of one or both of them for the rest of the term for which they were elected, the Council may elect new officers from among the representatives of the producing members and/or from among the representatives of the consuming members, as the case may be, on a temporary basis or for the rest of the term for which the predecessor or predecessors were elected.

#### Article 9

##### SESSIONS OF THE COUNCIL

1. As a general rule, the Council shall hold at least one regular session a year.

2. The Council shall meet in special session whenever it so decides or at the request of:

(a) The Executive Director, in agreement with the Chairman of the Council; or

(b) A majority of producing members or a majority of consuming members; or

(c) Members holding at least 500 votes.

3. Sessions of the Council shall be held at the headquarters of the Organization unless the Council, by special vote, decides otherwise. If on the invitation of any member the Council meets elsewhere than at the headquarters of the Organization, that member shall pay the additional cost of holding the meeting away from headquarters.

4. Notice of any sessions and the agenda for such sessions shall be communicated to members by the Executive Director at least six weeks in advance, except in cases of emergency, when notice shall be communicated at least seven days in advance.

#### Article 10

##### DISTRIBUTION OF VOTES

1. The producing members shall together hold 1,000 votes and the consuming members shall together hold 1,000 votes.

2. The votes of the producing members shall be distributed as follows:

(a) Four hundred votes shall be distributed equally among the three producing regions of Africa, Asia-Pacific and Latin America. The votes thus allocated to each of these regions shall then be distributed equally among the producing members of that region;

(b) Three hundred votes shall be distributed among the producing members in accordance with their respective shares of the total tropical forest resources of all producing members; and

(c) Three hundred votes shall be distributed among the producing members in proportion to the average of the values of their respective net exports of tropical timber during the most recent three-year period for which definitive figures are available.

3. Notwithstanding the provisions of paragraph 2 of this article, the total votes allocated to the producing members from the African region, calculated in accordance with paragraph 2 of this article, shall be distributed equally among all producing members from the African region. If there are any remaining votes, each of these votes shall be allocated to a producing member from the African region: the first to the producing member which is allocated the highest number of votes calculated in accordance with paragraph 2 of this article, the second to the producing member which is allocated the second highest number of votes, and so on until all the remaining votes have been distributed.

4. For purposes of the calculation of the distribution of votes under paragraph 2 (b) of this article, "tropical forest resources" means productive closed broadleaved forests as defined by the Food and Agriculture Organization of the United Nations (FAO).

5. The votes of the consuming members shall be distributed as follows: each consuming member shall have 10 initial votes; the remaining votes shall be distributed among the consuming members in proportion to the average volume of their respective net imports of tropical timber during the three-year period

commencing four calendar years prior to the distribution of votes.

6. The Council shall distribute the votes for each financial year at the beginning of its first session of that year in accordance with the provisions of this article. Such distribution shall remain in effect for the rest of that year, except as provided for in paragraph 7 of this article.

7. Whenever the membership of the Organization changes or when any member has its voting rights suspended or restored under any provision of this Agreement, the Council shall redistribute the votes within the affected category or categories of members in accordance with the provisions of this article. The Council shall, in that event, decide when such redistribution shall become effective.

8. There shall be no fractional votes.

#### *Article 11*

##### VOTING PROCEDURE OF THE COUNCIL

1. Each member shall be entitled to cast the number of votes it holds and no member shall be entitled to divide its votes. A member may, however, cast differently from such votes any votes which it is authorized to cast under paragraph 2 of this article.

2. By written notification to the Chairman of the Council, any producing member may authorize, under its own responsibility, any other producing member, and any consuming member may authorize, under its own responsibility, any other consuming member, to represent its interests and to cast its votes at any meeting of the Council.

3. When abstaining, a member shall be deemed not to have cast its votes.

#### *Article 12*

##### DECISIONS AND RECOMMENDATIONS OF THE COUNCIL

1. The Council shall endeavour to take all decisions and to make all recommendations by consensus. If consensus cannot be reached, the Council shall take all decisions and make all recommendations by a simple distributed majority vote, unless this Agreement provides for a special vote.

2. Where a member avails itself of the provisions of article 11, paragraph 2, and its votes are cast at a meeting of the Council, such member shall, for the purposes of paragraph 1 of this article, be considered as present and voting.

#### *Article 13*

##### QUORUM FOR THE COUNCIL

1. The quorum for any meeting of the Council shall be the presence of a majority of producing members and a majority of consuming members, provided that such members hold at least two thirds of the total votes in their respective categories.

2. If there is no quorum in accordance with paragraph 1 of this article on the day fixed for the meeting and on the following day, the quorum on the subsequent days of the session shall be the presence of a

majority of producing members and a majority of consuming members, provided that such members hold a majority of the total votes in their respective categories.

3. Representation in accordance with article 11, paragraph 2, shall be considered as presence.

#### *Article 14*

##### CO-OPERATION AND CO-ORDINATION WITH OTHER ORGANIZATIONS

1. The Council shall make whatever arrangements are appropriate for consultation or co-operation with the United Nations and its organs, such as the United Nations Conference on Trade and Development (UNCTAD), the United Nations Industrial Development Organization (UNIDO), the United Nations Environment Programme (UNEP), the United Nations Development Programme (UNDP) and the International Trade Centre UNCTAD/GATT (ITC), and with the Food and Agriculture Organization of the United Nations (FAO) and such other specialized agencies of the United Nations and intergovernmental, governmental and non-governmental organizations as may be appropriate.

2. The Organization shall, to the maximum extent possible, utilize the facilities, services and expertise of existing intergovernmental, governmental or non-governmental organizations, in order to avoid duplication of efforts in achieving the objectives of this Agreement and to enhance the complementarity and the efficiency of their activities.

#### *Article 15*

##### ADMISSION OF OBSERVERS

The Council may invite any non-member Government or any of the organizations referred to in articles 14, 20 and 27 concerned with tropical timber to attend as observers any of the meetings of the Council.

#### *Article 16*

##### EXECUTIVE DIRECTOR AND STAFF

1. The Council shall, by special vote, appoint the Executive Director.

2. The terms and conditions of appointment of the Executive Director shall be determined by the Council.

3. The Executive Director shall be the chief administrative officer of the Organization and shall be responsible to the Council for the administration and operation of this Agreement in accordance with decisions of the Council.

4. The Executive Director shall appoint the staff in accordance with regulations to be established by the Council. At its first session, the Council shall, by special vote, decide the number of executive and professional staff the Executive Director may appoint. Any changes in the number of executive and professional staff shall be decided by the Council by special vote. The staff shall be responsible to the Executive Director.

5. Neither the Executive Director nor any member of the staff shall have any financial interest in the

tropical timber industry or trade, or associated commercial activities.

6. In the performance of their duties, the Executive Director and staff shall not seek or receive instructions from any member or from any authority external to the Organization. They shall refrain from any action which might reflect on their positions as international officials ultimately responsible to the Council. Each member shall respect the exclusively international character of the responsibilities of the Executive Director and staff and shall not seek to influence them in the discharge of their responsibilities.

## CHAPTER V. PRIVILEGES AND IMMUNITIES

### *Article 17*

#### PRIVILEGES AND IMMUNITIES

1. The Organization shall have legal personality. It shall in particular have the capacity to contract, to acquire and dispose of movable and immovable property, and to institute legal proceedings.

2. The Organization shall, as soon as possible after the entry into force of this Agreement, seek to conclude with the Government of the country in which the headquarters of the Organization is to be located (hereinafter referred to as the "host Government") an agreement (hereinafter referred to as the "Headquarters Agreement") relating to such status, privileges and immunities of the Organization, of its Executive Director, its staff and experts, and of representatives of members, as are necessary for the purpose of discharging their functions.

3. Pending the conclusion of the Headquarters Agreement referred to in paragraph 2 of this article, the Organization shall request the host Government to grant, within the limits of its national legislation, exemption from taxation on remuneration paid by the Organization to its employees, and on the assets, income and other property of the Organization.

4. The Organization may also conclude, with one or more countries, agreements to be approved by the Council relating to such capacity, privileges and immunities as may be necessary for the proper functioning of this Agreement.

5. If the headquarters of the Organization is moved to another country, the member in question shall, as soon as possible, conclude with the Organization a headquarters agreement to be approved by the Council.

6. The Headquarters Agreement shall be independent of this Agreement. It shall, however, terminate:

(a) By agreement between the host Government and the Organization;

(b) In the event of the headquarters of the Organization being moved from the country of the host Government; or

(c) In the event of the Organization ceasing to exist.

## CHAPTER VI. FINANCE

### *Article 18*

#### FINANCIAL ACCOUNTS

1. There shall be established two accounts:

- (a) The Administrative Account; and
- (b) The Special Account.

2. The Executive Director shall be responsible for the administration of these accounts and the Council shall make provision in its rules of procedure therefor.

### *Article 19*

#### ADMINISTRATIVE ACCOUNT

1. The expenses necessary for the administration of this Agreement shall be brought into the Administrative Account and shall be met by annual contributions paid by members in accordance with their respective constitutional or institutional procedures and assessed in accordance with paragraphs 3, 4 and 5 of this article.

2. The expenses of delegations to the Council, the committees and any other subsidiary bodies of the Council referred to in article 24 shall be met by the members concerned. In cases where a member requests special services from the Organization, the Council shall require that member to pay the costs of such services.

3. Before the end of each financial year, the Council shall approve the administrative budget of the Organization for the following financial year and shall assess the contribution of each member to that budget.

4. The contribution of each member to the administrative budget for each financial year shall be in the proportion which the number of its votes at the time the administrative budget for that financial year is approved bears to the total votes of all the members. In assessing contributions, the votes of each member shall be calculated without regard to the suspension of any member's voting rights or any redistribution of votes resulting therefrom.

5. The initial contribution of any member joining the Organization after the entry into force of this Agreement shall be assessed by the Council on the basis of the number of votes to be held by that member and the period remaining in the current financial year, but the assessment made upon other members from the current financial year shall not thereby be altered.

6. Contributions to the first administrative budget shall become due on a date to be decided by the Council at its first session. Contributions to subsequent administrative budgets shall become due on the first day of each financial year. Contributions of members in respect of the financial year in which they join the Organization shall be due on the date on which they become members.

7. If a member has not paid its full contribution to the administrative budget within four months after such contribution becomes due in accordance with paragraph 6 of this article, the Executive Director shall request that member to make payment as quickly as possible. If that member has still not paid its contribution within two months after such request, that member

shall be requested to state the reasons for its inability to make payment. If at the expiry of seven months from the due date of contribution, that member has still not paid its contribution, its voting rights shall be suspended and an interest charge shall be levied on its late contribution at the central bank rate of the host country until such time as it has paid in full its contribution, unless the Council, by special vote, decides otherwise.

8. A member whose rights have been suspended under paragraph 7 of this article shall remain liable to pay its contribution.

#### Article 20

##### SPECIAL ACCOUNT

1. There shall be established two sub-accounts under the Special Account:

- (a) The Pre-Project Sub-Account; and
- (b) The Project Sub-Account.

2. The possible sources of finance for the Special Account shall be:

- (a) The Second Account of the Common Fund for Commodities, when it becomes operational;
- (b) Regional and international financial institutions; and
- (c) Voluntary contributions.

3. The resources of the Special Account shall be used only for approved projects or for pre-project activities.

4. All expenditures under the Pre-Project Sub-Account shall be reimbursed from the Project Sub-Account if projects are subsequently approved and funded. If within six months of the entry into force of this Agreement the Council does not receive any funds for the Pre-Project Sub-Account, it shall review the situation and take appropriate action.

5. All receipts pertaining to specific identifiable projects shall be brought into the Special Account. All expenditures incurred on such projects, including remuneration and travel expenses of consultants and experts, shall be charged to the Special Account.

6. The Council shall, by special vote, establish terms and conditions on which it would, when and where appropriate, sponsor projects for loan financing, where a member or members have voluntarily assumed full obligations and responsibilities for such loans. The Organization shall have no obligations for such loans.

7. The Council may nominate and sponsor any entity with the consent of that entity, including a member or members, to receive loans for the financing of approved projects and to undertake all the obligations involved, except that the Organization shall reserve to itself the right to monitor the use of resources and to follow up on the implementation of projects so financed. However, the Organization shall not be responsible for guarantees voluntarily provided by individual members or other entities.

8. No member shall be responsible by reason of its membership in the Organization for any liability arising from borrowing or lending by any other member or entity in connection with projects.

9. In the event that voluntary unearmarked funds are offered to the Organization, the Council may accept such funds. Such funds may be utilized for pre-project activities as well as for approved projects.

10. The Executive Director shall endeavour to seek, on such terms and conditions as the Council may decide, adequate and assured finance for projects approved by the Council.

11. Contributions for specified approved projects shall be used only for the projects for which they were originally intended, unless otherwise decided by the Council in agreement with the contributor. After the completion of a project, the Organization shall return to each contributor for specific projects the balance of any funds remaining *pro rata* to each contributor's share in the total of the contributions originally made available for financing that project, unless otherwise agreed to by the contributor.

#### Article 21

##### FORMS OF PAYMENT

1. Contributions to the Administrative Account shall be payable in freely usable currencies and shall be exempt from foreign-exchange restrictions.

2. Financial contributions to the Special Account shall be payable in freely usable currencies and shall be exempt from foreign-exchange restrictions.

3. The Council may also decide to accept other forms of contributions to the Special Account, including scientific and technical equipment or personnel, to meet the requirements of approved projects.

#### Article 22

##### AUDIT AND PUBLICATION OF ACCOUNTS

1. The Council shall appoint independent auditors for the purpose of auditing the accounts of the Organization.

2. Independently audited statements of the Administrative Account and of the Special Account shall be made available to members as soon as possible after the close of each financial year, but not later than six months after that date, and be considered for approval by the Council at its next session, as appropriate. A summary of the audited accounts and balance sheet shall thereafter be published.

## CHAPTER VII. OPERATIONAL ACTIVITIES

#### Article 23

##### PROJECTS

1. All project proposals shall be submitted to the Organization by members and shall be examined by the relevant committee.

2. In order to achieve the objectives set out in article 1, the Council shall examine all project proposals in the fields of research and development, market intelligence, further and increased processing in developing producing member countries, and reforestation and forest management, together with the recommendation

submitted by the relevant committee; such project proposals based on tropical timber as defined in article 2, paragraph 1, may encompass tropical timber products other than those listed in article 2, paragraph 1. This provision shall also apply, where relevant, to the functions of the committees as set forth in article 25.

3. On the basis of the criteria set out in paragraph 6 or paragraph 7 of this article, the Council shall, by special vote, approve projects for financing or sponsorship in accordance with article 20.

4. The Council shall, on a continuing basis, arrange for the implementation of, and with a view to ensuring their effectiveness follow up, approved projects.

5. Research and development projects should relate to at least one of the following five areas:

(a) Wood utilization, including the utilization of lesser-known and lesser-used species;

(b) Natural forest development;

(c) Reforestation development;

(d) Harvesting, logging infrastructure, training of technical personnel;

(e) Institutional framework, national planning.

6. Projects on research and development approved by the Council shall be consistent with each of the following criteria:

(a) They should be related to the production and utilization of industrial tropical timber;

(b) They should yield benefits to the tropical timber economy as a whole and be relevant to producing as well as consuming members;

(c) They should be related to the maintenance and expansion of the international tropical timber trade;

(d) They should offer reasonable prospects for positive economic returns in relation to costs; and

(e) They shall make maximum use of existing research institutions and, to the greatest extent possible, avoid duplication of efforts.

7. Projects in the fields of market intelligence, further and increased processing, and reforestation and forest management, should be consistent with criterion (b) and, as far as possible, consistent with criteria (a), (c), (d) and (e) as contained in paragraph 6 of this article.

8. The Council shall decide on the relative priorities of projects, taking into account the interests and characteristics of each of the producing regions. Initially, the Council shall give priority to research and development project profiles as endorsed by the Sixth Preparatory Meeting on Tropical Timber under the Integrated Programme for Commodities and to such other projects as the Council may approve.

9. The Council may, by special vote, terminate its sponsorship of any project.

#### *Article 24*

##### ESTABLISHMENT OF COMMITTEES

1. The following committees are hereby established as permanent committees of the Organization:

(a) Committee on Economic Information and Market Intelligence;

(b) Committee on Reforestation and Forest Management; and

(c) Committee on Forest Industry.

2. The Council may, by special vote, establish such other committees and subsidiary bodies as it deems appropriate and necessary.

3. The committees and subsidiary bodies referred to in paragraphs 1 and 2 of this article shall be responsible to, and work under the general direction of, the Council. Meetings of the committees and subsidiary bodies shall be convened by the Council.

4. Participation in each of the committees shall be open to all members. The rules of procedure of the committees shall be decided by the Council.

#### *Article 25*

##### FUNCTIONS OF THE COMMITTEES

1. The Committee on Economic Information and Market Intelligence shall:

(a) Keep under review the availability and quality of statistics and other information required by the Organization;

(b) Analyse the statistical data and specific indicators as identified in annex C for the monitoring of international tropical timber trade;

(c) Keep under continuous review the international tropical timber market, its current situation and short-term prospects on the basis of the data mentioned in subparagraph (b) above and other relevant information;

(d) Make recommendations to the Council on the need for, and nature of, appropriate studies on tropical timber, including long-term prospects of the international tropical timber market, and monitor and review any studies commissioned by the Council;

(e) Carry out any other tasks related to the economic, technical and statistical aspects of tropical timber assigned to it by the Council;

(f) Assist in the provision of technical co-operation to producing members to improve their relevant statistical services.

2. The Committee on Reforestation and Forest Management shall:

(a) Keep under regular review the support and assistance being provided at a national and international level for reforestation and forest management for the production of industrial tropical timber;

(b) Encourage the increase of technical assistance to national programmes for reforestation and forest management;

(c) Assess the requirements and identify all possible sources of financing for reforestation and forest management;

(d) Review regularly future needs of international trade in industrial tropical timber and, on this basis, identify and consider appropriate possible schemes and measures in the field of reforestation and forest management;

(e) Facilitate transfer of knowledge in the field of reforestation and forest management with the assistance of competent organizations;

(f) Co-ordinate and harmonize these activities for co-operation in the field of reforestation and forest management with the relevant activities pursued elsewhere, such as those under FAO, UNEP, the World Bank, regional banks and other competent organizations.

3. The Committee on Forest Industry shall:

(a) Promote co-operation between producing and consuming members as partners in the development of processing activities in producing member countries, *inter alia*, in the following areas:

- (i) Transfer of technology;
- (ii) Training;
- (iii) Standardization of nomenclature of tropical timber;
- (iv) Harmonization of specifications of processed products;
- (v) Encouragement of investment and joint ventures; and
- (vi) Marketing;

(b) Promote exchange of information in order to facilitate structural changes involved in increased and further processing in the interests of both producing and consuming members;

(c) Monitor ongoing activities in this field, and identify and consider problems and possible solutions to them in co-operation with the competent organizations;

(d) Encourage the increase of technical assistance to national programmes for the processing of tropical timber.

4. Research and development shall be a common function of the committees established under article 24, paragraph 1.

5. In view of the close relationship between research and development, reforestation and forest management, increased and further processing, and market intelligence, each of the permanent committees, in addition to carrying out the functions assigned to it above, shall, with regard to project proposals referred to it, including those on research and development in its area of competence:

(a) Consider and technically appraise and evaluate project proposals;

(b) In accordance with general guidelines established by the Council, decide on and implement pre-project activities necessary for making recommendations on project proposals to the Council;

(c) Identify possible sources of finance for projects referred to in article 20, paragraph 2;

(d) Follow up the implementation of projects and provide for the collection and dissemination of the results of projects as widely as possible for the benefit of all members;

(e) Make recommendations to the Council relating to projects;

(f) Carry out any other tasks related to projects assigned to it by the Council.

6. In carrying out these common functions, each committee shall take into account the need to strengthen the training of personnel in producing member countries; to consider and propose modalities for organizing

or strengthening the research and development activities and capacities of members, particularly producing members; and to promote the transfer of research know-how and techniques among members, particularly among producing members.

## CHAPTER VIII. RELATIONSHIP WITH THE COMMON FUND FOR COMMODITIES

### *Article 26* RELATIONSHIP WITH THE COMMON FUND FOR COMMODITIES

When the Common Fund becomes operational, the Organization shall take full advantage of the facilities of the Second Account of the Common Fund according to the principles set out in the Agreement Establishing the Common Fund for Commodities.

## CHAPTER IX. STATISTICS, STUDIES AND INFORMATION

### *Article 27* STATISTICS, STUDIES AND INFORMATION

1. The Council shall establish close relationships with appropriate intergovernmental, governmental and non-governmental organizations, in order to help ensure the availability of recent and reliable data and information on all factors concerning tropical timber. The Organization, in co-operation with such organizations, shall compile, collate and, as necessary, publish such statistical information on production, supply, trade, stocks, consumption and market prices of tropical timber, and on related areas, as is necessary for the operation of this Agreement.

2. Members shall, to the fullest extent possible not inconsistent with their national legislation, furnish, within a reasonable time, statistics and information on tropical timber requested by the Council.

3. The Council shall arrange to have any necessary studies undertaken of the trends and of short- and long-term problems of the world tropical timber market.

4. The Council shall ensure that information furnished by members shall not be used in such a manner as to prejudice the confidentiality of the operations of persons or companies producing, processing or marketing tropical timber.

### *Article 28* ANNUAL REPORT AND REVIEW

1. The Council shall, within six months after the close of each calendar year, publish an annual report on its activities and such other information as it considers appropriate.

2. The Council shall annually review and assess the world tropical timber situation and exchange views on the outlook for, and other issues closely related to, the world tropical timber economy, including ecological and environmental aspects.

3. The review shall be carried out in the light of:  
(a) Information supplied by members in relation to national production, trade, supply, stocks, consumption and prices of tropical timber;

(b) Statistical data and specific indicators provided by members on the areas listed in annex C; and

(c) Such other relevant information as may be available to the Council either directly or through the appropriate organizations in the United Nations system and appropriate intergovernmental, governmental or non-governmental organizations.

4. The results of the review shall be included in the reports of the Council's deliberations.

## CHAPTER X. MISCELLANEOUS

### *Article 29*

#### COMPLAINTS AND DISPUTES

Any complaint that a member has failed to fulfil its obligations under this Agreement and any dispute concerning the interpretation or application of this Agreement shall be referred to the Council for decision. Decisions of the Council on these matters shall be final and binding.

### *Article 30*

#### GENERAL OBLIGATIONS OF MEMBERS

1. Members shall for the duration of this Agreement use their best endeavours and co-operate to promote the attainment of its objectives and to avoid any action contrary thereto.

2. Members undertake to accept as binding decisions of the Council under the provisions of this Agreement and shall seek to refrain from implementing measures which would have the effect of limiting or running counter to them.

### *Article 31*

#### RELIEF FROM OBLIGATIONS

1. Where it is necessary on account of exceptional circumstances or emergency or *force majeure* not expressly provided for in this Agreement, the Council may, by special vote, relieve a member of an obligation under this Agreement if it is satisfied by an explanation from that member regarding the reasons why the obligation cannot be met.

2. The Council, in granting relief to a member under paragraph 1 of this article, shall state explicitly the terms and conditions on which, and the period for which, the member is relieved of such obligation, and the reasons for which the relief is granted.

### *Article 32*

#### DIFFERENTIAL AND REMEDIAL MEASURES AND SPECIAL MEASURES

1. Developing importing members whose interests are adversely affected by measures taken under this Agreement may apply to the Council for appropriate differential and remedial measures. The Council shall

consider taking appropriate measures in accordance with section III, paragraphs 3 and 4, of resolution 93 (IV) of the United Nations Conference on Trade and Development.

2. Members in the category of least developed countries as defined by the United Nations may apply to the Council for special measures in accordance with section III, paragraph 4, of resolution 93 (IV) and with paragraph 82 of the Substantial New Programme of Action for the 1980s for the Least Developed Countries.

## CHAPTER XI. FINAL PROVISIONS

### *Article 33*

#### DEPOSITARY

The Secretary-General of the United Nations is hereby designated as the depositary of this Agreement.

### *Article 34*

#### SIGNATURE, RATIFICATION, ACCEPTANCE AND APPROVAL

1. This Agreement shall be open for signature at United Nations Headquarters from 2 January 1984 until one month after the date of its entry into force by Governments invited to the United Nations Conference on Tropical Timber, 1983.

2. Any Government referred to in paragraph 1 of this article may:

(a) At the time of signing this Agreement, declare that by such signature it expresses its consent to be bound by this Agreement (definitive signature); or

(b) After signing this Agreement, ratify, accept or approve it by the deposit of an instrument to that effect with the depositary.

### *Article 35*

#### ACCESSION

1. This Agreement shall be open for accession by the Governments of all States upon conditions established by the Council, which shall include a time-limit for the deposit of instruments of accession. The Council may, however, grant extensions of time to Governments which are unable to accede by the time-limit set in the conditions of accession.

2. Accession shall be effected by the deposit of an instrument of accession with the depositary.

### *Article 36*

#### NOTIFICATION OF PROVISIONAL APPLICATION

A signatory Government which intends to ratify, accept or approve this Agreement, or a Government for which the Council has established conditions for accession but which has not yet been able to deposit its instrument, may, at any time, notify the depositary that it will apply this Agreement provisionally either when it enters into force in accordance with article 37, or, if it is already in force, at a specified date.

*Article 37*  
ENTRY INTO FORCE

1. This Agreement shall enter into force definitively on 1 October 1984 or on any date thereafter, if 12 Governments of producing countries holding at least 55 per cent of the total votes as set out in annex A to this Agreement, and 16 Governments of consuming countries holding at least 70 per cent of the total votes as set out in annex B to this Agreement have signed this Agreement definitively or have ratified, accepted or approved it or acceded thereto pursuant to article 34, paragraph 2, or article 35.

2. If this Agreement has not entered into force definitively on 1 October 1984, it shall enter into force provisionally on that date or on any date within six months thereafter, if 10 Governments of producing countries holding at least 50 per cent of the total votes as set out in annex A to this Agreement, and 14 Governments of consuming countries holding at least 65 per cent of the total votes as set out in annex B to this Agreement, have signed this Agreement definitively or have ratified, accepted or approved it pursuant to article 34, paragraph 2, or have notified the depositary under article 36 that they will apply this Agreement provisionally.

3. If the requirements for entry into force under paragraph 1 or paragraph 2 of this article have not been met on 1 April 1985, the Secretary-General of the United Nations shall invite those Governments which have signed this Agreement definitively or have ratified, accepted or approved it pursuant to article 34, paragraph 2, or have notified the depositary that they will apply this Agreement provisionally, to meet at the earliest time practicable to decide whether to put this Agreement into force provisionally or definitively among themselves in whole or in part. Governments which decide to put this Agreement into force provisionally among themselves may meet from time to time to review the situation and decide whether this Agreement shall enter into force definitively among themselves.

4. For any Government which has not notified the depositary under article 36 that it will apply this Agreement provisionally and which deposits its instrument of ratification, acceptance, approval or accession after the entry into force of this Agreement, this Agreement shall enter into force on the date of such deposit.

5. The Secretary-General of the United Nations shall convene the first session of the Council as soon as possible after the entry into force of this Agreement.

*Article 38*  
AMENDMENTS

1. The Council may, by special vote, recommend an amendment of this Agreement to the members.

2. The Council shall fix a date by which members shall notify the depositary of their acceptance of the amendment.

3. An amendment shall enter into force 90 days after the depositary has received notifications of acceptance from members constituting at least two thirds of

the producing members and accounting for at least 85 per cent of the votes of the producing members, and from members constituting at least two thirds of the consuming members and accounting for at least 85 per cent of the votes of the consuming members.

4. After the depositary informs the Council that the requirements for entry into force of the amendment have been met, and notwithstanding the provisions of paragraph 2 of this article relating to the date fixed by the Council, a member may still notify the depositary of its acceptance of the amendment, provided that such notification is made before the entry into force of the amendment.

5. Any member which has not notified its acceptance of an amendment by the date on which such amendment enters into force shall cease to be a party to this Agreement as from that date, unless such member has satisfied the Council that its acceptance could not be obtained in time owing to difficulties in completing its constitutional or institutional procedures, and the Council decides to extend for that member the period for acceptance of the amendment. Such member shall not be bound by the amendment before it has notified its acceptance thereof.

6. If the requirements for the entry into force of the amendment have not been met by the date fixed by the Council in accordance with paragraph 2 of this article, the amendment shall be considered withdrawn.

*Article 39*  
WITHDRAWAL

1. A member may withdraw from this Agreement at any time after the entry into force of this Agreement by giving written notice of withdrawal to the depositary. That member shall simultaneously inform the Council of the action it has taken.

2. Withdrawal shall become effective 90 days after the notice is received by the depositary.

*Article 40*  
EXCLUSION

If the Council decides that any member is in breach of its obligations under this Agreement and decides further that such breach significantly impairs the operation of this Agreement, it may, by special vote, exclude that member from this Agreement. The Council shall immediately so notify the depositary. Six months after the date of the Council's decision, that member shall cease to be a party to this Agreement.

*Article 41*  
SETTLEMENT OF ACCOUNTS WITH WITHDRAWING OR EXCLUDED MEMBERS OR MEMBERS UNABLE TO ACCEPT AN AMENDMENT

1. The Council shall determine any settlement of accounts with a member which ceases to be a party to this Agreement owing to:

(a) Non-acceptance of an amendment to this Agreement under article 38;

(b) Withdrawal from this Agreement under article 39; or

(c) Exclusion from this Agreement under article 40.

2. The Council shall retain any contribution paid to the Administrative Account by a member which ceases to be a party to this Agreement.

3. A member which has ceased to be a party to this Agreement shall not be entitled to any share of the proceeds of liquidation or the other assets of the Organization. Nor shall such member be liable for payment of any part of the deficit, if any, of the Organization upon termination of this Agreement.

#### *Article 42*

##### DURATION, EXTENSION AND TERMINATION

1. This Agreement shall remain in force for a period of five years after its entry into force unless the Council, by special vote, decides to extend, renegotiate or terminate it in accordance with the provisions of this article.

2. The Council may, by special vote, decide to extend this Agreement for not more than two periods of two years each.

3. If, before the expiry of the five-year period referred to in paragraph 1 of this article, or before the expiry of an extension period referred to in paragraph 2 of this article, as the case may be, a new agreement to replace this Agreement has been negotiated but has not yet entered into force either definitively or provisionally, the Council may, by special vote, extend this Agreement until the provisional or definitive entry into force of the new agreement.

4. If a new agreement is negotiated and enters into force during any period of extension of this Agreement

under paragraph 2 or paragraph 3 of this article, this Agreement, as extended, shall terminate upon the entry into force of the new agreement.

5. The Council may at any time, by special vote, decide to terminate this Agreement with effect from such date as it may determine.

6. Notwithstanding the termination of this Agreement, the Council shall continue in being for a period not exceeding 18 months to carry out the liquidation of the Organization, including the settlement of accounts, and, subject to relevant decisions to be taken by special vote, shall have during that period such powers and functions as may be necessary for these purposes.

7. The Council shall notify the depositary of any decision taken under this article.

#### *Article 43*

##### RESERVATIONS

Reservations may not be made with respect to any of the provisions of this Agreement.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have affixed their signatures under this Agreement on the dates indicated.

DONE at Geneva on the eighteenth day of November, one thousand nine hundred and eighty-three, the text of this Agreement in the Arabic, English, French, Russian and Spanish languages being equally authentic. The authentic Chinese text of this Agreement shall be established by the depositary and submitted for adoption to all signatories and States and intergovernmental organizations which have acceded to this Agreement.

## ANNEXES

## ANNEX A

List of producing countries with tropical forest resources and/or net exporters of tropical timber in volume terms, and allocation of votes for the purposes of article 37

Bolivia .....	21
Brazil .....	130
Burma .....	31
Central African Republic .....	20
Colombia .....	23
Congo .....	20
Costa Rica .....	9
Dominican Republic .....	9
Ecuador .....	14
El Salvador .....	8
Gabon .....	21
Ghana .....	20
Guatemala .....	10
Haiti .....	8
Honduras .....	9
India .....	32
Indonesia .....	139
Ivory Coast .....	21
Liberia .....	20
Madagascar .....	20
Malaysia .....	126
Mexico .....	13
Nigeria .....	20
Panama .....	9
Papua New Guinea .....	24
Peru .....	25
Philippines .....	43
Sudan .....	20
Suriname .....	14
Thailand .....	19
Trinidad and Tobago .....	8
United Republic of Cameroon .....	20
United Republic of Tanzania .....	20
Venezuela .....	15
Viet Nam .....	18
Zaire .....	21

TOTAL 1,000

## ANNEX B

List of consuming countries and allocation of votes for the purposes of article 37

Argentina .....	14
Australia .....	20
Austria .....	12
Bulgaria .....	10
Canada .....	16
Chile .....	10
Egypt .....	11
European Economic Community .....	(277)
Belgium/Luxembourg .....	21
Denmark .....	13
France .....	56
Germany, Federal Republic of .....	44
Greece .....	14
Ireland .....	12
Italy .....	41
Netherlands .....	35
United Kingdom of Great Britain and Northern Ireland .....	41
Finland .....	10
Iraq .....	10
Israel .....	12
Japan .....	350
Jordan .....	10
Malta .....	10
New Zealand .....	10
Norway .....	11
Republic of Korea .....	56
Romania .....	10
Spain .....	24
Sweden .....	11
Switzerland .....	11
Turkey .....	10
Union of Soviet Socialist Republics .....	14
United States of America .....	79
Yugoslavia .....	12

TOTAL 1,000

## ANNEX C

## Statistical data and specific indicators needed as identified for the monitoring of international tropical timber trade\*

	<i>From producing members</i>	<i>From consuming members</i>
A. <i>Basic monthly data for regular monitoring of major tropical timber trade flows</i>	Export volumes (values): by products, species, destination and other available relevant details Average f.o.b. prices: for specific products and species representative of major trade flows	Import volumes (values): by products, species, origin and other available relevant details Average c.i.f. prices: for specific products and species representative of major trade flows
B. <i>Specific supplementary data and indicators from which short-term supply-demand for tropical wood can be derived</i>	Periodic evaluation of stocks at point of embarkation and, if possible, at intermediate stages Forest industry production (capacity) and industrial wood input/output Removals of industrial timber from forests Freight rates Export quotas—trade incentives Climatic obstacles—natural catastrophes	Periodic evaluation of stocks at point of debarkation and, if possible, at intermediate stages Share of tropical timber in total timber trade Exports and re-exports of wood products Building activity, housing starts, mortgage rates Furniture production
C. <i>Other relevant specific information</i>	Changes in tariffs and non-tariff obstacles	End-use surveys in major sectors using tropical timber Changes in veneer surface fashion Changes in tariffs and non-tariff obstacles Trends in substitution among wood and with other products
D. <i>General economic indicators and information directly or indirectly affecting the international (tropical) timber trade</i>	Publicly available and relevant national and international economic and financial indicators, e.g. gross national product, exchange rates, interest rates, inflation rates, terms of trade, National and international policies and measures affecting international tropical timber trade.	

\* Annexed pursuant to the consensus reached in the Executive Committee of the Conference on 29 March 1983.

## APPENDIX B

The Draft Global Forests Convention of  
the Food and Agriculture Organization  
of the United Nations

DRAFT

18.10.90

POSSIBLE MAIN ELEMENTS OF AN INSTRUMENT  
(Convention, Agreement, Protocol, Charter, etc.)  
FOR THE CONSERVATION AND DEVELOPMENT OF THE WORLD'S FORESTS

## TABLE OF CONTENTS

I	Preamble
II	Definitions
III	General Goals of the Instrument
IV	Specific Goals of the Instrument
V	Main Obligations of the Parties
	1. Integration of Forest Considerations into General Development Policy
	2. Formulation of National Forest Policy
	3. National Forest Service
	4. Monitoring of Forest Resources; National Forest Inventory
	5. Sustainable Use/Development of Forests
	6. Protected Areas
	7. Protection of Indigenous Populations
	8. Protection of Biodiversity
	9. Controls on Activities likely to Jeopardize Sustainable Use of Forests
	10. Mitigation of Climate Change Effects through Maintenance of Existing Forest Areas
	11. Commitment to Increase Forest Areas
	12. Strengthening of Education, Public Information and Institution Building Efforts in Forestry and Related Fields
	13. Fuelwood and Energy
	14. Forest-based Industrial Development
	15. Prevention of Pollution
	16. Research Relating to Forest Conservation and Development

VI

International Cooperation

1. Commitment by Parties to Support  
Bilateral Multilateral Development Aid  
and Investment that Promote the  
Conservation and Sustainable  
Development of Forests
2. Commitment by Parties from the Developed  
World to Increase International Resource  
Flows to Parties from the Developing World  
in order to help them meet their Obligations  
and Engagements under the Instrument
3. Trade Policy that Encourages the Conservation  
and Sustainable Development of Forests

VI

Institutional Arrangements

1

POSSIBLE MAIN ELEMENTS OF AN INSTRUMENT  
(Convention, Agreement, Protocol, Charter, etc.)  
FOR THE CONSERVATION AND DEVELOPMENT OF THE WORLD'S FORESTS

I. Preamble

In accordance with general usage, the preamble could set forth the motives and the basic principles of the Instrument.

1. Motives should include:

(a) Resources. Forests are a precious resource for mankind for the production of food, fibre, fuel and shelter. The use of forests plays a major role in the economies of many countries. There are close links between forest conservation and forest development in contributing to sustainable socio-economic development and to the satisfaction of basic human needs.

(b) Biological Diversity. Forests are a major source of biological diversity. They contain not only woody species and wild animals but - especially in the moist and seasonal tropics and in some parts of the sub-tropics - a wealth of other plant species of actual or potential socio-economic value, including gene pools of wild relatives and primitive cultivars of our main food crops.

(Note: It is estimated that the forest ecosystems of seven countries - Australia, Brazil, Colombia, Indonesia, Madagascar, Mexico and Zaire - contain at least 40% of all the mammalian species and 79% of the primate species of the planet, 60% of the bird species and 50% of all vegetal species).

(c) Social and Cultural Diversity. Forests are important for the maintenance of social and cultural diversity, particularly for local peoples, including indigenous and forest peoples

and other communities that depend on forests. They are also of educational, scientific, cultural and spiritual importance for many peoples - including urban peoples that do not directly depend upon forests for their livelihood.

- (d) Protecting Watersheds. Forests are important for maintaining and protecting watersheds and for the protection of other bio-systems, including riverine and coastal areas, as well as protecting urban areas from flooding.
- (e) Maintaining Soil Cover. Natural and replanted forests are important for maintaining soil cover, arresting desertification and for the long-term sustainability of agricultural land; they provide other essential environmental services on a local or regional level.
- (f) Climatic Stability. The conservation of the world's forests is essential for global climatic stability, particularly having regard to the important contribution of forest destruction to global warming through the emission of carbon-dioxide, methane and other trace gases and to the role of forests as reservoirs and sinks of greenhouse gases.

(Note: Forests contributes approximately 20% of the global anthropogenic carbon-dioxide release into the atmosphere. Conversion of forests to agricultural and urban lands accompanied by burning of the forest materials and oxidation of soils during land conversion constitute the bulk of the contribution.)

## 2. Principles

At least three basic principles could be recognized.

- (a) Sovereignty. The sovereignty of states over the forest resources and potential resources under their jurisdiction.
- (b) Stewardship. The stewardship of those resources in such a manner as to ensure the attainment and continued satisfaction of human needs for present and future generations.
- (c) Burden-sharing. There should be an equitable sharing by the international community of the burden of forest conservation and development, including the application of financial compensation mechanisms to offset opportunity costs of forest conservation undertaken for the purpose of contributing to international environmental goals (e.g. preserving biological diversity and climatic stability).

## II Definitions

1. "Forests" - to include all forests: tropical, <sup>temperate</sup> and boreal.
2. "Sustainable use/development" - Sustainable use/development means the management and conservation of the national resource base, and the orientation of technological and institutional change in such a manner as to ensure the attainment and continued satisfaction of human needs for present and future generations. Such sustainable use/development in the forestry sector conserves land, water, plant and animal genetic resources, is environmentally non-degrading, technically appropriate, economically viable and socially acceptable.
3. Interpretation of "Party" - "Party" means a State or any regional economic integration organization constituted by sovereign States which has competence

in respect of the negotiation, conclusion and application of international agreements in matters covered by this Convention for which this Convention is in force.

In matters within their competence, the regional economic integration organizations which are Parties to this Convention shall in their own name exercise the rights and fulfil the responsibilities which this Convention attributes to their member States. In such cases the member States of these organizations shall not be entitled to exercise such rights individually.  
(to be completed)

### III.

#### General Goals of the Instrument

1. These should apply to all types of forest - tropical, temperate and boreal - and includes:
  - (a) Conservation. The conservation and protection of natural forest ecosystems and the maintenance of biodiversity.
  - (b) Sustainable Management. The sustainable management of forests for wood or non-wood products or services;
  - (c) Rehabilitation. The rehabilitation of degraded forests to improve their ecological functions and increase their productivity;
  - (d) Afforestation. Afforestation of low productivity areas and waste or barren lands.
  - (e) Watershed Management. Management and expansion of catchment forests and other tree vegetation types that contribute directly to agricultural production, erosion control or water regime stabilization.

- (f) Reduction of Damage by Pollution. The protection of forests from damage from other national and international causes - particularly air pollution and acid deposition.
- (g) Global Environmental Services. The reduction of net biotic emissions of carbon dioxide and other greenhouse gases from the forest sector.

#### IV. Specific Goals of the Instrument

1. The parties should agree on the following specific goals of the Instrument.

- (a) No loss of global forested area. In view of their vital contribution to national economic and social development, to the maintenance of biodiversity and to regional and global climatic stability, there should be no loss of the global forested area and that area should be increased whenever and wherever possible.

Parties could endorse the target (included in the Noordwijk Declaration) of a net global forest growth of 12 million hectares per year, through conservation of existing forests and through aggressive programmes of reforestation and afforestation.

- (b) Reduce global biotic emissions of CO<sub>2</sub>. In view of the critical role of forests as an absorber and contributor of greenhouse gases, a global goal could be established of reducing net biotic emissions from the forest sector to zero by the year 2000.

V Main Obligations of the Parties

The forest instrument should reflect the consensus of the parties on general rules of forest conservation and development. These general rules would aim at gradually optimizing the various types of forest land use, as well as the forestry components of other land uses, so as to reconcile ecological, economic and social requirements.

Explicit commitment of the parties should be sought for the following specific measures and tasks:

1. Integration of Forest Considerations into General Development Policy

The importance of forest conservation, the sustainable use of forests, as well as reforestation and afforestation, should be fully recognized in national development planning and forestry considerations should be integrated in all sectors of policy.

Parties should recognize that national policies must be developed to achieve spatial patterns of settlement, economic activity and administrative services that will sustain investment in, and the productivity of, forest resources and provide the maintenance or establishment of a permanent forest base.

In particular, the Parties could agree to use the following types of policies to integrate responses for conserving forests with other development factors.

- (a) Investment and fiscal policies so as to provide incentives and disincentives conducive to the sustainable management of forest resources.

(Note: Public policies affect where populations move and what they do where they settle. Public investments displace (e.g. dams), channel (e.g. roads) and attract (industrial and administrative

centres) people. Tax, wage, price, subsidy, and regulatory policies affect the relative advantages for people of different activities, intensities of investment and places for settlement and livelihood.)

- (b) Integrate forest policies with other policies aimed at reducing poverty and increasing the living standards of the population, so as to decrease population pressure on forests.
- (c) Promote sustainable agriculture/agroforestry outside currently forested areas.
- (d) Orient development policies to support small, rural producers.
- (e) Use transport systems that have less impact on forests.

## 2. Formulation of National Forest Policy

A national forest policy, forming an integral part of a national land use policy aiming at the sustainable use of all natural resources, should be formulated by means of a process seeking the consensus of all the actors involved: government, local populations and the private sector.

In this context, Parties would undertake to adopt clear targets or objectives for the conservation, reforestation, afforestation and/or sustainable development of forests, together with measures to achieve this at the national level.

Parties would also agree to formulate or revise national forest conservation and development plans covering at least the following main elements:

- (1) the preservation of primary forests by means of establishing designated protection areas, including natural reserve areas, parks, landscape protection areas, ethnological protection areas and resource protection areas;
- (2) the protection of other ecologically sensitive forest ecosystems;
- (3) the sustainable utilization of forests in the interests of socio-economic development and environmental protection;
- (4) the scope and methods for reforestation and afforestation and for the rehabilitation of degraded areas.
- (5) the monitoring of forest resources.

3. National Forest Service

Parties should commit themselves to establishing a national agency capable of managing the government forest estate, and assisting in the management of private and customarily held forests, according to the objectives laid down in the national forest policy.

4. Monitoring of Forest Resources: National Forest Inventory

- Regular monitoring of forest resources should cover important parameters such as area, health and major uses and functions.
- A national forest inventory should establish the importance of all forests independently of their ownership status. Such inventories should be responsive to a great variety of user needs and applications, addressing global climate change,

bio-diversity, biomass, ecological zone influences, wildlife habitat, desertification in dry areas, and carbon uptake, as well as the suitability of forested land for the production of timber and non-timber products. The most appropriate use should be made of satellite and computer technologies.

- National forestry action plans should give priority to the strengthening of the institutional infrastructure and technical capabilities to support the implementation of national continuous forest resources monitoring, as part of a coherent system of global monitoring of forest resources.

#### 5. Sustainable Use/Development of Forests

Parties should agree to ensure the sustainable use/development of their forests.

In order to achieve sustainable use/development of forests, Parties should agree to adopt or promote improved management practices, such as:

- (a) providing for an overall land use scheme that balances the needs for all kinds of land uses;
- (b) encouraging development projects that improve the sustainability and economic return of forest extraction (e.g. extensive systems based on harvesting non-timber forest products) and promoting policies that increase and diversify the use of forest products (fruits, timber, game, fibre);
- (c) following forestry policies to strengthen the small forest landowner, including incentives and funds to reinvest in forest management;

- (d) promotion of programmes and policies of replanting and forest regeneration after logging that compensate the rate of use;
- (e) using more species and more size classes for timber, so that intensive harvest and management are more feasible, and less extensive areas will be logged, as well as developing technologies and marketing methods to promote greater use of the lesser-known species that have good timber properties and expanding marketing potential of secondary timber species through government purchasing programmes;
- (f) promotion of multipurpose forest management compatible with genetic resource conservation;
- (g) definition of areas for wood production (or permanent forest estate with guaranteed long term forestry use);
- (h) setting of national management objectives for each forestry unit;
- (i) choosing silvicultural practices aimed at sustained yield at minimum cost, while respecting the need for ecological sustainability;
- (j) timber harvesting based on a detailed forest inventory and exactly specified plans, so as to minimize damage and maximize natural regeneration;
- (k) adopting reliable methods for controlling timber yield in order to ensure a sustained production of timber from each forest management unit;
- (l) preparing working plans which guarantee the respect of environmental standards in field operations;

- (m) specifying the conditions under which an Environmental Impact Assessment (EIA) should be required and providing for qualified staff to carry out EIAs.

#### 6. Protected Areas

Parties should pledge to implement their commitment to the, inter alia, through the designation of protected areas (parks, reserves) and establishment of measures for their protection and control.

Certain forests could be nominated by Governments for inclusion on a list of Forests of International Importance and, if the nomination is accepted (mechanism to be specified - it could be analogous to those provided for under the RAMSAR and World Heritage Conventions), the government could be eligible for "additional" financial support (see Section VI.2 on Financial Mechanisms).

#### 7. Protection of Indigenous Populations

Parties should pledge:

- (a) Respect for the basic rights and needs of local populations, including indigenous and forest peoples and other communities that depend on the forests;
- (b) the promotion of the rights and sustainable livelihood and cultural integrity of indigenous people through policies and laws that recognize and protect their land, economic, intellectual and cultural rights;
- (c) direct and effective participation of local peoples in planning and decision-making related to forest areas.

8. Protection of Biodiversity

Parties should make specific commitments regarding the role of forests in the conservation of biodiversity. Such commitments could include:

- (a) initial and periodic surveys and inventories of biological diversity in forest areas within their jurisdiction;
- (b) creating of specially protected areas in those forest areas under their jurisdiction which are important for the conservation of biological diversity and which may be at risk due to human activities;
- (c) undertaking to apply as far as forest areas falling under their jurisdiction are concerned the provisions of the Convention on Biological Diversity.

(Note. This provision would be otiose in a situation where a Contracting Party to the Forest Convention has already ratified and applied the Biodiversity Convention. However, where this is not the case, the articles of the Forestry Convention relating to biodiversity could provide useful added value.)

9. Controls on Activities likely to Jeopardize Sustainable Use of Forests

Parties should agree to control activities that degrade the potential use of a forest as an economic and ecological resource, particularly:

- (a) agricultural practices that result in permanent impoverishment of the soil and vegetation;
- (b) the clearing of forests for grazing purposes only;

- (c) extractive industries (such as mining and logging);
- (d) major public or private development schemes (such as roads, dams, etc.).

In the case of the last two categories, Parties should agree to insist that a full Environmental Impact Assessment (EIA) is carried out before the operation starts and that there is regular monitoring of effects once the operation is under way and following its completion.

10. Mitigation of Climate Change Effects through Maintenance of Existing Forest Areas

The Parties could recognize that forestry contributes approximately 20% of the global anthropogenic carbon dioxide release into the atmosphere. Conversion of forests to agricultural and urban lands accompanied by burning of the forest materials and oxidation of soils during land conversion constitute the bulk of the contributions.

Each Party could pledge that it will permit no net reduction of forest areas under its jurisdiction, as well as no loss of sustainability of any existing forest areas.

Countries unable or unwilling to pledge themselves to the above targets ('no net reduction' and 'no loss of sustainability') should nevertheless commit themselves to alternative targets and notify them to the Instrument's Secretariat, for publication and dissemination.

Achievement of the targets ('no net reduction' and 'no loss of sustainability') would be taken into account for the purpose of assessing any compensation to be made to Parties for global Environmental Services

rendered, in accordance with agreed principles. (See Section Financial Mechanisms.)

Where alternative targets have been adopted by a Contracting Party and where such targets, though falling short of the 'no net reduction' objective, are recognized nevertheless as contributing significantly to global environmental objectives, compensation from international sources should still be available.

(Note: If a Climate Convention has been ratified and has entered into force, it may be appropriate for the Instrument's Secretariat to seek the comments of the Climate Convention Secretariat on any climate-related forestry targets which Parties may adopt.)

11. Commitment to Increase Forest Areas

The Parties may further agree to increase their existing forest areas through vigorous programmes of reforestation and afforestation, through urban tree planting and the creation of urban forest reserves, and other similar methods.

Parties who decide to increase their existing forest areas may notify the Instrument's Secretariat of their targets and objectives, as well as any other details concerning the plan or programme. This information would be published and disseminated. Progress made in achieving stated targets would be taken into account for 'compensation' purposes (as described in the previous paragraph).

12. Strengthening of Education, Public Information and Institution Building Efforts in Forestry and Related Fields

Parties should pledge themselves to action aimed at removing the institutional constraints impeding the

conservation and development of forest resources by strengthening public forest administrations and related government agencies, integrating forestry concerns into development planning, providing institutional support for private and local organizations, developing professional, technical and vocational training, and improving extension and research.

13. Fuelwood and Energy

Parties should pledge themselves to action aimed at restoring fuelwood supplies in the countries affected by shortages through support for national fuelwood and wood energy programmes, development of wood-based energy systems for rural and industrial development, regional training and demonstration, and intensification of research and development.

14. Forest-based Industrial Development

Countries should pledge themselves to actions aimed at promoting appropriate forest-based industries by intensifying resource management and development, promoting appropriate raw material harvesting, establishing and managing appropriate forest industries, reducing waste, and developing the marketing of forest industry products.

15. Prevention of Pollution

Parties should pledge to increase their efforts to combat damage to forests and woodlands from pollution, notably air pollution and acid deposition, having regard to the 'critical load' of pollutants not to be exceeded in such ecosystems. They should take positive urgent steps to curb pollutants emitted from industrial installations and motorvehicles.

They should engage themselves to ratify as early as possible relevant regional conventions and agreements relating to air-pollution liable to cause forest damage (e.g. sulphur dioxide, NO<sup>x</sup>, ozone, etc. and, where such conventions do not exist, to use their best efforts to bring them into being as soon as possible.

They should also pledge themselves to conclude, where appropriate, bilateral agreements with neighbouring countries designed to limit the trans-boundary effects of air-pollution on forest ecosystems.

(Note: It is now clear that forests in industrialized countries, especially but exclusively those in Eastern Europe, have been severely damaged by emissions of sulphur dioxide, ozone and other industrial wastes. The annual loss of production from forest depletion is estimated at US\$ 30,000 million in Europe alone.)

16. Research Relating to Forest Conservation and Development

The Parties should recognize the need for the expansion of research systems and programmes on forest conservation and management, reforestation, afforestation, agroforestry, forest products utilization and related fields such as the forest sector's contribution and response to expected climate change.

Critical areas of research include:

- (a) basic research on the national function of the forests, including cycles of carbon and nutrients, as well as biotic interactions;
- (b) species life-histories, distribution and community compositions;
- (c) a more complete inventory of forests species and ecosystems;
- (d) aquatic ecosystems and wetlands;

- (e) water yield;
- (f) forest fire frequency and severity;
- (g) insect and disease outbreak;
- (h) wildlife and domestic livestock - habitat relations;
- (i) the contribution of the forest sector to climate change;
- (j) the impact of climate change on forests - tropical, temperate, boreal; and on woodlands and savannahs.
- (k) the impact of pollution on forests and trees.

Preferably, such research should be done by national and local research institutions. As relevant, research should be carried out at the regional level and at the international level through such organizations as the International Union of Forestry Research Organizations (IUFRO) and the Consultative Group on International Agricultural Research (CGIAR).

## VI International Cooperation

### 1. Commitment by Parties to Support Bilateral and Multilateral Development Aid and Investment that Promote the Conservation and Sustainable Development of Forests

The Parties should pledge to support bilateral and multilateral development aid, and

- (a) to encourage investments, that provide activities having a positive impact upon forest conservation and sustainable development (including activities outside the forestry sector);
- (b) refrain from activities that have a negative impact upon forest conservation and sustainable development or which have not been subject to an assessment of that impact.

The Parties should encourage the international organizations and financial institutions active in forestry and other related fields and of which they are members, notably the World Bank, the International Monetary Fund (IMF), the Regional Development Banks, the European Economic Community (EEC), the United Nations Development Programme (UNDP), the Food and Agriculture Organization of the United Nations (FAO), the International Tropical Timber Organization (ITTO), to review their policies and programmes of technical assistance, capital investment, or debt management, as appropriate, with a view to eliminating existing impediments for countries to make progress in achieving the objectives of the Instrument.

More specifically, Parties should encourage multilateral and bilateral international cooperation agencies in particular to:

- strengthen national institutional, scientific, technical and economic capabilities with regard to forest conservation and sustainable development, in particular through existing arrangements such as the Tropical Forestry Action Programme (TFAP). These arrangements would be reformed or adapted as required;
- encourage participation in a world-wide network to develop, sustain and utilize suitable technical tools, such as the proposed Global Forest Resources Monitoring Programme, to obtain regular and accurate information on the extent, health, rate of conversion to other uses and economic potentials of the forests on a world-wide basis;
- support activities directly related to forest conservation and sustainable development conducted by other international governmental and non-governmental institutions, such as the

International Union for the Conservation of Nature and Natural Resources (IUCN) and the World-Wide Fund for Nature (WWF).

2. Commitment by Parties from the Developed World to Increase International Resource Flows to Parties from the Developing World in order to Help them meet their Obligations and Responsibilities under the Instrument

Parties from the developed world should pledge to help increase international resource flows to Parties from the developing world ("additionality") in order to compensate them for the global environmental services rendered and the opportunity costs foregone to other users of the forest.

Such global environmental services would include, inter alia, those provided by forest conservation and development programmes intended to mitigate climate change effects through the maintenance of existing forest areas (see Section V.10).

Actions to be taken to meet this pledge might include:

- (a) increasing aid and investment flows through existing mechanisms (e.g. multilateral and bilateral funding), special attention being given to the role of the TRAP in providing a framework for the coordination of these "additional" flows;
- (b) new sources of funds, e.g. the World Bank's Global Environmental Facility, which might be available for the purpose;
- (c) general debt relief operations;
- (d) structural adjustment packages;
- (e) debt for nature swaps.

(The principles for allocating such "additional" resources as compensation to developing countries for environmental services rendered would need to include, inter alia, the extent to which the country has met or is meeting its stated forestry targets, and possibly other factors such as level of economic development, area available for forestry, etc. Account would need to be taken of parallel initiatives to provide "compensation for environmental services", e.g. under the Vienna Ozone Convention and its CFC's protocol or in the context of the reduction of energy-related CO<sub>2</sub> emissions under the future Climate Convention. Innovative proposals on funding are also expected from the Secretariat of the United Nations Conference on Environment and Development.)

3. Trade Policy that Encourages the Conservation and Sustainable Development of Forests

Parties should pledge to carry out trade policies that encourage the conservation and sustainable development of forests, and to improve the terms of trade for forest productions coming from sustainably managed forest resources.

In particular, the Parties agree to the following:

- (a) timber price should be used as a policy mechanism to promote sustainable resource management;
- (b) to work for the reduction or elimination of tariffs against imports of tropical crop products and to negotiate improvements in the terms of trade for such products. This action should include not only tropical forest products but also agricultural products, with the objective, inter alia, of encouraging greater agricultural production intensity and thus reducing the pressure to develop new farmlands which may lead to increased deforestation;

- (c) to work for the reduction or removal of non-tariff barriers which are used specifically to restrict trade, such as quantitative restrictions, as well as other non-tariff barriers which may have other primary aims (such as certain health, safety and technical standards) but which either intentionally or unintentionally also restrict trade.

Restrictions on trade of certain forest products are, however, provided for under the Convention on International Trade in Endangered species of Wild Flora and Fauna (CITES) and Parties should confirm their commitment to that Convention.

Parties could also, individually or collectively, undertake to apply restrictive measures against imports from a country which does not ratify the Instrument and which permits the exploitation of its forests in a manner that is clearly inconsistent with the basic principles of the Instrument.

In the case of flagrant abuses, such restrictions could by a decision of the Parties to the Convention (see Section VI) be imposed on a general and mandatory basis.

## VI Institutional Arrangements

This aspect needs to be fully developed only when a sufficient level of consensus and maturity has been reached internationally on the substantive content of the forest Instrument. At this stage, it seems premature to advance any suggestion other than some points for consideration based on the nature of the Instrument and on general usage for legal instruments of this type:

- a Conference of the Parties would be necessary as a decision-making organ and supreme authority. For greater efficiency, decisions could be taken by majority vote, with votes being weighted according to agreed principles (e.g. forest area, GNP, participation in international financial mechanisms, etc.);
- a Secretariat of the Instrument would be needed to prepare and service the meetings of the Conference to receive reports and other information, and to inform governments and institutions concerned, as well as the general public, on matters related to the Instrument;
- the Secretariat of the Instrument could be entrusted to an existing intergovernmental organization, or to a new body.

Specific funding arrangements would be required to service the forest instrument, to allow for the functioning of its Statutory Bodies and Secretariat, and for certain central reporting and information tasks. The funds required could be raised through mandatory assessments of the parties to the Instrument based on an equitable assessment method. Entry into force of the Instrument should depend on ratifications by an appropriate number of countries from the major regions of the world covering all types of forest, tropical, temperate and boreal, accounting for, say, two-thirds of the (weighted) votes.

## APPENDIX C

UN document A/CONF.151/6/Rev.1

Non-legally binding authoritative  
statement of principles  
for a global consensus  
on the management, conservation and  
sustainable development  
of all types of forests



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Agenda item 9

ADOPTION OF AGREEMENTS ON ENVIRONMENT AND DEVELOPMENT

Non-legally binding authoritative statement of principles  
for a global consensus on the management, conservation  
and sustainable development of all types of forests

PREAMBLE

(a) The subject of forests is related to the entire range of environmental and development issues and opportunities, including the right to socio-economic development on a sustainable basis.

(b) The guiding objective of these principles is to contribute to the management, conservation and sustainable development of forests and to provide for their multiple and complementary functions and uses.

(c) Forestry issues and opportunities should be examined in a holistic and balanced manner within the overall context of environment and development, taking into consideration the multiple functions and uses of forests, including traditional uses, and the likely economic and social stress when these uses are constrained or restricted, as well as the potential for development that sustainable forest management can offer.

(d) These principles reflect a first global consensus on forests. In committing themselves to the prompt implementation of these principles, countries also decide to keep them under assessment for their adequacy with regard to further international cooperation on forest issues.

(e) These principles should apply to all types of forests, both natural and planted, in all geographic regions and climatic zones, including austral, boreal, subtemperate, temperate, subtropical and tropical.

(d) Governments should promote and provide opportunities for the participation of interested parties, including local communities and indigenous people, industries, labour, non-governmental organizations and individuals, forest dwellers and women, in the development, implementation and planning of national forest policies.

3. (a) National policies and strategies should provide a framework for increased efforts, including the development and strengthening of institutions and programmes for the management, conservation and sustainable development of forests and forest lands.

(b) International institutional arrangements, building on those organizations and mechanisms already in existence, as appropriate, should facilitate international cooperation in the field of forests.

(c) All aspects of environmental protection and social and economic development as they relate to forests and forest lands should be integrated and comprehensive.

4. The vital role of all types of forests in maintaining the ecological processes and balance at the local, national, regional and global levels through, inter alia, their role in protecting fragile ecosystems, watersheds and freshwater resources and as rich storehouses of biodiversity and biological resources and sources of genetic material for biotechnology products, as well as photosynthesis, should be recognized.

5. (a) National forest policies should recognize and duly support the identity, culture and the rights of indigenous people, their communities and other communities and forest dwellers. Appropriate conditions should be promoted for these groups to enable them to have an economic stake in forest use, perform economic activities, and achieve and maintain cultural identity and social organization, as well as adequate levels of livelihood and well-being, through, inter alia, those land tenure arrangements which serve as incentives for the sustainable management of forests.

(b) The full participation of women in all aspects of the management, conservation and sustainable development of forests should be actively promoted.

6. (a) All types of forests play an important role in meeting energy requirements through the provision of a renewable source of bio-energy, particularly in developing countries, and the demands for fuelwood for household and industrial needs should be met through sustainable forest management, afforestation and reforestation. To this end, the potential contribution of plantations of both indigenous and introduced species for the provision of both fuel and industrial wood should be recognized.

(b) National policies and programmes should take into account the relationship, where it exists, between the conservation, management and sustainable development of forests and all aspects related to the production, consumption, recycling and/or final disposal of forest products.

such guidelines, account should be taken, as appropriate and if applicable, of relevant internationally agreed methodologies and criteria.

(e) Forest management should be integrated with management of adjacent areas so as to maintain ecological balance and sustainable productivity.

(f) National policies and/or legislation aimed at management, conservation and sustainable development of forests should include the protection of ecologically viable representative or unique examples of forests, including primary/old-growth forests, cultural, spiritual, historical, religious and other unique and valued forests of national importance.

(g) Access to biological resources, including genetic material, shall be with due regard to the sovereign rights of the countries where the forests are located and to the sharing on mutually agreed terms of technology and profits from biotechnology products that are derived from these resources.

(h) National policies should ensure that environmental impact assessments should be carried out where actions are likely to have significant adverse impacts on important forest resources, and where such actions are subject to a decision of a competent national authority.

9. (a) The efforts of developing countries to strengthen the management, conservation and sustainable development of their forest resources should be supported by the international community, taking into account the importance of redressing external indebtedness, particularly where aggravated by the net transfer of resources to developed countries, as well as the problem of achieving at least the replacement value of forests through improved market access for forest products, especially processed products. In this respect, special attention should also be given to the countries undergoing the process of transition to market economies.

(b) The problems that hinder efforts to attain the conservation and sustainable use of forest resources and that stem from the lack of alternative options available to local communities, in particular the urban poor and poor rural populations who are economically and socially dependent on forests and forest resources, should be addressed by Governments and the international community.

(c) National policy formulation with respect to all types of forests should take account of the pressures and demands imposed on forest ecosystems and resources from influencing factors outside the forest sector, and intersectoral means of dealing with these pressures and demands should be sought.

10. New and additional financial resources should be provided to developing countries to enable them to sustainably manage, conserve and develop their forest resources, including through afforestation, reforestation and combating deforestation and forest and land degradation.

(d) Forest conservation and sustainable development policies should be integrated with economic, trade and other relevant policies.

(e) Fiscal, trade, industrial, transportation and other policies and practices that may lead to forest degradation should be avoided. Adequate policies, aimed at management, conservation and sustainable development of forests, including where appropriate, incentives, should be encouraged.

14. Unilateral measures, incompatible with international obligations or agreements, to restrict and/or ban international trade in timber or other forest products should be removed or avoided, in order to attain long-term sustainable forest management.

15. Pollutants, particularly air-borne pollutants, including those responsible for acidic deposition, that are harmful to the health of forest ecosystems at the local, national, regional and global levels should be controlled.

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# APPENDIX D

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on Trade and Development

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SUCCESSOR AGREEMENT TO THE INTERNATIONAL TROPICAL  
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Fourth part  
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Agenda item 8

PREPARATION OF A SUCCESSOR AGREEMENT TO THE INTERNATIONAL  
TROPICAL TIMBER AGREEMENT, 1983

DRAFT INTERNATIONAL TROPICAL TIMBER AGREEMENT, 1994

INTERNATIONAL TROPICAL TIMBER AGREEMENT, 1994

CONTENTS

<u>Article</u>		<u>Page</u>
PREAMBLE		4
CHAPTER I. OBJECTIVES		
1.	Objectives	5
CHAPTER II. DEFINITIONS		
2.	Definitions	7
CHAPTER III. ORGANIZATION AND ADMINISTRATION		
3.	Headquarters and structure of the International Tropical Timber Organization	8
4.	Membership in the Organization	9
5.	Membership by intergovernmental organizations	9
CHAPTER IV. INTERNATIONAL TROPICAL TIMBER COUNCIL		
6.	Composition of the International Tropical Timber Council	9
7.	Powers and functions of the Council	10
8.	Chairman and Vice-Chairman of the Council	10
9.	Sessions of the Council	11
10.	Distribution of votes	11
11.	Voting procedure of the Council	13
12.	Decisions and recommendations of the Council	13
13.	Quorum for the Council	13
14.	Cooperation and coordination with other organizations	14
15.	Admission of observers	14
16.	Executive Director and staff	14
CHAPTER V. PRIVILEGES AND IMMUNITIES		
17.	Privileges and immunities	15
CHAPTER VI. FINANCE		
18.	Financial accounts	16
19.	Administrative Account	17
20.	Special Account	18
21.	The Bali Partnership Fund	20
22.	Forms of payment	21
23.	Audit and publication of accounts	21
CHAPTER VII. OPERATIONAL ACTIVITIES		
24.	Policy work of the Organization	21
25.	Project activities of the Organization	22
26.	Establishment of Committees	23
27.	Functions of the Committees	23
CHAPTER VIII. RELATIONSHIP WITH THE COMMON FUND FOR COMMODITIES		
28.	Relationship with the Common Fund for Commodities	27

CHAPTER IX. STATISTICS, STUDIES AND INFORMATION

29.	Statistics, studies and information . . . . .	27
30.	Annual report and review . . . . .	28

CHAPTER X. Miscellaneous

31.	Complaints and disputes . . . . .	29
32.	General obligations of members . . . . .	29
33.	Relief from obligations . . . . .	29
34.	Differential and remedial measures and special measures . . . . .	30
35.	Review . . . . .	30
36.	Non-discrimination . . . . .	30

CHAPTER XI. FINAL PROVISIONS

37.	Depositary . . . . .	30
38.	Signature, ratification, acceptance and approval . . . . .	31
39.	Accession . . . . .	31
40.	Notification of provisional application . . . . .	31
41.	Entry into force . . . . .	32
42.	Amendments . . . . .	33
43.	Withdrawal . . . . .	34
44.	Exclusion . . . . .	34
45.	Settlement of accounts with withdrawing or excluded members or members unable to accept an amendment . . . . .	34
46.	Duration, extension and termination . . . . .	35
47.	Reservations . . . . .	35
48.	Supplementary and transitional provisions . . . . .	36

ANNEXES

- A. List of producing countries with tropical forest resources and/or net exporters of tropical timber in volume terms, and allocation of votes for the purposes of article 41.
- B. List of consuming countries and allocation of votes for the purposes of article 41.

Preamble

The Parties to this Agreement,

Recalling the Declaration and the Programme of Action on the Establishment of a New International Economic Order; the Integrated Programme for Commodities; the New Partnership for Development; the Cartagena Commitment and the relevant objectives contained in the Spirit of Cartagena,

Recalling the International Tropical Timber Agreement, 1983, and recognizing the work of the International Tropical Timber Organization and its achievements since its inception, including a strategy for achieving international trade in tropical timber from sustainably managed sources,

Recalling further the Rio Declaration on Environment and Development, the Non-Legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of all Types of Forests, and the relevant Chapters of Agenda 21 as adopted by the United Nations Conference on Environment and Development in June 1992, in Rio de Janeiro; the United Nations Framework Convention on Climate Change; and the Convention on Biological Diversity,

Recognizing the importance of timber to the economies of countries with timber producing forests,

Further recognizing the need to promote and apply comparable and appropriate guidelines and criteria for the management, conservation and sustainable development of all types of timber producing forests,

Taking into account the linkages of tropical timber trade and the international timber market and the need for taking a global perspective in order to improve transparency in the international timber market,

Noting the commitment of all members, made in Bali, Indonesia, in May 1990, to achieve exports of tropical timber products from sustainably managed sources by the year 2000 and recognizing Principle 10 of the Non-Legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of all Types of Forests which states that new and additional financial resources should be provided to developing countries to enable them to sustainably manage, conserve and develop their forests, including through afforestation, reforestation and combatting deforestation and forest and land degradation,

Noting also the statement of commitment to maintain, or achieve by the year 2000, the sustainable management of their respective forests made by consuming members who are parties to the International Tropical Timber Agreement, 1983 at the fourth session of the United Nations Conference for the Negotiation of a successor agreement to the International Tropical Timber Agreement, 1983 in Geneva on the 21 January 1994,

Desiring to strengthen the framework of international cooperation and policy development between members in finding solutions to the problems facing the tropical timber economy,

Have agreed as follows:

#### CHAPTER I. OBJECTIVES

##### Article 1 Objectives

Recognizing the sovereignty of members over their natural resources, as defined in Principle 1 (a) of the Non-Legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of all Types of Forests, the objectives of the International Tropical Timber Agreement, 1994 (hereinafter referred to as "this Agreement") are:

- (a) To provide an effective framework for consultation, international cooperation and policy development among all members with regard to all relevant aspects of the world timber economy;
- (b) To provide a forum for consultation to promote non-discriminatory timber trade practices;
- (c) To contribute to the process of sustainable development;
- (d) To enhance the capacity of members to implement a strategy for achieving exports of tropical timber and timber products from sustainably managed sources by the year 2000;

- (e) To promote the expansion and diversification of international trade in tropical timber from sustainable sources by improving the structural conditions in international markets, by taking into account, on the one hand, a long term increase in consumption and continuity of supplies, and, on the other, prices which reflect the costs of sustainable forest management and which are remunerative and equitable for members, and the improvement of market access;
- (f) To promote and support research and development with a view to improving forest management and efficiency of wood utilization as well as increasing the capacity to conserve and enhance other forest values in timber producing tropical forests;
- (g) To develop and contribute towards mechanisms for the provision of new and additional financial resources and expertise needed to enhance the capacity of producing members to attain the objectives of this Agreement;
- (h) To improve market intelligence with a view to ensuring greater transparency in the international timber market, including the gathering, compilation, and dissemination of trade related data, including data related to species being traded;
- (i) To promote increased and further processing of tropical timber from sustainable sources in producing member countries with a view to promoting their industrialization and thereby increasing their employment opportunities and export earnings;
- (j) To encourage members to support and develop industrial tropical timber reforestation and forest management activities as well as rehabilitation of degraded forest land, with due regard for the interests of local communities dependent on forest resources;
- (k) To improve marketing and distribution of tropical timber exports from sustainably managed sources;
- (l) To encourage members to develop national policies aimed at sustainable utilization and conservation of timber producing forests and their genetic resources and at maintaining the ecological balance in the regions concerned, in the context of tropical timber trade;

- (m) To promote the access to, and transfer of, technologies and technical cooperation to implement the objectives of this Agreement, including on concessional and preferential terms and conditions, as mutually agreed; and
- (n) To encourage information-sharing on the international timber market.

## CHAPTER II. DEFINITIONS

### Article 2

#### Definitions

For the purposes of this Agreement:

- (1) "Tropical timber" means non-coniferous tropical wood for industrial uses, which grows or is produced in the countries situated between the Tropic of Cancer and the Tropic of Capricorn. The term covers logs, sawnwood, veneer sheets and plywood. Plywood which includes in some measure conifers of tropical origin shall also be covered by this definition;
- (2) "Further processing" means the transformation of logs into primary wood products, semi-finished and finished products made wholly or almost wholly of tropical timber;
- (3) "Member" means a Government or an intergovernmental organization referred to in article 5 which has consented to be bound by this Agreement whether it is in force provisionally or definitively;
- (4) "Producing member" means any country with tropical forest resources and/or a net exporter of tropical timber in volume terms which is listed in annex A and which becomes a party to this Agreement, or any country with tropical forest resources and/or a net exporter of tropical timber in volume terms which is not so listed and which becomes a party to this Agreement and which the Council, with the consent of that country, declares to be a producing member;
- (5) "Consuming member" means any country listed in annex B which becomes a party to this Agreement, or any country not so listed which becomes a party to this Agreement and which the Council, with the consent of that country, declares to be a consuming member;
- (6) "Organization" means the International Tropical Timber Organization established in accordance with article 3;

(7) "Council" means the International Tropical Timber Council established in accordance with article 6;

(8) "Special vote" means a vote requiring a least two thirds of the votes cast by producing members present and voting and at least 60 per cent of the votes cast by consuming members present and voting, counted separately, on condition that these votes are cast by at least half of the producing members present and voting and at least half of the consuming members present and voting;

(9) "Simple distributed majority vote" means a vote requiring more than half of the votes cast by producing members present and voting and more than half of the votes cast by consuming members present and voting, counted separately;

(10) "Financial year" means the period from 1 January to 31 December inclusive;

(11) "Freely usable currencies" means the deutsche mark, the French franc, the Japanese yen, the pound sterling, the United States dollar and any other currency which has been designated from time to time by a competent international monetary organization as being in fact widely used to make payments for international transactions and widely traded in the principal exchange markets.

### CHAPTER III. ORGANIZATION AND ADMINISTRATION

#### Article 3

#### Headquarters and structure of the International Tropical Timber Organization

1. The International Tropical Timber Organization established by the International Tropical Timber Agreement, 1983 shall continue in being for the purposes of administering the provisions and supervising the operation of this Agreement.

2. The Organization shall function through the Council established under article 6, the committees and other subsidiary bodies referred to in article 26 and the Executive Director and staff.

3. The headquarters of the Organization shall be in Yokohama, unless the Council, by special vote, decides otherwise.

4. The headquarters of the Organization shall at all times be located in the territory of a member.

Article 4

Membership in the Organization

There shall be two categories of membership in the Organization, namely:

- (a) Producing; and
- (b) Consuming.

Article 5

Membership by intergovernmental organizations

1. Any reference in this Agreement to "Governments" shall be construed as including the European Community and any other intergovernmental organization having responsibilities in respect of the negotiation, conclusion and application of international agreements, in particular commodity agreements. Accordingly, any reference in this Agreement to signature, ratification, acceptance or approval, or to notification of provisional application, or to accession shall, in the case of such intergovernmental organizations, be construed as including a reference to signature, ratification, acceptance or approval, or to notification of provisional application, or to accession, by such intergovernmental organizations.

2. In the case of voting on matters within their competence, such intergovernmental organizations shall vote with a number of votes equal to the total number of votes attributable to their member States in accordance with article 10. In such cases, the member States of such intergovernmental organizations shall not be entitled to exercise their individual voting rights.

CHAPTER IV. INTERNATIONAL TROPICAL TIMBER COUNCIL

Article 6

Composition of the International Tropical Timber Council

1. The highest authority of the Organization shall be the International Tropical Timber Council, which shall consist of all the members of the Organization.

2. Each member shall be represented in the Council by one representative and may designate alternates and advisers to attend sessions of the Council.

3. An alternate representative shall be empowered to act and vote on behalf of the representative during the latter's absence or in special circumstances.

Article 7

Powers and functions of the Council

1. The Council shall exercise all such powers and perform or arrange for the performance of all such functions as are necessary to carry out the provisions of this Agreement.

2. The Council shall, by special vote, adopt such rules and regulations as are necessary to carry out the provisions of this Agreement and as are consistent therewith, including its own rules of procedure and the financial rules and staff regulations of the Organization. Such financial rules regulations shall, *inter alia*, govern the receipt and expenditure of funds under the Administrative Account, the Special Account and the Bali Partnership Fund. The Council may, in its rules of procedure, provide for a procedure whereby it may, without meeting, decide specific questions.

3. The Council shall keep such records as are required for the performance of its functions under this Agreement.

Article 8

Chairman and Vice-Chairman of the Council

1. The Council shall elect for each calendar year a Chairman and a Vice-Chairman, whose salaries shall not be paid by the Organization.

2. The Chairman and the Vice-Chairman shall be elected, one from among the representatives of producing members and the other from among the representatives of consuming members. These offices shall alternate each year between the two categories of members, provided, however, that this shall not prohibit the re-election of either or both, under exceptional circumstances, by special vote of the Council.

3. In the temporary absence of the Chairman, the Vice-Chairman shall act in his place. In the temporary absence of both the Chairman and the Vice-Chairman, or in the absence of one or both of them for the rest of the term for which they were elected, the Council may elect new officers from among the representatives of the producing members and/or from among the representatives of the consuming members, as the case may be, on a temporary basis or for the rest of the term for which the predecessor or predecessors were elected.

Article 9  
Sessions of the Council

1. As a general rule, the Council shall hold at least one regular session a year.
2. The Council shall meet in special session whenever it so decides or at the request of:
  - (a) The Executive Director, in agreement with the Chairman of the Council; or
  - (b) A majority of producing members or a majority of consuming members; or
  - (c) Members holding at least 500 votes.
3. Sessions of the Council shall be held at the headquarters of the Organization unless the Council, by special vote, decides otherwise. If on the invitation of any member the Council meets elsewhere than at the headquarters of the Organization, that member shall pay the additional cost of holding the meeting away from headquarters.
4. Notice of any sessions and the agenda for such sessions shall be communicated to members by the Executive Director at least six weeks in advance, except in cases of emergency, when notice shall be communicated at least seven days in advance.

Article 10  
Distribution of votes

1. The producing members shall together hold 1,000 votes and the consuming members shall together hold 1,000 votes.
2. The votes of the producing members shall be distributed as follows:
  - (a) Four hundred votes shall be distributed equally among the three producing regions of Africa, Asia-Pacific and Latin America. The votes thus allocated to each of these regions shall then be distributed equally among the producing members of that region;
  - (b) Three hundred votes shall be distributed among the producing members in accordance with their respective shares of the total tropical forest resources of all producing members; and

- (c) Three hundred votes shall be distributed among the producing members in proportion to the average of the values of their respective net exports of tropical timber during the most recent three-year period for which definitive figures are available.

3. Notwithstanding the provisions of paragraph 2 of this article, the total votes allocated to the producing members from the African region, calculated in accordance with paragraph 2 of this article, shall be distributed equally among all producing members from the African region. If there are any remaining votes, each of these votes shall be allocated to a producing member from the African region: the first to the producing member which is allocated the highest number of votes calculated in accordance with paragraph 2 of this article, the second to the producing member which is allocated the second highest number of votes, and so on until all the remaining votes have been distributed.

4. For purposes of the calculation of the distribution of votes under paragraph 2 (b) of this article, 'tropical forest resources' means productive closed broadleaved forests as defined by the Food and Agriculture Organization (FAO).

5. The votes of the consuming members shall be distributed as follows: each consuming member shall have 10 initial votes; the remaining votes shall be distributed among the consuming members in proportion to the average volume of their respective net imports of tropical timber during the three-year period commencing four calendar years prior to the distribution of votes.

6. The Council shall distribute the votes for each financial year at the beginning of its first session of that year in accordance with the provisions of this article. Such distribution shall remain in effect for the rest of that year, except as provided for in paragraph 7 of this article.

7. Whenever the membership of the Organization changes or when any member has its voting rights suspended or restored under any provision of this Agreement, the Council shall redistribute the votes within the affected category or categories of members in accordance with the provisions of this article. The Council shall, in that event, decide when such redistribution shall become effective.

8. There shall be no fractional votes.

Article 11

Voting procedure of the Council

1. Each member shall be entitled to cast the number of votes it holds and no member shall be entitled to divide its votes. A member may, however, cast differently from such votes any votes which it is authorized to cast under paragraph 2 of this article.

2. By written notification to the Chairman of the Council, any producing member may authorize, under its own responsibility, any other producing member, and any consuming member may authorize, under its own responsibility, any other consuming member, to represent its interests and to cast its votes at any meeting of the Council.

3. When abstaining, a member shall be deemed not to have cast its votes.

Article 12

Decisions and recommendations of the Council

1. The Council shall endeavour to take all decisions and to make all recommendations by consensus. If consensus cannot be reached, the Council shall take all decisions and make all recommendations by a simple distributed majority vote, unless this Agreement provides for a special vote.

2. Where a member avails itself of the provisions of article 11, paragraph 2, and its votes are cast at a meeting of the Council, such member shall, for the purposes of paragraph 1 of this article, be considered as present and voting.

Article 13

Quorum for the Council

1. The quorum for any meeting of the Council shall be the presence of a majority of members of each category referred to in article 4, provided that such members hold at least two thirds of the total votes in their respective categories.

2. If there is no quorum in accordance with paragraph 1 of this article on the day fixed for the meeting and on the following day, the quorum on the subsequent days of the session shall be the presence of a majority of members of each category referred to in article 4, provided that such members hold a majority of the total votes in their respective categories.

3. Representation in accordance with article 11, paragraph 2, shall be considered as presence.

Article 14

Cooperation and co-ordination with other organizations

1. The Council shall make arrangements as appropriate for consultations and cooperation with the United Nations and its organs, including the United Nations Conference on Trade and Development (UNCTAD) and the Commission on Sustainable Development (CSD), intergovernmental organizations, including the General Agreement on Tariffs and Trade (GATT) and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), and non-governmental organizations.

2. The Organization shall, to the maximum extent possible, utilize the facilities, services and expertise of existing intergovernmental, governmental or non-governmental organizations, in order to avoid duplication of efforts in achieving the objectives of this Agreement and to enhance the complementarity and the efficiency of their activities.

Article 15

Admission of observers

The Council may invite any non-member Government or any of the organizations referred to in article 14, article 20 and article 29, interested in the activities of the Organization to attend as observers any of the meetings of the Council.

Article 16

Executive Director and staff

1. The Council shall, by special vote, appoint the Executive Director.

2. The terms and conditions of appointment of the Executive Director shall be determined by the Council.

3. The Executive Director shall be the chief administrative officer of the Organization and shall be responsible to the Council for the administration and operation of this Agreement in accordance with decisions of the Council.

4. The Executive Director shall appoint the staff in accordance with regulations to be established by the Council. The Council shall, by special vote, decide the number of executive and professional staff the Executive Director may appoint. Any changes in the number of executive and professional staff shall be decided by the Council by special vote. The staff shall be responsible to the Executive Director.

5. Neither the Executive Director nor any member of the staff shall have any financial interest in the timber industry or trade, or associated commercial activities.

6. In the performance of their duties, the Executive Director and staff shall not seek or receive instructions from any member or from any authority external to the Organization. They shall refrain from any action which might reflect adversely on their positions as international officials ultimately responsible to the Council. Each member shall respect the exclusively international character of the responsibilities of the Executive Director and staff and shall not seek to influence them in the discharge of their responsibilities.

#### CHAPTER V. PRIVILEGES AND IMMUNITIES

##### Article 17

##### Privileges and immunities:

1. The Organization shall have legal personality. It shall in particular have the capacity to contract, to acquire and dispose of movable and immovable property, and to institute legal proceedings.

2. The status, privileges and immunities of the Organization, of its Executive Director, its staff and experts, and of representatives of members while in the territory of Japan shall continue to be governed by the Headquarters Agreement between the Government of Japan and the International Tropical Timber Organization signed at Tokyo on 27 February 1988, with such amendments as may be necessary for the proper functioning of this Agreement.

3. The Organization may conclude, with one or more countries, agreements to be approved by the Council relating to such capacity, privileges and immunities as may be necessary for the proper functioning of this Agreement.

4. If the headquarters of the Organization is moved to another country, the member in question shall, as soon as possible, conclude with the Organization a headquarters agreement to be approved by the Council. Pending the conclusion of such an Agreement, the Organization shall request the new host Government to grant, within the limits of its national legislation, exemption from taxation on remuneration paid by the Organization to its employees, and on the assets, income and other property of the Organization.

5. The Headquarters Agreement shall be independent of this Agreement. It shall, however, terminate:

- (a) By agreement between the host Government and the Organization;
- (b) In the event of the headquarters of the Organization being moved from the country of the host Government; or
- (c) In the event of the Organization ceasing to exist.

#### CHAPTER VI. FINANCE

##### Article 18

##### Financial accounts

1. There shall be established:

- (a) The Administrative Account;
- (b) The Special Account;
- (c) The Bali Partnership Fund; and
- (d) Such other accounts as the Council shall deem appropriate and necessary.

2. The Executive Director shall be responsible for the administration of these accounts and the Council shall make provision therefor in the financial rules of the Organization.

Article 19  
Administrative Account

1. The expenses necessary for the administration of this Agreement shall be brought into the Administrative Account and shall be met by annual contributions paid by members in accordance with their respective constitutional or institutional procedures and assessed in accordance with paragraphs 3, 4 and 5 of this article.

2. The expenses of delegations to the Council, the committees and any other subsidiary bodies of the Council referred to in article 26 shall be met by the members concerned. In cases where a member requests special services from the Organization, the Council shall require that member to pay the costs of such services.

3. Before the end of each financial year, the Council shall approve the administrative budget of the Organization for the following financial year and shall assess the contribution of each member to that budget.

4. The contribution of each member to the administrative budget for each financial year shall be in the proportion which the number of its votes at the time the administrative budget for that financial year is approved bears to the total votes of all the members. In assessing contributions, the votes of each member shall be calculated without regard to the suspension of any member's voting rights or any redistribution of votes resulting therefrom.

5. The initial contribution of any member joining the Organization after the entry into force of this Agreement shall be assessed by the Council on the basis of the number of votes to be held by that member and the period remaining in the current financial year, but the assessment made upon other members from the current financial year shall not thereby be altered.

6. Contributions to administrative budgets shall become due on the first day of each financial year. Contributions of members in respect of the financial year in which they join the Organization shall be due on the date on which they become members.

7. If a member has not paid its full contribution to the administrative budget within four months after such contribution becomes due in accordance with paragraph 6 of this article, the Executive Director shall request that member to make payment as quickly as possible. If that member has still not paid its contribution within two months after such request, that member shall be requested to state the reasons for its inability to make payment. If at the expiry of seven months from the due date of contribution, that member has still not paid its contribution, its voting rights shall be suspended until such time as it has paid in full its contribution, unless the Council, by special vote, decides otherwise. If, on the contrary, a member has paid its full contribution to the administrative budget within four months after such contribution becomes due in accordance with paragraph 6 of this article, the member's contribution shall receive a discount as may be established by the Council in the financial rules of the Organization.

8. A member whose rights have been suspended under paragraph 7 of this article shall remain liable to pay its contribution.

#### Article 20

##### Special Account

1. There shall be established two sub-accounts under the Special Account:

- (a) The Pre-Project Sub-Account; and
- (b) The Project Sub-Account.

2. The possible sources of finance for the Special Account may be:

- (a) The Common Fund for Commodities;
- (b) Regional and international financial institutions; and
- (c) Voluntary contributions.

3. The resources of the Special Account shall be used only for approved pre-projects or projects.

4. All expenditures under the Pre-Project Sub-Account shall be reimbursed from the Project Sub-Account if projects are subsequently approved and funded. If within six months of the entry into force of this Agreement the Council does not receive any funds for the Pre-Project Sub-Account, it shall review the situation and take appropriate action.

5. All receipts pertaining to specific identifiable pre-projects or projects under the Special Account shall be brought into that Account. All expenditures incurred on such pre-projects or projects, including remuneration and travel expenses of consultants and experts, shall be charged to the same Account.

6. The Council shall, by special vote, establish terms and conditions on which it would, when and where appropriate, sponsor projects for loan financing, where a member or members have voluntarily assumed full obligations and responsibilities for such loans. The Organization shall have no obligations for such loans.

7. The Council may nominate and sponsor any entity with the consent of that entity, including a member or members, to receive loans for the financing of approved projects and to undertake all the obligations involved, except that the Organization shall reserve to itself the right to monitor the use of resources and to follow up on the implementation of projects so financed. However, the Organization shall not be responsible for guarantees voluntarily provided by individual members or other entities.

8. No member shall be responsible by reason of its membership in the Organization for any liability arising from borrowing or lending by any other member or entity in connection with projects.

9. In the event that voluntary un earmarked funds are offered to the Organization, the Council may accept such funds. Such funds may be utilized for approved pre-projects and projects.

10. The Executive Director shall endeavour to seek, on such terms and conditions as the Council may decide, adequate and assured finance for pre-projects and projects approved by the Council.

11. Contributions for specified approved projects shall be used only for the projects for which they were originally intended, unless otherwise decided by the Council in agreement with the contributor. After the completion of a project, the Organization shall return to each contributor for specific projects the balance of any funds remaining pro rata to each contributor's share in the total of the contributions originally made available for financing that project, unless otherwise agreed to by the contributor.

Article 21  
The Bali Partnership Fund

1. A Fund for sustainable management of tropical timber producing forests is hereby established to assist producing members to make the investments necessary to achieve the objective of article 1 (d) of this Agreement.
2. The Fund shall be constituted by:
  - (a) Contributions from donor members;
  - (b) Fifty per cent of income earned as a result of activities related to the Special Account;
  - (c) Resources from other private and public sources which the Organization may accept consistent with its financial rules.
3. Resources of the Fund shall be allocated by the Council only for pre-projects and projects for the purpose set out in paragraph 1 of this article and approved in accordance with article 25.
4. In allocating resources of the Fund, the Council shall take into account:
  - (a) The special needs of members whose forestry sectors' contribution to their economies is adversely affected by the implementation of the strategy for achieving the exports of tropical timber and timber products from sustainably managed sources by the year 2000;
  - (b) The needs of members with significant forest areas who establish conservation programmes in timber producing forests.
5. The Council shall examine annually the adequacy of the resources available to the Fund and endeavour to obtain additional resources needed by producing members to achieve the purpose of the Fund. The ability of members to implement the strategy referred to in paragraph 4 (a), of this article will be influenced by the availability of resources.
6. The Council shall establish policies and financial rules for the operation of the Fund, including rules covering the settlement of accounts on termination or expiry of this Agreement.

Article 22

Forms of payment

1. Contributions to the Administrative Account shall be payable in freely usable currencies and shall be exempt from foreign-exchange restrictions.

2. Financial contributions to the Special Account and the Bali Partnership Fund shall be payable in freely usable currencies and shall be exempt from foreign-exchange restrictions.

3. The Council may also decide to accept other forms of contributions to the Special Account or the Bali Partnership Fund, including scientific and technical equipment or personnel, to meet the requirements of approved projects.

Article 23

Audit and publication of accounts

1. The Council shall appoint independent auditors for the purpose of auditing the accounts of the Organization.

2. Independently audited statements of the Administrative Account, of the Special Account, and of the Bali Partnership Fund shall be made available to members as soon as possible after the close of each financial year, but not later than six months after that date, and be considered for approval by the Council at its next session, as appropriate. A summary of the audited accounts and balance sheet shall thereafter be published.

CHAPTER VII. OPERATIONAL ACTIVITIES

Article 24

Policy work of the Organization

In order to achieve the objectives set out in article 1, the Organization shall undertake policy work and project activities in the areas of Economic Information and Market Intelligence, Reforestation and Forest Management and Forest Industry, in a balanced manner, to the extent possible integrating policy work and project activities.

Article 25

Project activities of the Organization

1. Bearing in mind the needs of developing countries, members may submit pre-project and project proposals to the Council in the fields of research and development, market intelligence, further and increased wood processing in producing member countries, and reforestation and forest management. Pre-projects and projects should contribute to the achievement of one or more of the objectives of this Agreement.

2. The Council, in approving pre-projects and projects, shall take into account:

- (a) their relevance to the objectives of this Agreement;
- (b) their environmental and social effects;
- (c) the desirability of maintaining an appropriate geographical balance;
- (d) the interests and characteristics of each of the developing producing regions;
- (e) the desirability of equitable distribution of resources among the fields referred to in paragraph 1 of this article;
- (f) Their cost-effectiveness; and
- (g) the need to avoid duplication of efforts.

3. The Council shall establish a schedule and procedure for submitting, appraising, and prioritizing pre-projects and projects seeking funding from the Organization, as well as for their implementation, monitoring and evaluation. The Council shall decide on the approval of pre-projects and projects for financing or sponsorship in accordance with article 20 or article 21.

4. The Executive Director may suspend disbursement of the Organization's funds to a pre-project or project if they are being used contrary to the project document or in cases of fraud, waste, neglect or mismanagement. The Executive Director will provide to the Council at its next session a report for its consideration. The Council shall take appropriate action.

5. The Council may, by special vote, terminate its sponsorship of any pre-project or project.

Article 26

Establishment of Committees

1. The following are hereby established as Committees of the Organization:

- (a) -- Committee on Economic Information and Market Intelligence;
- (b) Committee on Reforestation and Forest Management;
- (c) Committee on Forest Industry; and
- (d) Committee on Finance and Administration.

2. The Council may, by special vote, establish such other committees and subsidiary bodies as it deems appropriate and necessary.

3. Participation in each of the committees shall be open to all members. The rules of procedure of the committees shall be decided by the Council.

4. The committees and subsidiary bodies referred to in paragraphs 1 and 2 of this article shall be responsible to, and work under the general direction of, the Council. Meetings of the committees and subsidiary bodies shall be convened by the Council.

Article 27

Functions of the Committees

1. The Committee on Economic Information and Market Intelligence shall:

- (a) Keep under review the availability and quality of statistics and other information required by the Organization;
- (b) Analyze the statistical data and specific indicators as decided by the Council for the monitoring of international timber trade;
- (c) Keep under continuous review the international timber market, its current situation and short-term prospects on the basis of the data mentioned in sub-paragraph (b) above and other relevant information, including information related to undocumented trade;

- (d) Make recommendations to the Council on the need for, and nature of, appropriate studies on tropical timber, including prices, market elasticity, market substitutability, marketing of new products, and long-term prospects of the international tropical timber market, and monitor and review any studies commissioned by the Council;
- (e) Carry out any other tasks related to the economic, technical and statistical aspects of timber assigned to it by the Council;
- (f) Assist in the provision of technical cooperation to developing member countries to improve their relevant statistical services.

2. The Committee on Reforestation and Forest Management shall:

- (a) Promote cooperation between members as partners in development of forest activities in member countries, inter alia, in the following areas:
  - (i) Reforestation;
  - (ii) Rehabilitation;
  - (iii) Forest management;
- (b) Encourage the increase of technical assistance and transfer of technology in the fields of reforestation and forest management to developing countries;
- (c) Follow up on-going activities in this field, and identify and consider problems and possible solutions to them in cooperation with the competent organizations;
- (d) Review regularly the future needs of international trade in industrial tropical timber and, on this basis, identify and consider appropriate possible schemes and measures in the field of reforestation, rehabilitation and forest management;
- (e) Facilitate the transfer of knowledge in the field of reforestation and forest management with the assistance of competent organizations;

- (f) Co-ordinate and harmonize these activities for cooperation in the field of reforestation and forest management with relevant activities pursued elsewhere, such as those under the auspices of the Food and Agricultural Organization (FAO), the United Nations Environmental Programme (UNEP), the World Bank, the United Nations Development Programme (UNDP), regional development banks and other competent organizations.

3. The Committee on Forest Industry shall:

- (a) Promote cooperation between member countries as partners in the development of processing activities in producing member countries, inter alia, in the following areas:

- (i) Product development through transfer of technology;
- (ii) Human resources development and training;
- (iii) Standardization of nomenclature of tropical timber;
- (iv) Harmonization of specifications of processed products;
- (v) Encouragement of investment and joint ventures; and
- (vi) Marketing including the promotion of lesser known and lesser used species;

- (b) Promote the exchange of information in order to facilitate structural changes involved in increased and further processing in the interests of all member countries, in particular developing member countries;

- (c) Follow up on-going activities in this field, and identify and consider problems and possible solutions to them in cooperation with the competent organizations;

- (d) Encourage the increase of technical cooperation for the processing of tropical timber for the benefit of producing member countries.

4. In order to promote the policy and project work of the Organization in a balanced manner the Committee on Economic Information and Market Intelligence, the Committee on Reforestation and Forest Management and the Committee on Forest Industry shall each:

- (a) Be responsible for ensuring the effective appraisal, monitoring and evaluation of pre-projects and projects;

- (b) Make recommendations to the Council relating to pre-projects and projects;
- (c) Follow up the implementation of pre-projects and projects and provide for the collection and dissemination of their results as widely as possible for the benefit of all members;
- (d) Develop and advance policy ideas to the Council;
- (e) Review regularly the results of project and policy work and make recommendations to the Council on the future of the Organization's programme;
- (f) Review regularly the strategies, criteria and priority areas for programme development and project work contained in the Organization's Action Plan and recommend revisions to the Council;
- (g) Take account of the need to strengthen capacity building and human resource development in member countries;
- (h) Carry out any other task related to the objectives of this Agreement assigned to them by the Council.

5. Research and development shall be a common function of the Committees referred to in paragraphs 1, 2, and 3 of this article.

6. The Committee on Finance and Administration shall:

- (a) Examine and make recommendations to the Council regarding the approval of the Organization's administrative budget proposals and the management operations of the Organization;
- (b) Review the assets of the Organization to ensure prudent asset management and that the Organization has sufficient reserves to carry on its work;
- (c) Examine and make recommendations to the Council on the budgetary implications of the Organization's annual work programme, and the actions that might be taken to secure the resources needed to implement it;

- (d) Recommend to the Council the choice of independent auditors and review the independent audited statements;
- (e) Recommend to the Council any modifications it may judge necessary to the Rules of Procedure or the Financial Rules;
- (f) Review the Organization's revenues and the extent to which they constrain the work of the Secretariat;

#### CHAPTER VIII. RELATIONSHIP WITH THE COMMON FUND FOR COMMODITIES

##### Article 28

##### Relationship with the Common Fund for Commodities

The Organization shall take full advantage of the facilities of the Common Fund for Commodities.

#### CHAPTER IX. STATISTICS, STUDIES AND INFORMATION

##### Article 29

##### Statistics, studies and information

1. The Council shall establish close relationships with relevant intergovernmental, governmental and non-governmental organizations, in order to help ensure the availability of recent reliable data and information on the trade in tropical timber, as well as relevant information on non-tropical timber and on the management of timber producing forests. As deemed necessary for the operation of this Agreement, the Organization, in cooperation with such organizations, shall compile, collate and, where relevant, publish statistical information on production, supply, trade, stocks, consumption and market prices of timber, the extent of timber resources and the management of timber producing forests.

2. Members shall, to the fullest extent possible not inconsistent with their national legislation, furnish, within a reasonable time, statistics and information on timber, its trade and the activities aimed at achieving sustainable management of timber producing forests as well as other relevant information as requested by the Council. The Council shall decide on the type of information to be provided under this paragraph and on the format in which it is to be presented.

3. The Council shall arrange to have any relevant studies undertaken of the trends and of short and long-term problems of the international timber markets and of the progress towards the achievement of sustainable management of timber producing forests.

Article 30

Annual report and review

1. The Council shall, within six months after the close of each calendar-year, publish an annual report on its activities and such other information as it considers appropriate.

2. The Council shall annually review and assess:

- (a) The international timber situation;
- (b) Other factors, issues and developments considered relevant to achieve the objectives of this Agreement.

3. The review shall be carried out in the light of:

- (a) Information supplied by members in relation to national production, trade, supply, stocks, consumption and prices of timber;
- (b) Other statistical data and specific indicators provided by members as requested by the Council; and
- (c) Information supplied by members on their progress towards the sustainable management of their timber producing forests;
- (d) Such other relevant information as may be available to the Council either directly or through the organizations in the United Nations system and intergovernmental, governmental or non-governmental organizations.

4. The Council shall promote the exchange of views among member countries regarding:

- (a) The status of sustainable management of timber producing forests and related matters in member countries;

- (b) Resource flows and requirements in relation to objectives, criteria and guidelines set by the Organization.

5. Upon request, the Council shall endeavour to enhance the technical capacity of member countries, in particular developing member countries, to obtain the data necessary for adequate information-sharing, including the provision of resources for training and facilities to members.

6. The results of the review shall be included in the reports of the Council's deliberations.

#### CHAPTER X. MISCELLANEOUS

##### Article 31

##### Complaints and disputes

Any complaint that a member has failed to fulfil its obligations under this Agreement and any dispute concerning the interpretation or application of this Agreement shall be referred to the Council for decision. Decisions of the Council on these matters shall be final and binding.

##### Article 32

##### General obligations of members

1. Members shall, for the duration of this Agreement, use their best endeavours and cooperate to promote the attainment of its objectives and to avoid any action contrary thereto.

2. Members undertake to accept and carry out the decisions of the Council under the provisions of this Agreement and shall refrain from implementing measures which would have the effect of limiting or running counter to them.

##### Article 33

##### Relief from obligations

1. Where it is necessary on account of exceptional circumstances or emergency or force majeure not expressly provided for in this Agreement, the Council may, by special vote, relieve a member of an obligation under this Agreement if it is satisfied by an explanation from that member regarding the reasons why the obligation cannot be met.

2. The Council, in granting relief to a member under paragraph 1 of this article, shall state explicitly the terms and conditions on which, and the period for which, the member is relieved of such obligation, and the reasons for which the relief is granted.

Article 34

Differential and remedial measures and special measures

1. Developing importing members whose interests are adversely affected by measures taken under this Agreement may apply to the Council for appropriate differential and remedial measures. The Council shall consider taking appropriate measures in accordance with section III, paragraphs 3 and 4, of resolution 93 (IV) of the United Nations Conference on Trade and Development.

2. Members in the category of least developed countries as defined by the United Nations may apply to the Council for special measures in accordance with section III, paragraph 4, of resolution 93 (IV) and with paragraphs 56 and 57 of the Paris Declaration and Programme of Action for the Least Developed Countries for the 1990s.

Article 35

Review

The Council shall review the scope of this Agreement four years after its entry into force.

Article 36

Non-discrimination

Nothing in this Agreement authorizes the use of measures to restrict or ban international trade in, and in particular as they concern imports of and utilization of, timber and timber products.

CHAPTER XI. FINAL PROVISIONS

Article 37

Depositary

The Secretary-General of the United Nations is hereby designated as the depositary of this Agreement.

Article 38

Signature, ratification, acceptance and approval

1. This Agreement shall be open for signature, at United Nations Headquarters from 1 April 1984 until one month after the date of its entry into force, by Governments invited to the United Nations Conference for the Negotiation of a Successor Agreement to the International Tropical Timber Agreement, 1983.
2. Any Government referred to in paragraph 1 of this article may:
  - (a) At the time of signing this Agreement, declare that by such signature it expresses its consent to be bound by this Agreement (definitive signature); or
  - (b) After signing this Agreement, ratify, accept or approve it by the deposit of an instrument to that effect with the depositary.

Article 39

Accession

1. This Agreement shall be open for accession by the Governments of all states upon conditions established by the Council, which shall include a time-limit for the deposit of instruments of accession. The Council may, however, grant extensions of time to Governments which are unable to accede by the time-limit set in the conditions of accession.
2. Accession shall be effected by the deposit of an instrument of accession with the depositary.

Article 40

Notification of provisional application

A signatory Government which intends to ratify, accept or approve this Agreement, or a Government for which the Council has established conditions for accession but which has not yet been able to deposit its instrument, may, at any time, notify the depositary that it will apply this Agreement provisionally either when it enters into force in accordance with article 41, or, if it is already in force, at a specified date.

Article 41

Entry into force

1. This Agreement shall enter into force definitively on 1 February 1995 or on any date thereafter, if 12 Governments of producing countries holding at least 55 per cent of the total votes as set out in annex A to this Agreement, and 16 Governments of consuming countries holding at least 70 per cent of the total votes as set out in annex B to this Agreement have signed this Agreement definitively or have ratified, accepted or approved it or acceded thereto pursuant to article 38, paragraph 2, or article 39.

2. If this Agreement has not entered into force definitively on 1 February 1995, it shall enter into force provisionally on that date or on any date within six months thereafter, if, 10 Governments of producing countries holding at least 50 per cent of the total votes as set out in annex A to this Agreement, and 14 Governments of consuming countries holding at least 65 per cent of the total votes as set out in annex B to this Agreement, have signed this Agreement definitively or have ratified, accepted or approved it pursuant to article 38, paragraph 2, or have notified the depositary under article 40 that they will apply this Agreement provisionally.

3. If the requirements for entry into force under paragraph 1 or paragraph 2 of this article have not been met on 1 September 1995, the Secretary-General of the United Nations shall invite those Governments which have signed this Agreement definitively or have ratified, accepted or approved it pursuant to article 38, paragraph 2, or have notified the depositary that they will apply this Agreement provisionally, to meet at the earliest time practicable to decide whether to put this Agreement into force provisionally or definitively among themselves in whole or in part. Governments which decide to put this Agreement into force provisionally among themselves may meet from time to time to review the situation and decide whether this Agreement shall enter into force definitively among themselves.

4. For any Government which has not notified the depositary under article 40 that it will apply this Agreement provisionally and which deposits its instrument of ratification, acceptance, approval or accession after the entry into force of this Agreement, this Agreement shall enter into force on the date of such deposit.

5. The Executive Director of the Organization shall convene the Council as soon as possible after the entry into force of this Agreement.

Article 42  
Amendments

1. The Council may, by special vote, recommend an amendment of this Agreement to members.

2. The Council shall fix a date by which members shall notify the depositary of their acceptance of the amendment.

3. An amendment shall enter into force 90 days after the depositary has received notifications of acceptance from members constituting at least two thirds of the producing members and accounting for at least 75 per cent of the votes of the producing members, and from members constituting at least two thirds of the consuming members and accounting for at least 75 per cent of the votes of the consuming members.

4. After the depositary informs the Council that the requirements for entry into force of the amendment have been met, and notwithstanding the provisions of paragraph 2 of this article relating to the date fixed by the Council, a member may still notify the depositary of its acceptance of the amendment, provided that such notification is made before the entry into force of the amendment.

5. Any member which has not notified its acceptance of an amendment by the date on which such amendment enters into force shall cease to be a party to this Agreement as from that date, unless such member has satisfied the Council that its acceptance could not be obtained in time owing to difficulties in completing its constitutional or institutional procedures, and the Council decides to extend for that member the period for acceptance of the amendment. Such member shall not be bound by the amendment before it has notified its acceptance thereof.

6. If the requirements for the entry into force of the amendment have not been met by the date fixed by the Council in accordance with paragraph 2 of this article, the amendment shall be considered withdrawn.

Article 43  
Withdrawal

1. A member may withdraw from this Agreement at any time after the entry into force of this Agreement by giving written notice of withdrawal to the depositary. That member shall simultaneously inform the Council of the action it has taken.

2. Withdrawal shall become effective 90 days after the notice is received by the depositary.

3. Financial obligations to the Organization incurred by a member under this Agreement shall not be terminated by its withdrawal.

Article 44  
Exclusion

If the Council decides that any member is in breach of its obligations under this Agreement and decides further that such breach significantly impairs the operation of this Agreement, it may, by special vote, exclude that member from this Agreement. The Council shall immediately so notify the depositary. Six months after the date of the Council's decision, that member shall cease to be a party to this Agreement.

Article 45

Settlement of accounts with withdrawing or excluded members  
or members unable to accept an amendment

1. The Council shall determine any settlement of accounts with a member which ceases to be a party to this Agreement owing to:

- (a) Non-acceptance of an amendment to this Agreement under article 42;
- (b) Withdrawal from this Agreement under article 43; or
- (c) Exclusion from this Agreement under article 44.

2. The Council shall retain any contribution paid to the Administrative Account, to the Special Account, or to the Bali Partnership Fund by a member which ceases to be a party to this Agreement.

3. A member which has ceased to be a party to this Agreement shall not be entitled to any share of the proceeds of liquidation or the other assets of the Organization. Nor shall such member be liable for payment of any part of the deficit, if any, of the Organization upon termination of this Agreement.

Article 46

Duration, extension and termination

1. This Agreement shall remain in force for a period of four years after its entry into force unless the Council, by special vote, decides to extend, renegotiate or terminate it in accordance with the provisions of this article.

2. The Council may, by special vote, decide to extend this Agreement for two periods of three years each.

3. If, before the expiry of the four-year period referred to in paragraph 1 of this article, or before the expiry of an extension period referred to in paragraph 2 of this article, as the case may be, a new agreement to replace this Agreement has been negotiated but has not yet entered into force either definitively or provisionally, the Council may, by special vote, extend this Agreement until the provisional or definitive entry into force of the new agreement.

4. If a new agreement is negotiated and enters into force during any period of extension of this Agreement under paragraph 2 or paragraph 3 of this article, this Agreement, as extended, shall terminate upon the entry into force of the new agreement.

5. The Council may at any time, by special vote, decide to terminate this Agreement with effect from such date as it may determine.

6. Notwithstanding the termination of this Agreement, the Council shall continue in being for a period not exceeding 18 months to carry out the liquidation of the Organization, including the settlement of accounts, and, subject to relevant decisions to be taken by special vote, shall have during that period such powers and functions as may be necessary for these purposes.

7. The Council shall notify the depositary of any decision taken under this article.

Article 47  
Reservations

Reservations may not be made with respect to any of the provisions of this Agreement.

Article 48  
Supplementary and transitional provisions

1. This Agreement shall be the successor to the International Tropical Timber Agreement, 1983.
2. All acts by or on behalf of the Organization or any of its organs under the International Tropical Timber Agreement, 1983, which are in effect on the date of entry into force of this Agreement and the terms of which do not provide for expiry on that date shall remain in effect unless changed under the provisions of this Agreement.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have affixed their signatures under this Agreement on the dates indicated.

DONE at Geneva, on the twenty-six day of January, one thousand nine hundred and ninety-four, the text of this Agreement in the Arabic, Chinese, English, French, Russian and Spanish languages being equally authentic.

ANNEX A

List of producing countries with tropical forest resources  
and/or net exporters of tropical timber in volume terms,  
and allocation of votes for the purposes of article 41

Bolivia	21
Brazil	133
Cameroon	23
Colombia	24
Congo	23
Costa Rica	9
Côte d'Ivoire	23
Dominican Republic	9
Ecuador	14
El Salvador	9
Equatorial Guinea	23
Gabon	23
Ghana	23
Guyana	14
Honduras	9
India	34
Indonesia	170
Liberia	23
Malaysia	139
Mexico	14
Myanmar	33
Panama	10
Papua New Guinea	28
Paraguay	11
Peru	25
Philippines	25
Tanzania, United Republic of	23
Thailand	20
Togo	23
Trinidad & Tobago	9
Venezuela	10
Zaire	23
Total	<u>1,000</u>

ANNEX B

List of consuming countries and allocation of votes  
for the purposes of article 41

Afghanistan	10
Algeria	13
Australia	18
Austria	11
Bahrain	11
Bulgaria	10
Canada	12
Chile	10
China	36
Egypt	14
European Union	(302)
Belgium/Luxembourg	26
Denmark	11
France	44
Germany	35
Greece	13
Ireland	13
Italy	35
Netherlands	40
Portugal	18
Spain	25
United Kingdom	42
Finland	10
Japan	320
Nepal	10
New Zealand	10
Norway	10
Republic of Korea	97
Russian Federation	13
Slovakia	11
Sweden	10
Switzerland	11
United States of America	51
	<hr/>
	Total 1,000

# APPENDIX E

The GLOBE International Draft of a  
Convention for the Conservation  
and Wise Use of Forests

CONVENTION FOR THE CONSERVATION AND WISE USE  
OF FORESTS

LEGAL TEXT

## TABLE OF CONTENTS

<b>PART I</b>	<b>INTRODUCTION AND GENERAL MATTERS</b>	<b>22</b>
Preamble		
Article 1	Definitions	
Article 2	General Principles and Common Objectives	
<b>PART II</b>	<b>OBLIGATIONS</b>	<b>30</b>
Article 3	National Development and Land Use Policy	
Article 4	National Forest Policy	
Article 5	Regeneration, Reforestation and Afforestation	
Article 6	Forest Assessments and Surveys	
Article 7	National Forest Authority	
Article 8	Establishment of Protected Forest Areas	
Article 9	Management of Protected Forest Areas	
Article 10	Forest Peoples' Rights	
Article 11	Air Pollution	
Article 12	Water Resources and Water Pollution	
Article 13	Transboundary Forest Resources	
Article 14	Protection of Biological Diversity	
Article 15	Climate Change	
Article 16	Multilateral Development Banks and Aid Organisations	
Article 17	International Co-operation	
Article 18	Scientific Research	
Article 19	Observation and Monitoring	
Article 20	Education and Public Awareness	
Article 21	Trade and International Relations	
Article 22	Environmental Impact Assessments	
Article 23	Access to Environmental Information	
<b>PART III</b>	<b>IMPLEMENTATION</b>	<b>43</b>
Article 24	Conference of the Parties	
Article 25	Functions of the Conference	
Article 26	Establishment of the Authority	
Article 27	Functions of the Authority	
Article 28	The Organs of the Authority	
Article 29	International Compliance and Monitoring Body	
Article 30	International Forests Information Network	
Article 31	International Forests Products Council	
Article 32	Secretariat	
Article 33	Compliance	

Article 34	Transfer of Technology and Technical Skills
Article 35	Establishment of the Fund
Article 36	Purpose of the Fund
Article 37	Resources of the Fund
Article 38	Contributions
Article 39	Payments from the Fund
Article 40	Eligibility for Assistance
Article 41	Liability and Compensation
Article 42	Settlement of Disputes

**PART IV TECHNICAL ASPECTS 59**

Article 43	Adoption of Additional Protocols
Article 44	Amendment of the Convention Protocols
Article 45	Adoption and Amendments of Annexes
Article 46	Relationship Between the Convention and its Protocols
Article 47	Relation to other Conventions and Co-ordination with other Organizations
Article 48	Signature
Article 49	Ratification, Acceptance or Approval
Article 50	Accession
Article 51	Right to Vote
Article 52	Entry into Force
Article 53	Reservations
Article 54	Denunciation
Article 55	Depository
Article 56	Authentic Texts and Certified Copies

**ANNEX I Statute of the Authority 65**

**ANNEX II Rules, Regulations and Procedures for the Calculation and Collection of Contributions to the Fund**

**ANNEX III Arbitration**

DRAFT TEXT FOR A CONVENTION  
FOR THE CONSERVATION AND WISE USE OF FORESTS

**PART I. INTRODUCTION AND GENERAL MATTERS**

A. Preamble

The Parties to this Convention,

Prompted by the desire to address the special significance of forests in the environment and as prime natural resources and developmental assets in urgent need of protection and at the same time to enable the most profound understanding of the conservation and wise use of forests to be represented in a global agreement;

Conscious that forests are some of the richest sources of biological diversity on Earth and that while nature warrants respect regardless of its worth to man, forests are also of worth for the survival and well-being of all humanity.

Recognizing the vital contribution of forests and forest protection in maintaining local and global climatic stability;

Convinced of the fundamental connection between the conservation and wise use of forests and the individual and collective human rights of forest peoples;

Recognizing that factors outside the forestry sector play a large part in determining the state of forests;

Whereas international action is necessary to promote conservation of nature, natural resources, and the environment to stimulate and support national action;

Bearing in mind General Assembly Resolutions 42/184, 42/186 and 42/187 of 11 December 1987, General Assembly Resolution 43/53 of 27 January 1989, the Declaration of the United Nations Conference on the Human Environment and in particular Principle 21;

Noting parallel international legal initiatives to negotiate a Climate Change Convention and a Convention on Biological Diversity;

Believing that the creation and progressive development of law relating to the conservation and wise use of forests will contribute to the strengthening of cooperation and friendly relations between all members of international society in conformity with the principles of justice and equity;

Convinced that the economic and social advancement of all peoples of the world can only occur in harmony if the need to protect and preserve the environmental health of the planet is fully addressed;

Affirming that matters not regulated by this Convention continue to be governed by the rules and principles of general international law,

HAVE AGREED AS FOLLOWS:

## ARTICLE 1

### Definitions

1. For the purposes of this Convention:-
  - (a) "Conservation" means the directing of human behaviour towards the preservation, restoration and enhancement of the biosphere in order that the needs and aspirations of present and future generations may be satisfied and the inherent value and integrity of all life which is part of the biosphere be respected.
  - (b) "Sustainable development" means the progressive economic and social development of human society through maintaining the security of livelihood for all peoples and by enabling them to meet their present needs, together with a quality of life in accordance with their dignity and well-being, without compromising the ability of future generations to do likewise.
  - (c) "Wise use" means the use of nature, natural resources and the environment in a way which, based on the imperatives of conservation is capable of achieving sustainable development.
  - (d) "Precautionary principle" means the principle establishing a duty to take such measures that anticipate, prevent and attack the causes of environmental degradation where there is sufficient evidence to identify a threat of serious or irreversible harm to the environment even if there is not yet scientific proof that the environment is being harmed.

- (e) "Natural resources" refers to natural assets which are either renewable (such as forests, water, flora and fauna and soils) or non-renewable (such as oil, coal and minerals).
- (f) "Forests" refers to biotic communities characterized by the predominance of woody vegetation in all climatic zones (boreal, temperate, and tropical) including both closed canopy forests and open canopy woodlands; in the context of this Convention the term "forests" includes forest lands and therefore includes their natural resources; the term covers "natural forest", "modified forest", and "planted forest" as hereinafter defined.
- (g) "Natural forest" refers to forests which have not been subjected to significant anthropogenic disturbances resulting in severe alteration of the forest structure, composition, and physiognomy for the past 250 years.
- (h) "Modified forest" refers to forests which have been subjected to significant anthropogenic disturbances resulting in alteration of the forest structure by, for example, logging or shifting cultivation but retains a tree or shrub cover of indigenous species; modified forests, also known as secondary forests, include a wide range of conditions from those that have been selectively logged to those that have been heavily modified.
- (i) "Planted forest" refers to forests in which all or most trees (51% or more) have been planted or sown by people.
- (j) "Forest peoples" refers to tribal and indigenous peoples who live in forests and/or make claims to forest and all those who live in or near forests whose long-established ways of life and livelihoods are closely and directly dependent on forests.
- (k) "Deforestation" means the permanent removal of forest vegetation and/or the conversion of any forest (natural, modified, or planted) to non-forest uses such as cropland, pasture, or urban areas.
- (l) "Forest degradation" means the reduction of the biomass, productivity and/or biological diversity of a forest to such an extent that its capacity to renew itself is significantly reduced and its contribution to hydrological cycles and local and global climate stability significantly altered and "degraded forests" shall be interpreted accordingly.
- (m) "Protected forest areas" means areas of forest which are subject to legal and/or administrative measures which limit or regulate human use of the natural resources within that area.

- (n) "Protected Forest Area" means an area established by a Party in accordance with paragraph (1) of Article 8.
- (o) "Buffer zones" means areas peripheral to protected forest areas which have use restrictions to give added protection but where activities which are compatible with the objectives of the protected forest area are permitted and provide compensation to local people for the loss of access to the natural resources of the protected forests areas.
- (p) "National Forest Estate" means all the forest to be found in the area under the national jurisdiction of a Party whether or not currently classified as such.
- (q) "Permanent Forest Estate" refers to forests designated for permanent conservation or production purposes pursuant to paragraph (1) of Article 4.
- (r) "Transboundary forest resource" refers to a forest which physically crosses the boundary between an area under the national jurisdiction of one Party and an area under the national jurisdiction another Party (or State) or an area beyond the limits of national jurisdiction to the extent that its conservation or use in an area under the jurisdiction of one Party may affect its conservation and use in an area under the jurisdiction of another Party ( or State) or in an area beyond the limits of national jurisdiction or visa versa.
- (s) "Participation" means the democratic right, both individual and collective, to contribute to and be consulted by the political and legal decision-making processes which exercise control over the use of natural resources and the protection of nature and the environment including therefore, access to the public administration, the regulatory authorities, and the legal system.
- (t) "Water pollution" means the introduction by peoples, directly or indirectly, of substances or energy into either underground, surface or coastal waters resulting in deleterious effects of such a nature as to either endanger human health, harm living natural resources or their ecosystems or material property and impair or interfere with amenities and other legitimate uses of nature, natural resources and the environment and "water pollutants" shall be interpreted accordingly.
- (u) "Air pollution" means the introduction by humans, directly or indirectly, of substances or energy into the air resulting in deleterious effects of such a nature as to either endanger human health, harm living natural resources or their ecosystems or material property and impair or interfere with amenities and other legitimate uses of the environment and "air pollutants" shall be interpreted accordingly.

- (v) ~~"Long-range transboundary air pollution" means air pollution whose~~ physical origin is situated wholly or in part within the area under the national jurisdiction of one Party and which has adverse effects in the area under the jurisdiction of another Party at such a distance that it is not generally possible to distinguish the contributions of individual emission sources or groups of sources.
- (w) "Biological diversity" means the diversity of species living on the Earth, or in respect of any Party the diversity of indigenous species living in the area under the national jurisdiction of that Party; biological diversity includes genetic diversity, which is the diversity of genes and genotypes within each species; taxonomic diversity, which is the diversity between species; and ecological diversity, which is the diversity of the different types of community formed by living organisms and the relations between them.
- (x) "Adverse effects" means changes in the physical environment or biota, including changes in climate, which have significant deleterious effects on human health or on the composition, resilience or productivity of natural and managed ecosystems, or on materials useful to mankind.
- (y) "Parties" means the State Parties to this Convention including any regional economic integration organization constituted by sovereign States of a given region which has competence in respect of matters governed by this Convention or its protocols and has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to the instruments concerned.
- (z) "the Authority" refers to the Multilateral Forest Authority established in accordance with Article 26.
- (aa) "the Fund" refers to the Multilateral Forest Fund established in accordance with Article 35.
- (bb) "the Conference" means the Conference of the Parties to this Convention.

## ARTICLE 2

### General Principles and Common Objectives

1. To strengthen common understanding Parties hereby agree that they shall be guided in the application, interpretation and implementation of the obligations contained in this Convention by the following general principles for natural resources management:-

(a) Guardianship and Sovereignty

- (i) All members of international society bear the responsibility to protect nature, natural resources and the environment for the benefit of present and future generations.
- (ii) As bearers of the rights and obligations of sovereignty States have a special responsibility to ensure that the natural resources of the earth and especially representative and/or significant samples of natural ecosystems are safeguarded for the benefit of present and future generations.
- (iii) States have, in accordance with the Charter of the United Nations, principles of international law and subject to this Convention, the sovereign right to exploit their own resources pursuant to their own environmental policies, together with the responsibility to ensure that activities within their own jurisdiction and control do not cause avoidable damage to the environment and in particular to the environment of other States or areas beyond the limits of national jurisdiction.

(b) Conservation and Wise Use of Natural Resources

- (i) Parties shall maintain essential ecological processes and life support systems and preserve biological diversity through conservation and the wise use of nature, the environment and all natural and human resources.
- (ii) Parties shall, in the formulation of all development plans, programmes and policies, give full consideration to ecological factors as well as economic and social ones and ensure that conservation plays an integral part in the implementation of these.
- (iii) Parties shall ensure that the securing of individual, group and collective rights of persons to their livelihoods and to an environment adequate for their health and well-being is an integral part of the conservation and wise use of natural resources.

(c) Precaution and Protection

- (i) Parties shall recognize and undertake to apply the precautionary principle in every aspect of governance where natural resources or the environment are affected and shall accept that the burden of proving that any present or planned human economic activity does not threaten to cause avoidable serious or irreversible harm to the environment is fixed on the Party within whose territory that activity is continuing or is planned.

(d) Partnership and Cooperation

- (i) Parties shall collaborate and work together in partnership to encourage cooperation between and among States and to promote the work of inter-governmental and non-governmental organisations on relevant matters concerning the protection of nature, natural resources and the environment.
- (ii) Accepting the need to take into account the differing needs and ability of countries to respond to environmental and ecological concerns, Parties recognize the need to provide additional and adequate resources to assist the fulfilment of the Common Objectives of this Convention.

(e) Responsibility and liability

- (i) Parties shall be liable to make reparation for the consequences of the breach of their international legal obligations in accordance with international law.

2. Parties undertake to apply the General Principles set out in paragraph 1 in order to achieve the Common Objectives of this Convention:-

(a) Common Objectives

- (i) Conservation and wise use of forests and dependent and associated biological diversity, soils and watersheds to ensure continued performance of essential ecological processes including local and global climatic stability.
- (ii) Reduction and prevention of air and water pollution and other negative impacts threatening the existence of forests, reducing bio-diversity or productive capacity and leading to long-term forest degradation.
- (iii) Adoption of measures to arrest deforestation, particularly of natural forest, and immediate serious or irreversible forest degradation.

- (iv) Respect of the collective and individual rights of forest peoples and local communities to use customary lands according to social and cultural traditions which promote wise use and to secure their livelihoods and way of life.
- (v) Participation at local, national, and international levels in the preparation, implementation, and evaluation of measures affecting forest peoples, local communities, and all other forest users including the provision of information on measures affecting forests to all groups in an appropriate form.
- (vi) Effective co-ordination of policy, planning and implementation at all levels and among all sectors related to primary land use.
- (vii) Reforestation and regeneration of the productivity and biological diversity of suitable degraded forests. (reason: reforestation stands on itself, productivity or biodiversity can not be reforested.)
- (viii) Afforestation of appropriate lands to ease the burden on and secure the stability of existing forests.
- (iv) Establishment at the national, regional and international levels of facilities to further scientific research and assessment, education and training, monitoring and provision of information and the implementation of any other infrastructure support necessary to implement the obligations of this Convention and its protocols.

## PART II: OBLIGATIONS

### ARTICLE 3

#### National Development and Land Use Policy

1. Parties shall take all necessary measures, within the framework of their respective national laws, to ensure that forests are regarded as a national asset by all sectors and that the conservation and wise use of forests is treated as an integral part of development policy planning at all stages and at all levels.
2. Parties shall identify or create and maintain the appropriate co-ordinating administrative machinery necessary to review and formulate national policies to ensure that representatives from the whole range of sectors which use, convert or otherwise affect the state of forests take into account:-
  - (a) an evaluation of all the benefits which forests can provide;
  - (b) the need to treat forests as capital to ensure that everything is done to avoid irreversible reduction of the potential of forests;
  - (c) the need to ensure that harvests do not exceed sustainable levels;
  - (d) the need to maintain biological diversity;
  - (e) the needs of forests people living in and around forests.
3. Parties shall review energy policies in particular to ensure where there is considerable dependence on wood fuel sources supplies of these are restored and maintained and complemented by policies promoting alternative energy sources.
4. Parties shall encourage the optimum use of land resources and in accordance with the precautionary principle take special care to minimise irreversible and unsustainable land use changes particularly in respect of natural forests.
5. Parties shall review incentives for any activity which affects forests, such as tax concessions, credits, grants or indirect incentives such as provision of infrastructure, and shall ensure that future incentives are carefully designed to ensure optimum, sustained production of a range of products and services and their equitable distribution.

## ARTICLE 4

### National Forest Policy for the Wise Use of Forests

1. Parties shall review and formulate a National Forest Policy covering the whole range of forest values and not merely timber, the principal aim of which shall be the maintenance of their forest capital by the establishment of a Permanent Forest Estate which shall be dedicated to conservation or production.
2. The Permanent Forest Estate shall be designated in the light of information collected through the assessments and surveys undertaken by Parties pursuant to paragraphs (1) and (3) of Article 6 after Protected Forest Areas necessary for safeguarding the areas described in paragraph 1 of Article 8 have been appropriately designated and zoned within the Permanent Forest Estate.
3. Parties shall ensure that the forest capital in the Permanent Forest Estate is used wisely and managed to provide multiple benefits where possible and appropriate, including the sustainable production of wood, a variety of forest products, ecological benefits such as watershed protection and biological diversity conservation, and leisure and recreational facilities.
4. Parties shall, after taking due consideration of any international guidelines, standards, and codes of conduct developed by the Authority for the wise use and management of forest resources pursuant to paragraph 3 of Article 21, take all necessary legal, administrative and regulatory measures within the framework of their national laws, to formulate, implement and enforce national guidelines, standards, and codes of conduct for the wise use and management of their forest resources.

## ARTICLE 5

### Regeneration, Reforestation and Afforestation

1. Parties shall take urgent measures for the regeneration, reforestation and afforestation of suitable lands, paying particular attention to degraded forests or, where available, agricultural land surplus to food security requirements, and shall ensure that local peoples are consulted and involved in the development and management of such measures.

## ARTICLE 6

### Forest Assessments and Surveys

1. Where they are not already available, Parties shall undertake to prepare as soon as possible national resource surveys of all their forests which shall provide facts on population, land use, climate, topography and land form, soil, flora and fauna, mineral resources and hydrology with special attention paid to degraded forest, fragile or sensitive areas and those where there is intense pressure of people on natural resources.
2. Until detailed surveys are available, Parties shall make the greatest use of other techniques to provide such information including the use of remote sensing.
3. Parties shall undertake to assess the capability of forests lands for possible uses, benefits and values, including leisure and tourism and the establishment of Protected Forest Areas pursuant to paragraph 1 of Article 8.
4. Parties shall review, revise and update their surveys and assessments every 5 years paying particular attention to new scientific knowledge, improved technology or changing social priorities.
5. Parties undertake to consult with forest peoples and local peoples when carrying out such assessments and surveys.
6. Information collected through forest surveys and assessments shall be publicly available in a timely manner and in an appropriate form in accordance with the provisions of Article 23.
7. Principles, criteria, standardized scientific and technical techniques and procedures are to be used in such surveys and assessments to ensure that these are comparable to the greatest extent possible and these shall be drawn up by the Authority and presented to the Conference at its first ordinary meeting or as early as possible thereafter for adoption.

## ARTICLE 7

### National Forest Authority

1. Where they have not already done so, Parties shall commit themselves to establishing a National Forest Authority capable of implementing the provisions of this Convention and where several governmental institutions are involved, create the necessary coordinating mechanism for the authorities dealing with different aspects of forest conservation and management.

2. Parties shall allocate sufficient funds to the Authority to enable it to carry out its tasks as well as sufficient qualified personnel with adequate enforcement powers.

## ARTICLE 8

### Establishment of Protected Forest Areas

1. Each Party shall, after consideration of information obtained as a result of forest assessments and surveys pursuant to paragraphs (1) and (3) of Article 6, establish appropriate protected forest areas within the area under their jurisdiction for the purpose of safeguarding:-
  - (a) the ecological, physical and biological processes essential to national, transboundary and regional ecosystems and watersheds, and local and global climatic stability;
  - (b) representative samples of all types of forest ecosystems found in areas under their jurisdiction or control especially those of an exceptional or special significance;
  - (c) areas of particular importance because of their scientific, educational, aesthetic, or cultural interest;
  - (d) areas exceptionally rich in biological diversity or constituting the critical habitats of endangered or rare species, or species endemic to a small areas, or species that migrate;
  - (e) satisfactory population levels for the largest possible number of species belonging to any of these ecosystems.
2. Parties shall ensure that all customary rights are respected and shall take all measures necessary to ensure that the process of designation and establishment of protected forest areas is based on the effective participation of forest peoples and all local people who may be affected.
3. Specific objectives, criteria and guidelines to assist Parties in the selection, establishment and management of protected areas which may form the basis of a coordinated network of Protected Forest Areas throughout the world shall be drawn up by the Authority and presented to the Conference at its first ordinary meeting or as early as possible thereafter for adoption.

## ARTICLE 9

### Management of Protected Forest Areas

1. In respect of any Protected Forest Area established pursuant to this Convention the designating Party shall prepare a management plan and manage the Area in accordance with that plan reviewing and revising such plan from time to time as necessary.
2. Parties shall prohibit so far as possible:-
  - (a) those activities within the Protected Forest Area which are likely to cause disturbance or damage to its ecosystems or may undermine the effectiveness of the implementation of the management plan of that area;
  - (b) the use or release of toxic substances or pollutants which could cause disturbances or damage to the Protected Forests Area or the species it contains including the introduction of exotic species of flora and fauna;
  - (c) to the maximum extent possible, prohibit or control any activity exercised outside the Protected Forest Area where such an activity is likely to cause disturbance to the ecosystems or species that such an area purport to protect;
3. Parties shall in respect of Protected Forest Areas, establish where appropriate, a buffer zone in which all activities that may have harmful consequences on the ecosystems that such Areas purport to protect, shall be prohibited or regulated and activities consistent with the purpose of such Area promoted;
4. Where, with the consent of forests peoples, Protected Forests Areas are established on land subject to customary rights, the formulation and implementation of the management plan shall so far as possible be in the hands of or involve the effective participation of forests peoples and Parties shall ensure that assistance, financial or otherwise, is provided to such groups to enable the management plan to be effective.
5. Parties shall ensure that the National Forest Authority established or designated pursuant to paragraph 1 of Article 7, is specifically obliged to safeguard protected areas and has powers and sufficient financial resources to do so.
6. Parties shall promote, through the adoption of appropriate measures including the use of management plans, the conservation and wise use of forest areas by private owners, community or local authorities.

## ARTICLE 10

### Forest Peoples' Rights

1. Parties shall recognize and respect customary systems of land ownership and use and shall take all steps necessary to demarcate and grant title to such lands (including the right to hold land communally) on the basis of traditional claims and taking into account the needs of such peoples to adequately satisfy their current and future needs on a sustainable basis and shall take all necessary steps to protect the boundaries of such lands from encroachment.
2. Parties shall take all necessary steps to ensure the effective participation of forest peoples at the local, national, and international level in the formulation, implementation and evaluation of plans and programmes directly affecting them, and in particular, the designation of Protected Forest Areas pursuant to paragraph 1 of Article 8 and the Permanent Forest Estate pursuant to paragraph 1 of Article 4.
3. Parties shall ensure that their national development and forest policies respect and actively secure the cultural, social and economic, and political rights of forest peoples as recognized in international declarations and covenants to allow such peoples the maximum possible autonomy in the use of their customary lands.
4. Where specifically requested by forest peoples Parties shall take measures to ensure the provision of bilingual education, health facilities, and technical and scientific training (which is available to other citizens), to forest peoples including the provision of support, financial or otherwise, to local and forest peoples' organisations.

## ARTICLE 11

### Air Pollution

1. Parties shall, in view of the possible adverse effects on forests in the short and long term of air pollution including long-range transboundary air pollution, take all appropriate measures to protect forests against air pollution and shall prevent and gradually reduce air pollution which is contributing to forest degradation.
2. Parties shall develop without delay in a separate Protocol to this Convention national, regional and international policies and strategies to combat the discharge of air pollutants taking into account the need to establish means of exchanges of information, consultation, research, monitoring and regular assessments bearing in mind efforts already made at national and international level.

## ARTICLE 12

### Water Resources and Water Pollution

1. Parties shall take into account the role of forests in the maintenance of hydrological cycles in their National Forest Policy and shall take all appropriate measures, for the conservation of their underground, surface and coastal waters which are an integral part of or dependent on or associated with forest ecosystems. Such measures could include regulation and control of water utilization with a view to achieving sufficient and continuous supplies of water for, inter alia, the conservation of such forest ecosystems.
2. Parties shall, in view of the possible adverse effects on forests in the short and long term of water pollution, including transboundary effects, take all appropriate measures to prevent and reduce water pollution.
3. Parties shall co-operate in concluding bilateral or multilateral agreements between or among themselves to develop national, regional and international policies and strategies to combat water pollution affecting forests taking into account the need to establish means of exchanges of information, consultation, research, monitoring and regular assessments bearing in mind efforts already made at national and international level.

## ARTICLE 13

### Transboundary Forest Resources

1. Parties sharing transboundary forest resources shall co-operate in respect of their conservation and wise use, taking into account the rights and interests of each concerned Party.
2. Parties sharing transboundary forest resources shall use these resources in a reasonable and equitable manner with a view to avoiding to the maximum extent possible and reducing to the minimum extent possible adverse environmental effects in areas beyond the limits of their national jurisdiction.
3. Parties shall ensure that plans, programmes, policies and projects with respect to transboundary forest resources which may create a risk of significantly affecting the environment of another Party shall be subject to the provisions of Article 22.

- (a) notify in advance the other Party or Parties of the pertinent details of such plans, programmes, policies or projects to initiate, or make a change in, the conservation or utilization of the forests in question which can reasonably be expected to adversely affect nature, the natural resources or the environment of the other Party or Parties; and
  - (b) upon request of the other Party or Parties, to enter into consultations concerning the above-mentioned plan, programme, policy or project; and
  - (c) provide upon request to the other Party or Parties, specific additional pertinent information concerning the same.
5. Parties shall, in emergency situations arising from the utilization of transboundary forest resources or grave natural events such as fire or infestation, which may have sudden harmful repercussions on forest resources or the environment of another Party or Parties, urgently notify such Party or Parties.

#### ARTICLE 14

##### Protection of Biological Diversity

1. Without prejudice to the provisions of, or obligations deriving from, any treaty, convention or international agreement which may be concluded between Parties in respect of biological diversity, Parties shall, recognizing the important role of forests as sources of biological diversity, commit themselves within the context of the provisions and obligations of this Convention, and their obligations under existing international law, to taking appropriate measures for the conservation of biological diversity contained in or dependent on or associated with forests.

#### ARTICLE 15

##### Climate change

1. Without prejudice to the provisions of, or obligations deriving from, any treaty, convention or international agreement which may be concluded between Parties in the future in respect of climate change, Parties shall, recognizing the contribution of forests to local and global climatic stability, commit themselves within the context of the provisions and obligations of this Convention, and their obligations under existing international law, to taking appropriate measures to prevent climate change.

## ARTICLE 16

### Multilateral Development Banks and Aid Organisations

1. Parties shall take appropriate measures to ensure that multilateral development banks and aid organisations to which they are members incorporate, in accordance with their competence and jurisdiction, the Convention's principles and obligations in their policies, projects and field operations and shall use their voting rights accordingly.

## ARTICLE 17

### International Co-operation

1. Parties shall co-operate on a regional and global basis directly or indirectly or through competent international organizations with a view to coordinating their activities in the field of conservation and wise use of forests and assisting each other in fulfilling their obligations under this Convention particularly in respect of the following:-
  - (a) research, observation and monitoring, and with a view to using comparable or standardized research techniques and procedures and obtaining comparable data on matters relevant for the implementation of the obligations of this Convention;
  - (b) exchange of appropriate scientific, technical and other information and experience on a regular basis;
  - (c) formulation of measures including adoption of annexes and protocols in addition to the annexes and protocols opened for signature at the same time as this Convention and, where appropriate, national legislation and administrative measures which implement, harmonize or promote policies in accordance with the provisions of this Convention or its protocols;
  - (d) promotion of investment in activities which have a positive impact on forest conservation and sustainable development including non-forestry sectors;
  - (e) strengthening of regional and international organizations which promote or facilitate the achievement of Convention obligations;
  - (f) any other matter to which the Conference may give special priority.

## ARTICLE 18

### Scientific research

1. Parties shall, individually and in cooperation with other Parties and through appropriate international organizations, initiate and support research and scientific assessments on matters relating to the conservation and wise use of forests including relevant social and economic research on inter alia:-
  - (a) matters relating to preparation of forest assessments and surveys under paragraphs (1) and (3) of Article 6;
  - (b) the role of forests in relation to climate stability;
  - (c) hydrological research with a view to ascertaining the characteristics of watersheds;
  - (d) matters relating to regeneration, reforestation and afforestation with a specific focus on native species.
2. To facilitate international co-operation and co-ordination of research efforts and the collection, validation, and transmission of the results of this research Parties shall, taking into account the need for improvement of the capability of developing countries to research, collect, and assess scientific research and information relevant to the conservation and wise use of forests, take appropriate measures to establish and support the Authority's International Forests Information Network pursuant to paragraph 1 of Article 28.

## ARTICLE 19

### Observation and monitoring

1. Parties shall collect and analyze information from all their respective national authorities concerning forests, in particular their composition, deforestation, degradation, effects of pollution, and any other relevant developments significantly affecting forests, whether in protected forest areas or otherwise.
2. Parties shall monitor and keep under surveillance the effects of any activities which they engage in or permit, whether in forests or non-forest areas, in order to determine whether these activities are causing or contributing or likely to cause and contribute to forest degradation or deforestation over and above those effects which the Parties took into account when deciding to engage in or permit such activities and reviewing, where appropriate, the continuance of such activities.

~~Parties shall ensure that information collected pursuant to this Article is~~ utilized to further the compliance with this Convention and its protocols in accordance with the provisions of Article 33.

## ARTICLE 20

### Education and Public Awareness

1. Parties shall, individually and in co-operation with other Parties and through appropriate national, regional or international bodies take such steps as are necessary to promote through education programmes in educational establishments at all levels, and by other means, public awareness of the significance of the measures adopted for the purposes of the conservation and wise use of forests focusing inter alia on:-
  - (a) consumer behaviour promoting the conservation and wise use of forests including authentication and certification of timber and other forest products from forests managed in accordance with national guidelines, standards and codes of conduct formulated pursuant to paragraph 4 of Article 4;
  - (b) energy efficiency and where appropriate, efficient use and recycling of relevant forest products;
  - (c) sound land use and agricultural practices;
  - (d) cultural values which respect nature and forests.

## ARTICLE 21

### Trade and International Relations

1. Parties shall take appropriate steps to review and formulate their trade and foreign relations policies to ensure these are in harmony with and support measures taken by Parties to fulfil their obligations under this Convention.
2. Parties shall, in co-operation with other Parties and appropriate international organizations, introduce economic incentives in favour of forest products from forests managed in accordance with national guidelines, standards and codes of conduct formulated pursuant to paragraph 4 of Article 4.
3. The Authority shall formulate international guidelines, standards, and codes of conduct for the wise use and management of forest resources which shall be presented to the Conference at its first ordinary meeting or as soon as possible thereafter, for adoption by the Conference.

Environmental Impact Assessment

1. Parties shall require that proposals for any activity subject to a decision of a competent authority in accordance with a national procedure, which may significantly affect forests, forest peoples, local populations or forests peoples' customary land use rights shall be subject to an assessment of the likely or potential environmental and social impacts including the direct, indirect, cumulative short-term and long-term effects.
2. For the purposes of this Article the term "activity" shall be used to the extent appropriate, to cover policies, plans and programmes.
3. Parties shall take into consideration the results of such assessments in reaching a decision to authorize or not authorize the activity in question and shall ensure that where such any such activity is authorized it shall be undertaken on the basis that it is planned and carried out so as to overcome or minimize any assessed adverse effects and that such effects are regularly monitored with a view to taking remedial action as necessary.
4. The provisions of this Article shall apply to any proposed activity within the jurisdiction and control of the Party where it has been proposed, or in areas under the jurisdiction and control of another Party or in areas beyond the limits of national jurisdiction and whether the proponent is a State, any other public body, an international organization or a private person.
5. Information provided by the proponent of an activity for the purposes of an assessment shall be publicly available. Such information shall be disclosed in a timely and appropriate manner to persons and organizations who may be affected by the proposal.
6. Detailed guidelines, procedures and criteria for the application of environmental impact assessments covering inter alia, criteria for assessing the size, location and nature of activities to be subject to such assessments and procedures to facilitate putting into effect the provision of this Article shall be drawn up by the Authority for presentation to the first ordinary meeting of the Conference, or as soon as possible thereafter, for adoption.

## ARTICLE 23

### Access to environmental information

1. Parties shall ensure that all information relating to the forest environment, including in particular, information collected pursuant to paragraphs 1 & 3 of Article 6, paragraph 1 of Article 19, paragraph 4 of Article 22 and paragraph 2 of Article 33 is made available by the relevant public authorities to any natural or legal person resident or located in the area under their jurisdiction at his or her request and without he or she having to prove an interest.
2. Parties shall define the practical arrangements under which such information is effectively made available.
3. Parties shall ensure that information provided by public authorities shall be in a form which is accessible and intelligible to the public and in the case of forest peoples that translation facilities are available.
4. A person who considers that his or her request for information has been unreasonably refused or ignored, or has been inadequately answered by a public authority, may seek judicial review of the decision in accordance with the relevant national legal system.
5. Parties may provide for a request to be refused, subject to the provision of written reasons for refusal, where it affects:
  - (a) matters which are sub judice;
  - (b) confidentiality of personal data;
  - (c) legal professional privilege;
  - (d) national security.
6. The foregoing obligations shall apply equally to appropriate information collected by the Authority which shall formulate and present to the first ordinary meeting of the Conference or as soon as possible thereafter, rules, regulations and practical procedures determining the availability of such information to the public for adoption.

ARTICLE 24

Conference of the Parties

1. The Conference of the Parties (hereinafter referred to as "the Conference") shall be the principle decision-making organ of this Convention.
2. Each Party shall have one vote and decisions by the Conference shall be by simple majority vote of the Parties present and voting except as otherwise provided in this Convention.
3. By written notification to the Chairman of the Conference, a Party may authorize, under its own responsibility, any other Party to represent its interest or to cast its vote at any meeting of the Conference.
4. Subject to the foregoing for the purposes of this paragraph, the phrase "Parties present" means the Parties present at the meeting at the time of the vote and the phrase "Parties present and voting" means Parties present and casting an affirmative or negative vote. Parties who abstain from voting shall not be considered as voting.
5. The Depository shall call a meeting of the Conference of the Parties not later than one year after the entry into force of this Convention. Thereafter ordinary meetings of the Conference shall be held at intervals of not more than two years unless the Conference decides. Extraordinary meetings may be called at any time on the written request of at least one third of the Parties.
6. The Conference may create such subsidiary bodies as it deems necessary for the performance of its functions.
7. The Conference shall adopt its own rules of procedure.
8. The United Nations, its Specialized Agencies, the International Atomic Energy Agency, any other inter-governmental agencies and bodies, multilateral development banks, any State not a Party to the present Convention, as well as any other bodies designated by the Conference of the Parties may be represented at meetings of the Conference by observers.

~~9~~ ~~Any body or agency technically qualified in matters dealt with in this~~  
Convention, in the following categories, which has informed the Authority of its desire to be represented at the meetings of the Conference by observers, shall be admitted unless at least one-third of the Parties present object:

- (a) international non-governmental agencies and bodies, and national governmental agencies and bodies; and
  - (b) national non-governmental agencies and bodies which have been approved for this purpose by the Party in whose jurisdiction and control they are located.
10. Observers shall have the right to participate according to the rules of procedure adopted by the Conference, but not to vote.
11. Expenses incurred in the operation of the Conference shall be borne by the Fund.

## ARTICLE 25

### Functions of the Conference

1. At each of its meetings the Conference shall be responsible for reviewing the implementation of this Convention and shall:-
- (a) keep under review the provisions of this Convention, including its Annexes and Protocols;
  - (b) provide overall guidance, supervision and approval of the Authority's work and make such provision as may be necessary to enable the Authority to carry out its duties including the adoption of financial provisions;
  - (c) receive and consider any reports presented by the Authority or by any Party or specially requested by the Conference concerning the workings of the Convention and its protocols and, where appropriate, examine any modifications necessary and consider and recommend adoption of amendments to this Convention, its protocols and Annexes;
  - (d) make recommendations to a Party or Parties or international organizations for improving the effectiveness of the present Convention including proposals for the conclusion, with the States that are not Contracting Parties to the Convention, of agreements that would enhance the effective implementation of this Convention;

- (e) consider and adopt at its first ordinary meeting or as soon as possible thereafter and, where subsequently necessary revise, upon recommendation of the Authority:-
- (i) principles, objectives, criteria and guidelines for the selection, establishment and management of protected forests areas pursuant to paragraph (1) of Article 8;
  - (ii) principles, criteria, standardized scientific techniques and procedures for the preparation of surveys and assessments pursuant to paragraph (1) of Article 6;
  - (iii) guidelines, standards and codes of conduct for the wise use and management of forest resources pursuant to paragraph (1) of Article 21;
  - (iv) rules, regulations, procedures and criteria for the application and preparation of environmental impact assessments pursuant to paragraph (1) of Article 22;
  - (v) rules, regulations and practical arrangements relating to public access to information in respect of information collected by the Authority;
  - (vi) criteria for eligibility and guidelines for determining priorities in respect of requests for assistance from the Fund pursuant to Article 40.
- (f) recommend appropriate measures to keep the public informed about the activities undertaken within the framework of this Convention;
- (g) upon recommendation of the Authority adopt and where necessary, revise a Long-term Action Plan to assist in determining the short and long term priorities for the conservation and wise use of forests;
- (h) establish working groups as required to consider any matters related to this Convention; and
- (i) keep in review the financial regulation of the Convention, including budgets for the Authority and the Fund, at each ordinary Conference, and adopt budgets for the next financial period. Adoption shall be by a two-thirds majority of the Parties present and voting.
2. The Conference shall perform any other task which has been entrusted to it by this Convention.

## ARTICLE 26

### Establishment of the Authority

1. For the purposes of assisting the Parties to fulfil their obligations of this Convention and its protocols there is hereby established the Authority whose headquarters shall be at [.....]
2. The Authority shall have such legal capacity as is provided in the Statute set forth in Annex I. The Authority constituted and operating in accordance with the administrative rules, regulations and procedures set forth in Annex I shall be subject to the control, supervision and financial regulation of the Conference,
3. The Authority shall be provided with such funds from the Fund as it may require to carry out its functions.

## ARTICLE 27

### Functions of the Authority

1. The functions of the Authority shall be to:-
  - (a) draw up for consideration and adoption by the first ordinary meeting of the Conference or as soon as possible thereafter:-
    - (i) principles, objectives, criteria and guidelines for the selection, establishment and management of protected forests areas pursuant to paragraph (1) of Article 8;
    - (ii) principles, criteria, standardized scientific techniques and procedures for the preparation of surveys and assessments pursuant to paragraph (1) of Article 6;
    - (iii) guidelines, standards and codes of conduct for the wise use and management of forest resources pursuant to paragraph (1) of Article 1;
    - (iv) rules, regulations, procedures and criteria for the application and preparation of environmental impact assessments pursuant to paragraph (1) of Article 22;
    - (v) rules, regulations and practical arrangements relating to public access to information in respect of information collected by the Authority;

- ~~(vi) criteria for eligibility and guidelines for determining priorities~~  
in respect of requests for assistance from the Fund pursuant to Article 40.
- (b) provide objective, reliable and comparable scientific, technical and other information thereby enabling measures for the conservation and wise use of forests to be assessed and to keep Parties and the public informed about the state of the world's forests;
  - (c) monitor compliance with this Convention and its protocols by the Parties;
  - (d) provide the necessary secretarial, administrative, scientific and technical support to the Conference;
  - (e) assist the Conference in performing its tasks by providing any further advice or information requested by the Conference;
  - (f) prepare a Long-term Action Plan to assist the Conference in determining the short and long term priorities for the conservation and wise use of forests;
  - (g) seek under the Article 96 of the Charter of the United Nations through the General Assembly, Security Council or, if so authorized by the General Assembly in its own right, advisory opinions from the International Court of Justice on matters within the Authority's competence; and
  - (h) assist the Conference with the administration of the Fund.
2. The Authority shall perform any other function specifically requested by the Conference.

## ARTICLE 28

### The Organs of the Authority

1. The Authority shall perform its functions through the following organs:-
- (a) the International Compliance and Monitoring Body;
  - (b) the International Forest Information Network;
  - (c) the International Forests Products Council;
  - (d) the Secretariat.

- ~~2. In order to establish these organs the Authority shall, to the maximum extent possible, utilize the facilities, services and expertise of the United Nations and its organs and existing intergovernmental, governmental or non-governmental organizations, in order to avoid duplication of efforts in fulfilling its functions and to enhance the complementarity and efficiency of their activities.~~
3. Each organ of the Authority so established shall be responsible for carrying out the tasks specifically set out for it in this Convention and its protocols and shall function within the powers and in accordance with administrative rules, regulations, and procedures devised for it by the Authority and approved by the Conference.

## ARTICLE 29

### International Compliance and Monitoring Body

1. The responsibility of the International Compliance and Monitoring Body shall be to investigate and report on the implementation of the Convention and its protocols by all Parties in order to report to the Conference any discrepancy between their obligations under the Convention and any protocol to which they are party and their laws and practices.
2. In carrying out this function the International Compliance and Monitoring Body shall:-
  - (a) publish guidelines setting out the form and regularity of reports to be submitted by the Parties' National Compliance and Monitoring Bodies;
  - (b) examine and assess such reports as are submitted by the National Compliance and Monitoring Bodies established by Parties pursuant to paragraph 2 of Article 33;
  - (c) receive and consider information relating to implementation by a Party received from any other Party, any body which has observer status at the Conference, or any national non-governmental organization or forest peoples group or local community group;
  - (d) investigate complaints relating to the implementation by a Party received from another Party, any body which has observer status at the Conference, or any national non-governmental organization or forest peoples group or local community group that is directly interested in or has a bona fide interest in the subject matter of the complaint;

- (e) request the Party which is the object of the complaint to respond to the complaint and where necessary request further clarification on responses received in light of the information or complaint submitted under paragraphs (c) and (d) above;
- (f) with the consent of the Party concerned, send a visiting commission should further enquiries in the area under the jurisdiction of the party concerned be necessary; and
- (g) in any event report the information, complaints, responses, and its assessments and findings to the all Parties through the publication of a report whose form and regularity shall, subject to the approval of the Conference, be determined by the Authority.

3. The foregoing shall be without prejudice to arrangements which may exist between Parties concerning the settlement of disputes arising from this Convention and its protocols.

### ARTICLE 30

#### International Forests Information Network

1. The responsibility of the International Forests Information Network (hereafter referred to as "the Network") shall be to:-

- (a) provide objective, reliable and comparable data at the international level to enable the Parties to take the requisite measures for the conservation and wise use of forests;
- (b) record, collate and assess data on the results of such measures to ensure that the Parties and the public are properly informed about the effectiveness of such measures;
- (c) ensure broad dissemination of information collected pursuant paragraphs (a) and (b) above;
- (d) develop methods of assessing the costs of damage to forests and the environment including the costs of precautionary, preventative and protection policies including costs of reforestation, afforestation and restoration of degraded forests;
- (e) stimulate exchange of scientific, technical and other relevant information and technologies ensure exchange of information and coordination between Parties on research and training programmes;

2. The Network shall comprise:-

- (a) the main component elements of a national information network;
  - (b) national focal points;
  - (c) topic centres
3. To enable the Network to be rapidly set up Parties shall, within 18 months from the entry into force of this Convention designate:-
- (a) one or more national institutions which in their judgement, by acting as national information networks could contribute to the work of the Network taking into account the need to ensure the fullest possible geographical coverage of the area under their national jurisdiction;
  - (b) a national focal point for coordinating and/or transmitting the information to be provided at a national level to the Network and to other institutions forming part of the Network;
  - (c) institutions which could cooperate with the Network directly as regards certain specific areas or "topics" of interest;
4. On completion of the designation process the Network shall come into operation in accordance with the provisions prescribed by the Authority and shall, present to the ordinary meetings of the Conference a programme of action to fulfil the responsibilities set out in paragraph 1 above.

ARTICLE 31

International Forests Products Council

1. The International Forests Products Council shall be responsible for the formulation of international guidelines, standards and codes of conduct for the production, distribution and trade in forests products pursuant to paragraph 3 of Article 21.

ARTICLE 32

Secretariat

1. The Secretariat shall be responsible for the arrangement and servicing of the meetings of the Conference, and any other subsidiary bodies established or authorized by the Conference and shall provide the necessary administrative, secretarial and coordination support and skills to enable each institution of the Authority to carry out its tasks. The Secretariat shall inter alia:-

- (a) ~~maintain liaison with the bodies designated by the Parties under other international conventions and agreements which deal with matters concerning the conservation and wise use of forest;~~
- (b) maintain an updated register of all the protected areas designated by Parties pursuant to Article 8;
- (c) maintain and service the Fund;
- (d) prepare a budget for the Authority for approval by the ordinary meetings of the Conference;
- (f) perform any other function entrusted to it under this Convention and its protocols or by the Conference.
2. The Secretariat functions shall be carried out on an interim basis by [.....] until completion of the first ordinary meeting of the Conference when Parties shall make permanent arrangements.

### ARTICLE 33

#### Compliance

1. Parties shall take all necessary legislative, regulatory and administrative measures to implement and enforce the provisions of this Convention. Parties shall abstain from any measure which could jeopardize the achievement of the Common Objectives.
2. Each Party shall nominate a body hereinafter referred to as "the National Compliance and Monitoring Body" which shall be responsible for the monitoring and compliance with this Convention and its protocols. The National Compliance and Monitoring Body shall:-
- (a) monitor compliance with this Convention and any Protocols to which it is also a Party within the area under the national jurisdiction of the Party;
- (b) report to the International Compliance and Monitoring Body established pursuant to paragraph 1 of Article 28 in such form and at such intervals as the International Compliance and Monitoring Body shall determine on, inter alia, the following:-
- (i) legal, regulatory and administrative measures taken by the Party to implement this Convention and its protocols.
- (ii) the adequacy and success of such measures;

(iii) problems encountered in the implementation of the Convention and its Protocols; and

- (c) assist the International Compliance and Monitoring Body in the better performance of its duties.
3. Each Party may, whenever it deems necessary, draw the attention of the Conference to any activity, which in its opinion, affects the achievement of its obligations under this Convention and its protocols or the compliance by another Party with its obligations under this Convention and its protocols.
  4. The Conference shall draw the attention of any State or regional economic integration organization which are not Parties to this Convention to any activity undertaken by that State or regional economic integration organization, their agencies or instrumentalities, natural or juridical persons, ships, or other craft which, in the opinion of the Conference, affects the achievement of the obligations under this Convention and its protocols.
  5. Parties shall support and encourage the establishment of non-governmental organizations active in the field of forest conservation and the promotion of the welfare of forests peoples and local communities, and shall provide for their participation in the work of the National Compliance and Monitoring Body and other decision-making processes relating to the conservation and wise use of forests.
  6. Where there is a risk of serious, irreversible damage to their forests arising from an action undertaken or proposed to be undertaken in violation of their domestic legislation relating to the conservation and wise use of forests, Parties shall take immediate action to prevent such action from being taken, or bring about its cessation and shall introduce administrative and judicial procedures which may be necessary to give effect to this provision.
  7. The provisions of this Convention and its protocols shall not prevent any Party from maintaining or adopting more stringent measures concerning the conservation and wise use of forests compatible with this Convention.

#### ARTICLE 34

##### Transfer of technology and technical skills

1. Parties shall, consistent with their national laws, regulations and practises and taking into account the needs of developing countries, cooperate in promoting through the Authority or other competent international bodies the development and transfer of technology, knowledge, technical assistance and skills to facilitate participation in and implementation of this Convention.

2. Such cooperation shall be carried out by inter alia:
- (a) gathering and exchange of information and know-how of local and forests peoples;
  - (b) facilitating the provision and acquisition of such equipment, supply of special manuals and guides concerning silviculture practices and forest management systems which endorse the principles of conservation and wise use of forests;
  - (c) training of appropriately qualified staff;
  - (d) provision of equipment needed for research and systematic observations projects, plans and programmes.
3. Parties may submit requests for assistance in respect of any of the above to the Fund.

#### ARTICLE 35

##### Establishment of the Fund

1. There shall be established by the Parties the Fund. The seat of the Fund shall be at the same place as the headquarters of the Authority.
2. The Fund shall be recognized by each Party as having the necessary legal personality under the laws of that Party to enable it to discharge its functions under the Convention and shall enjoy in all Parties' jurisdiction exemption from all taxes, levies, and duties whatsoever.
3. The Fund shall be administered by the Conference.
4. The Conference may appoint a Board for the purposes of administering the Fund, and may delegate to the Board any powers it considers necessary for its operation. The Conference may appoint a Director of the Board.
5. The Board shall be composed of no more than 15 persons who shall be appointed by the Conference for a period of 4 years and may at the expiry of this period be eligible for one further consecutive period of 4 years. In appointing the members of the Board, the Parties shall pay due regard to the need to ensure an adequate representation of the different geographical regions and forest types of the world.

6. The Board shall discharge the tasks and responsibilities specified in its terms of reference, as determined by the Conference, and co-operate where required or as appropriate with the IBRD, UNEP, UNDP, FAO, inter-governmental developmental aid agencies and bodies, multilateral development banks and other appropriate agencies and bodies.
7. The Conference shall have the power to:-
  - (a) determine the financial conditions attached to loans made by the Fund;
  - (b) specify the terms of reference and regulations necessary for the proper functioning of the Fund;
  - (c) appoint auditors and approve the accounts of the Fund;
  - (d) give directions to the Director concerning the administration of the Fund;
  - (g) perform such other functions as may from time to time be necessary for the proper operation of the Fund.
8. Parties to this Convention shall give their assistance to international fund-raising campaigns organised for the Fund.
9. Parties to this Convention shall consider and encourage the establishment of national, public and private foundations or associations whose purpose is to invite donations for the conservation and wise use of forest.
10. The Fund shall bear its own administrative costs.

#### ARTICLE 36

##### Purpose of the Fund

1. The purpose of the Fund shall be to advance the Common Objectives of this Convention and its protocols by assisting Parties to fulfil their obligations under this Convention or other related uses as determined by the Conference of the Parties.

## ARTICLE 37

### Resources of the Fund

1. The resources of the Fund shall consist of:-
  - (a) contributions collected pursuant to paragraph 1 of Article 33;
  - (b) any interest due to the resources of the Fund;
  - (c) funds borrowed by the Fund;
  - (d) voluntary contributions of any kind made by Parties or any other legal or natural person;
  - (e) funds raised by collections and receipts from events organized for the benefit for the Fund; and
  - (f) all other resources authorized by the Conference.
2. Contributions of the kind referred to in paragraphs (d), (e) and (f) above may be subject to conditions that they be used only for a certain project or in respect of an specific area and such conditions shall be respected provided that such project or assistance in a specific area is consistent with the purpose of the Fund.

## ARTICLE 38

### Contributions

1. Parties shall ensure that the contributions to the Fund referred to in paragraph (1)(a) of Article 37, calculated and collected in accordance with the provisions set forth in Annex II to this Convention are promptly paid to the Fund.
2. A Party that fails to pay its contributions shall have no vote at the Conference if the amount of its arrears equals or exceeds the amount of the contributions due from it in the preceding two full years. The Conference may, nevertheless, permit such a Party to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the member.
3. A Party in arrears for two full years and has not satisfied the Conference that such failure is due to conditions beyond its control shall not be eligible to make applications for assistance under paragraph 1 of Article 40 until such arrears have been paid to the Fund.

## ARTICLE 39

### Payments from the Fund

1. The resources of the Fund shall be used to finance in the following order, the costs of:-
  - (a) the Conference;
  - (b) the Authority;
  - (c) the Board, if the Conference has approved the establishment of a Board to administer the Fund;
  - (d) projects eligible for assistance pursuant to Article 40; and
  - (e) any other costs specifically authorized by the Conference or the Board within its terms of reference.
2. Assistance from the Fund may take any form approved by the Conference or the Board as the case may, be including inter alia:-
  - (a) granting of cash payments;
  - (b) low interest or interest free loans;
  - (c) provision of experts, trained staff and specialists; and
  - (d) supply of equipment.
3. Assistance given by the Fund shall be with the agreement of the beneficiary Party or Parties or other organizations approved under paragraph 5 of Article 40.

## ARTICLE 40

### Eligibility for Assistance

1. All Parties shall be entitled to submit request for assistance to the Conference or the Board, as the case may be, for activities in accordance with the provisions of this Article the purpose of which is to further the Common Objectives of this Convention.
2. For the purposes of this Article the term "activity" shall be used to cover proposed projects and to the extent appropriate, policies, plans and programmes.

- ~~3. The Conference or the Board, as the case may be, shall approve in full or in part or may not approve the assistance so requested, or may approve in full or in part subject to certain conditions the assistance so requested.~~
4. The eligibility of activities for assistance shall be governed by criteria to be developed by the Authority and adopted by the Conference at the first ordinary meeting of the Conference or as soon as possible thereafter.
5. When considering whether or not to approve a request for assistance the Conference or the Board shall consider inter alia the following:-
  - (a) the importance of a particular forest area in the world's heritage of nature and natural resources;
  - (b) the resources available to the Party making the request;
  - (c) the efforts and measures taken by the Party making the request in fulfilling its obligations under this Convention and its protocols;
  - (d) the urgency of the request;
  - (e) information and recommendations provided by the Authority;
  - (f) the Long Term Action Plan prepared by the Authority;
  - (g) any other material consideration;
6. The Conference may approve requests for assistance from international inter-governmental agencies and bodies and international non-governmental organizations provided such requests meet the eligibility criteria referred to in paragraph 3 above. Joint applications from one or more Parties may be accepted.
7. The Conference or the Board shall define the procedure by which requests to for assistance shall be made and considered.
8. The Conference or the Board shall develop and adopt procedures for the suspension of payments, or other sanctions it feels necessary if any conditions of the approved assistance are not fulfilled.
9. The Conference or Board shall give written reasons for all of its decisions, deliberations and guidelines.

## ARTICLE 41

### Liability and Compensation

1. Parties undertake to cooperate in the formulation and adoption of appropriate rules, regulations, and procedures for the determination of state and civil liability and compensation in respect of damage resulting to forests from acts or omissions in violation of the provisions of this Convention and protocols.

## ARTICLE 42

### Settlement of Disputes

1. In case of a dispute between Parties as to the interpretation or application of this Convention and protocols Parties shall seek a solution to the dispute by negotiations or any other peaceful means of their own choice.
2. If the Parties concerned are unable to settle their dispute by negotiation, the dispute shall be submitted to an Ad Hoc organ set up at the instruction of the Conference by the Authority for this purpose. The Parties may choose mediation instead of arbitration before the Ad hoc organ. The conduct of the mediation or arbitration of disputes between Parties shall be in accordance with the provisions set forth in Annex III of this Convention.
3. The International Court of Justice shall have jurisdiction in any matter to which this Convention and protocols relate.
4. Parties shall use their best endeavours to secure the authorization by the General Assembly of the United Nations of the Authority to seek where it considers appropriate, advisory opinions from the International Court of Justice on legal matters arising within the scope of its activities under Article 96(2) of the Charter of the United Nations.

## PART IV. TECHNICAL ASPECTS

### ARTICLE 43

#### Adoption of Additional Protocols

1. Parties may adopt at a diplomatic conference additional protocols to this Convention
2. A diplomatic conference for the purposes of adopting additional protocols shall be convened by the Authority at the request of two-thirds of the Parties.

### ARTICLE 44

#### Amendment of the Convention or Protocols

1. Any Party may propose amendments to this Convention or to any protocol.
2. Amendments to this Convention shall be adopted at a meeting of the Conference of the Parties. Amendments to any protocol shall be adopted at a meeting of the Parties to the protocol in question. The text of the proposed amendment to this Convention or to any protocol, except as may otherwise be provided in such protocol, shall be communicated to the Parties by the Authority at least six months before the meeting at which it is proposed for adoption. The Authority shall also communicate proposed amendments to the signatories to this Convention for information.
3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention by consensus. If all efforts at consensus have been exhausted and no agreement reached, the amendment shall as a last resort be adopted by a three-fourth majority vote of the Parties present and voting at the meeting, and shall be submitted by the Authority to all Parties for ratification, approval or acceptance.
4. The procedure mentioned in paragraph 3 above shall apply to amendments to any protocol, except that a two-thirds majority of the parties present and voting at the meeting shall suffice for their adoption.
5. Ratification, approval or acceptance of amendments shall be notified to the Authority in writing. Amendments adopted in accordance with paragraphs 3 and 4 above shall enter into force as between Parties having accepted them on the ninetieth day after the receipt by the Authority of their notification of their ratification, approval or acceptance by at least three-fourths of the Parties to this Convention or by at least two-thirds of the Parties to the protocols concerned, except as may otherwise be provided in the protocol. Thereafter amendments shall enter into force for any other Party on the

ninetyth day after that Party deposits its instrument of ratification, acceptance or approval of the amendments.

## ARTICLE 45

### Adoption and Amendments of Annexes

1. The annexes to this Convention or to any protocol shall form an integral part of this Convention or such protocol, as the case may be, and, unless expressly provided otherwise, a reference to this Convention or its protocols constitutes at the same time a reference to any annexes thereto.
2. Except as may be otherwise provided in any protocol with respect to its annexes, the following procedure shall apply to the proposal, adoption and entry into force of additional annexes to this Convention or of annexes to a protocol:-
  - (a) Annexes to this Convention shall be proposed and adopted in accordance with the procedure laid down in paragraphs 2 and 3 of Article 44, while annexes to any protocol shall be proposed and adopted in accordance with the procedure laid down in paragraphs 2 and 4 of Article 44.
  - (b) Any Party that is unable to approve an additional annex to this Convention or an annex to any protocol to which it is a Party shall so notify the Authority in writing, within six months from the date of the communication of the adoption by the Authority. The Authority shall without delay notify all Parties of any notification received. A Party may at any time substitute an acceptance for a previous declaration of objection and the annexes shall thereupon enter into force for that Party..
  - (c) On the expiry of six months from the date of circulation of the communication by the Authority, the annex shall become effective for all Parties to this Convention any protocol concerned which have not submitted a notification in accordance with the provision of paragraph (b) above.
3. If an additional annex or an amendment to an annex involves an amendment to this Convention or to any protocol, the additional annex or amended annex shall not enter into force until such time as the amendment to this Convention or to the protocol concerned enters into force.

ARTICLE 46

Relationship Between the Convention and its Protocols

1. A State or regional economic integration organization may not become a Party to a protocol unless it is, or becomes at the same time, a Party to the Convention.
2. Decisions concerning any protocol shall only be taken by the Parties to the protocol concerned.

ARTICLE 47

Relation to other Conventions and Co-ordination  
with Other Organizations

1. The provisions of this Convention shall in no way affect the rights or obligations of any Party deriving from existing conventions and agreements concerning conservation or utilization of forest resources.
2. The Authority shall make whatever arrangements are appropriate for consultation or co-operation with the United Nations and its organs, such as the Food and Agriculture Organization of the United Nations (FAO), the United Nations Environment Programme (UNEP), the United Nations Development Programme (UNDP), the United Nations Conference on Trade and Development (UNCTAD), the General Agreement on Tariffs and Trade (GATT) and such other specialized agencies of the United Nations and intergovernmental, governmental and non-governmental organizations as may be appropriate including in particular, the International Tropical Timber Organization (ITTO).

ARTICLE 48

Signature

1. This Convention shall be open for signature by any State or regional economic integration organization at [.....] from [.....] until [.....]

ARTICLE 49

Ratification, Acceptance or Approval

1. This Convention and any protocol shall be the subject of ratification, acceptance or approval by Parties who shall deposit instruments of ratification, acceptance or approval with the Depository.

2. Any regional economic integration organization which becomes a Party to this Convention or any protocol without any of its Member States being a Party shall be bound by all the obligations under the Convention or the protocol as the case may be. In the case of such organization, one or more of whose Member States is a Party to the Convention or the relevant protocol, the organization and its Member State shall decide on their respective responsibilities for the performance of their obligations under the Convention or protocol, as the case may be. In such cases the organization and the Member State shall not be entitled to exercise rights under the Convention or the protocol concurrently.
3. In their instruments of ratification, acceptance or approval, the organization referred to in paragraph 2 above shall declare the extent of their competence with respect to the matters governed by the Convention or the relevant protocol. These organizations shall also inform the Depository of any substantial modification in the extent of their competence.

## ARTICLE 50

### Accession

1. This Convention and any protocol shall be open for accession States and regional economic organizations from the date on which the Convention or Protocol concerned is closed for signature. The instruments of accession shall be deposited with the Depository.
2. In their instruments of accession the organizations referred to in paragraph 1 above shall declare the extent of their competence in respect of the matters governed by the Convention or the relevant protocol. These organizations shall also inform the Depository of any substantial modification in the extent of their competence.
3. The provisions of paragraph 2 of Article 31 shall apply equally to regional economic integration organizations which accede to this Convention or any protocol.

## ARTICLE 51

### Right to vote

1. Each Party to this Convention or to any Protocol shall have one vote.
2. Except as provided for in paragraph 1 above, regional economic integration organizations, in matters within their competence shall exercise their right to vote with a number of votes equal to the number of the member States which are Parties to the Convention or the relevant protocol. Such organization shall not exercise their right to vote if their member State exercises theirs, and visa versa.

## ARTICLE 52

### Entry into Force

1. This Convention shall enter into force on the ninetieth day after the date of the deposit of the twentieth instrument of ratification, acceptance, approval or accession.
2. Any protocol, except as otherwise provided in such protocol, shall enter into force on the ninetieth day after the date of the deposit of the eleventh instrument of ratification, acceptance or approval of accession thereto.
3. For each Party which ratifies, accepts or approves this Convention or accedes thereto after the twentieth instrument of ratification, acceptance, approval or accession, it shall enter into force on the ninetieth day after the date of the deposit by such Party of its instrument of ratification, acceptance, approval or accession.
4. Any protocol, except as otherwise provided in such protocol, shall enter into force for a Party that ratifies, accepts or approves that protocol or accedes thereto after its entry into force pursuant to paragraph 2 above, on the ninetieth day after the date on which that Party deposits its instrument of ratification, acceptance, approval or accession, or on the date on which the Convention enters into force for that Party, whichever shall be the later.
5. For the purposes of paragraph 1 and 2 above, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organizations.

ARTICLE 53

Reservations

1. No reservations shall be made to this Convention.

ARTICLE 54

Denunciation

1. At any time after five years from the date on which the Convention entered into effect for a Party, that Party may denounce this Convention by giving written notification to the Depository.
2. Except as may be provided for in any protocol, at any time after five years from the date on which such protocol has entered into force for a Party, that Party may denounce the protocol by giving written notification to the Depository.
3. Any such denunciation shall take effect one year after the date of its receipt by the Depository, or on such later date as may be specified in the notification to the Depository.
4. Any Party which denounces this Convention shall be considered as also having denounced any protocol to which it is a Party.

ARTICLE 55

Depository

1. Ratification, acceptance, approval or accession shall be effected by the deposit of a formal instrument with ....., hereinafter designated as the Depository.
2. The Depository shall inform the Parties of:-
  - (a) the signature of this Convention and of any protocol, and the deposit of instruments of ratification, acceptance, approval or accession;
  - (b) the date on which the Convention or any Protocol shall enter into effect
  - (c) notification of denunciations in respect of the Convention or any protocol

(d) all communication relating to the adoption and approval of annexes

(e) notification by regional economic integration organizations of the extent of their competence with respect to matters governed by this Convention or any protocols

#### ARTICLE 56

##### Authentic Texts and Certified Copies

1. The present Convention has been drawn up in a single copy in the English language. Official translations into Arabic, Chinese, French, Russian and Spanish shall be prepared. These shall be equally authentic and shall be deposited with the Depository.

IN WITNESS WHEREOF the undersigned, being duly authorized by their Governments, have signed the present Convention

DONE AT ....., this ..... day of ..... one thousand nine hundred and

#### ANNEX I

##### STATUTE OF THE AUTHORITY

#### ANNEX II

##### RULES, REGULATIONS AND PROCEDURES FOR THE CALCULATION AND COLLECTION OF CONTRIBUTIONS TO THE FUND

#### ANNEX III

##### ARBITRATION AND MEDIATION