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Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

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THE EUROPEAN UNION**

Brussels, 1st July 2004

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**PROBA 34
DEVGEN 146
FORETS 24**

"I/A" ITEM NOTE

from : General Secretariat
dated : 1st July 2004
to : COREPER/COUNCIL

No. Cion prop. : 10671/04 PROBA 32 DEVGEN 139 FORETS 21 - SEC(2004)746

Subject : Draft Council Decision authorising the Commission to negotiate, on behalf of the European Community, the successor agreement to the International Tropical Timber Agreement (ITTA) of 1994

1. The International Tropical Timber Agreement (ITTA), 1994 entered into force on 1 January 1996 and was due to expire on 31 December 2003.
2. At its 34th session on 12-16 May 2003, the International Tropical Timber Council (ITTC) decided to extend the ITTA, 1994 until 31 December 2006 in order to allow for sufficient time for its renegotiation, under the provisions of Article 46 of the Agreement¹.

¹ Doc 16074/03 PROBA 35 DEVGEN 163 FORETS 58

RESTREINT UE

3. The first meeting of the Preparatory Committee for the negotiation of a successor agreement to ITTA, 1994 (PrepCom I) took place in May 2003, while the second meeting (PrepCom II) took place in November 2003. The first session of the negotiating Conference is scheduled to take place at UNCTAD in Geneva from 26 to 30 July 2004.
4. On 14 June 2004, the Commission transmitted a recommendation to the Council authorising the Commission to negotiate the successor agreement to ITTA, 1994.¹
5. On 30 June 2004, the Commodities Working Party agreed on the attached negotiating directives².
6. Coreper is therefore invited to recommend Council to
 - authorise the Commission to negotiate the successor agreement to ITTA, 1994;
 - appoint the Commodities WP to assist the Commission in this task since, in accordance with Article 300 of the EC Treaty, the Commission will conduct those negotiations on behalf of the European Community;
 - adopt the negotiating directives in the Annex.

¹ Doc. 10671/04 PROBA 32 DEVGEN 139 FORETS 21 - SEC(2004)746

² Doc. 11089/04 PROBA 35 DEVGEN 148 AGRI 180 ALIM 13

Negotiating directives for a new International Tropical Timber Agreement

(1) General ITTA Objective

In order to avoid confusion as to a possible enlargement of the scope of the ITTA, the new instrument must remain essentially focussed on timber and on tropical forests. The EC is fully satisfied with the 14 objectives listed in the present agreement, however in accordance with the ongoing discussions the EC may accept the idea of an overarching objective which, in this case, should cover all the current principles and actions for a proper implementation of project activities and policy work.

The suggested objective is:

“To enhance members’ efforts in order to achieve international trade of tropical timber from sustainably managed forests”

With the view to facilitate the achievement of the Year 2000 Objective, the EC will also confirm its full commitment and acceptance of the ITTA 1994, notably its article 1.

(2) Extension of the scope of the Agreement

- In accordance with the position already notified to the ITTO secretariat by the Commission in February 2003 after discussion within the Proba Group of the Council, the Community must maintain its opposition to extend the current agreement to all non-tropical timber. The nature of the current agreement should be maintained in its successor, without the need for changing substantially. Therefore, the new ITTA should remain focused on *Tropical Forests* and trade in *Tropical Timber*.

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- Extension of the scope of the ITTA would transform the current ITTO and will probably require additional funds. This would also jeopardise progress towards focusing ITTO's efforts to promote SFM and the achievement of its Year 2000 objective, notably for the smallest and poorest member countries.
- Sustainable trade in tropical timber should be seen as a vehicle to development the economies of producing countries.
- On "*Tropical Coniferous Timber*" although the Community opposed inclusion during two PrepCom sessions, it must be recognised that there are not strong reasons to maintain this exclusion any more. Their coverage in the new ITTA would not divert the strategic focus of ITTO as a commodity organisation. Therefore, the Community could accept this extension, if the conditions during the negotiation are propitious. However, in doing this, it will be also important to consider the possible direct or indirect repercussions on the development of the forests in the EU countries.
- On *Environmental Services*, the Community has defended a negative position at the past two PrepCom sessions, and has opposed any possible inclusion. This stance should be maintained. Environmental services have a broad and extensive nature, and interact with many other global environmental policies. Many ITTO projects already address the same issues. There is therefore no need to explicitly include environmental services as an additional objective. For these reasons the EC shall maintain a very high degree of caution in tackling these issues, notably the expansion of the mandate to include environmental services.
- On *Non-timber forest products (NTFPs)*, it must be noted that these items should not be adopted as a new focal area owing their quite different nature as commodities and the limited role of international trade in their respective markets. This is a highly diverse group of products. Moreover, with only few exceptions, the greater volume of NTFPs are consumed locally and only small quantities enter international trade. As the case for Environmental Services, the EC should therefore maintain a very high degree of caution to extend the new ITTA to include NTFPs.

RESTREINT UE

However, on the above issues, the EC should be firm but avoid, if possible, a divisive split with the producer countries. This would compromise the good and constructive discussions which have been held up to now. In the case that negotiations prove to be difficult, the EC might accept a well defined, clear and limited role for ITTO on “Services” and NTFPs with the sole objective of contributing to the sustainable management of tropical forests at country or regional level. If this were to happen, these new elements should not become new objectives or a new scope of the agreement “strictu sensu”, but only additional ways to achieve forest sustainability, and they should not be arranged such that the ITTA comes into competition with other international initiatives. The new ITTA should not have any normative role on these areas.

(3) Institutional framework

The EC has always attached great importance to improving the efficiency of the ITTO. This objective is shared with other consuming countries, many of which are now calling for a reduction in the number of Council meetings to reduce costs. The EC could continue to work with the current frequency of two annual Council sessions; however, the alternative of a single Council session each year is preferable. The project cycle should not be affected by this reduction, although the producing countries oppose that a single Council meeting would interfere in the speed of the project approval and implementation. In absence of an appropriate reform of the above project cycle which may allow the venue of only one Council session per year, the EC believes that an “*intermediate body*”, working between the Council and the technical committees, may help to fill the gap left by reduced Council meetings, and allow projects to be approved and implemented. This “*intermediate body*” will be necessary only in the event that one Council session per year will be not accompanied by an appropriate reform of the project cycle. It should depend on the Council for its working mandate ensuring adequate and balanced representation from all members. An idea, supported by some other consuming countries, to transform the existing Informal Advisory Group (IAG) into a formal permanent body should be rejected, as this is a body of the current ITTO which contains only a restricted, imbalanced membership with a less transparent “*modus operandi*”.

RESTREINT UE

With respect to the possibility to modify the number and the competencies of the “Technical Committees” the EC should express its flexibility by giving the Council, if necessary, the authority to decide upon. The participation of the civil society and of the private sector should be also ensured.

The EC will also seek to give the Executive Director and ITTO Secretariat a greater power of initiative within the framework of an overall work plan established by the ITTO Council. Such initiatives could include the development of strategic projects.

(4) Finances

Renegotiation of the ITTA will deal with the problem of finances in two ways:

- Mandatory contributions by members to the administrative budget.
- Voluntary contributions to the different funds designed to support sustainable forest management.

The present financing model should be maintained. It is probably the one best serving the interests of the Organisation and thereby those of the EU and its Member States.

On the first point, implying, inter alia, the request from some members to change the basis for calculating contributions (use of GDP instead of trade flow), the EC will oppose these proposals in order to avoid a huge increase in EC/EU financial contributions, and also to avoid setting a precedent which might then be followed in other commodities agreements.

On the second point, aiming at achieving additional mandatory contributions from consumers to support implementation of ITTO’s work programme, this is a new and untested concept that the EC should avoid to further discuss. However, if supported by producers and all the other consuming members, the EC should examine it, if the impact could be limited to only a small additional contribution to the administrative budget, decided by the Council and applicable to all members. In addition, some members want to see GDP-based formula extended to assess mandatory membership contributions. This formula should be rejected.

RESTREINT UE

However, if the proposed compromise tabled by Switzerland consisting in the use of a GDP-based formula for the additional contributions to support ITTO's work programme was discussed, then the EC could accept to carefully assess this proposed compromise and its impact, including any precedent that it could imply, before any reply is given on the availability of the EC to discuss. The general principle that must be followed is to avoid the introduction of a "two steps model" where instead of core technical and administrative activities being funded by all parties, developed countries would be expected to fund all Secretariat activities beyond the basic administrative activities. This model would establish a worrying precedent for multilateral Secretariats and Organisations.

In addition, although the EC wishes that the main action of ITTO must not be limited exclusively to project activities, to avoid becoming a marginal player, the EU will examine the possibility to provide a direct voluntary financial contribution for facilitating the achievement of SFM. To this end, the settling of a special "Trust Fund" may represent a flexible response to adapt the EC and MS requirements on the utilisation of the financial resources and the ITTO action.

The EC should also encourage the renegotiated ITTA to seek additional funds from new sources, such as the World Bank and established international funding mechanisms such as the Common Fund for Commodities (CFC) and the Global Environment Facility (GEF).

(5) EC competence

During the negotiation, the EC will ask for the amendment of articles 5 and 10 of the current ITTA in order to leave the possibility open for the EC to act with shared competence with its Member States, or in exclusive competence, if so decided by the Council of the European Union.

RESTREINT UE

(6) Elements to be considered within the new ITTA

The EC is of the opinion that the new ITTA should emphasise good governance, partnerships between the public and private sectors, issues related to forest law enforcement, governance and trade (FLEGT) and illegal logging. A clear reference to the social conditions of the populations involved should also be part of the new instrument with the view to improving the social welfare of these people. For the trade aspects, ITTO should better address an improved knowledge about “unsustainable” trade and recommend possible solutions as well as consider market based instruments and incentives for sustainable trade in tropical timber, for example voluntary certification schemes.

The EC should make sure that the new ITTA does not become an additional development agency through the financing, implementation and execution of projects, and should make sure that ITTO continues to contribute to the establishment of normative rules and guidelines for the achievement of sustainable forest management in the tropics. As stated above, the “Trust Fund” formula could represent a good compromise for the EU to voluntarily contribute to the ITTO strategic action.

(7) Profile and positioning of the revised ITTA in relation to other policy instruments

There are many international organisations, agreements and policy initiatives which have relevance for the revised ITTA. In the renegotiation of the ITTA, the EC should aim to ensure that the revised agreement complements and adds value to these other existing agreements and initiatives.

As stated in section (1) of this recommendation, the EC believes that the primary objective of the ITTO should be to *enhance members’ efforts in order to achieve international trade of tropical timber from sustainably managed forests.*

This objective implies a strict focus on the international trade in tropical timber, and efforts to ensure sustainable sources of production for this commodity. This is the ‘niche’ in which the ITTA can best complement and add-value to these existing agreements and initiatives.

Relevant organisations, agreements and initiatives, and their relations to the ITTA are as follows:

RESTREINT UE

(8) Relevant organisations

The Food and Agriculture Organisation (FAO), the UNFF (United Nations Forum on Forests) and its Collaborative Partnership on Forests (CPF) have a mandate to work on international forestry issues. The ITTA has a much more specific focus on trade in tropical timber. The EC should aim to ensure that the revised ITTA complements the work of the FAO, UNFF and CPF. For FAO, in particular, the need for a continued cooperation with ITTO on statistics shall be also reaffirmed.

The United Nations Environmental Programme (UNEP) has the mission to “Provide leadership and encourage in caring the environment...” The revised ITTA shall avoid duplication of actions in the environment general policy.

(9) Multilateral processes, agreements and treaties

The Multilateral Environmental Agreements (MEAs) and international environmental treaties which are of relevance to the revised ITTA are the Rio Conventions concerning biodiversity, climate change and desertification, and the Convention on International Trade in Endangered Species (CITES). The EC negotiating position is designed to resist an expansion of the ITTA mandate into areas covered by the Rio Conventions. There are clear links between CITES, which restricts trade in certain endangered tropical timber species, and the ITTA, which is concerned with trade in all tropical timbers. The dialogue between producers and consumers which the ITTA supports can help to formulate and implement proposals of relevance to CITES, such as those concerning endangered and high-value timber species.

The renegotiation of ITTA will have no direct impact on the Doha Development Agenda (DDA). The EC position on forests in the DDA will be informed by an ongoing Sustainability Impact Assessment (SIA) currently being undertaken for this purpose.

RESTREINT UE

(10) EC policy initiatives and co-operation instruments

The EU Action Plan for Forest Law Enforcement, Governance and Trade (FLEGT) is an initiative which aims to combat illegal logging and the associated trade in illegally harvested timber. The ITTA has potential to add value to this initiative through the ongoing dialogue between the major wood-producing and wood-consuming countries which it supports.

The FLEX is a mechanism which aims to provide budget support to countries which experience a fall in export earnings due to volatility in international commodities prices. This support could apply also to timber producing countries, but eligibility is governed by separate procedures which will be unaffected by renegotiation of the ITTA.

The EU Communication on Commodity Chains does not deal with timber, and relates only to agricultural commodities. However, one can argue that the general principle of sustainable development is also applicable to ITTO's activities.

EC Country and Regional Strategy Papers (CSPs / RSPs) govern the use of development assistance funds to developing countries and regions. CSPs and RSPs are formulated in consultation with partner countries and reflect priorities for assistance identified by partner governments. Some producer countries receive EC assistance for forest sector activities, but these funds are programmed and disbursed according to the standard programming cycle. Renegotiation of the ITTA will have no impact on this process.

(11) Duration of the Agreement

Before taking a position on the duration of the agreement, the EC should wait to have a more precise idea on the nature and content of the new instrument. If necessary, duration longer than the present Agreement could be examined.

(12) Final considerations

If necessary, the Commission reserves the right to make additional proposals as work progresses. These proposals will be examined during on-the-spot co-ordination meetings and within the PROBA working group.