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**National Interest Analysis [2008] ATNIA 16
with attachment on consultation**

**International Tropical Timber Agreement
Geneva, 27 January 2006**

[2008] ATNIF 4

NATIONAL INTEREST ANALYSIS: CATEGORY 1 TREATY

SUMMARY PAGE

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Nature and timing of proposed treaty action

1. The *International Tropical Timber Agreement, 2006* (ITTA 2006) is a successor to the *International Tropical Timber Agreement, 1994*¹ (ITTA 1994), itself a successor to the *International Tropical Timber Agreement, 1983* (ITTA 1983). ITTA 1994 governs the work of the International Tropical Timber Organization (ITTO). The ITTO is an intergovernmental organisation established in 1986 under the auspices of the United Nations that promotes the conservation and sustainable management, use and trade of tropical forest resources. ITTA 1994 will remain the governing Agreement until ITTA 2006 enters into force.

2. It is anticipated that the requisite number of producer and consumer governments will have signed ITTA 2006 or have ratified, accepted or approved it pursuant to Article 36.2 or Article 37 for it to enter into force generally in mid-2008 (Article 39.2). Australia has Federal Executive Council approval to sign the ITTA 2006 and intends to sign it before September 2008. Once the ITTA 2006 is in force generally, under Article 39.4 it would enter into force for Australia upon the deposit of Australia's instrument of ratification. It is anticipated that Australia will ratify the ITTA 2006 before the ITTO's first Council meeting under that Agreement in early November 2008.

Overview and national interest summary

3. ITTA 2006 is largely based on ITTA 1983 and ITTA 1994; the objectives are to promote the expansion and diversification of international trade in tropical timber from sustainably managed and legally harvested forests and to promote the sustainable management of tropical timber producing forests.

4. Australia has been a member of ITTO since 1988, having been a Party to ITTA 1983 and ITTA 1994. ITTO membership comprises 60 countries representing about 80 per cent of the world's tropical forests and 90 per cent of the global tropical timber trade.

5. As a Party to ITTA 2006, Australia would continue to assist regional countries to improve the economic and environmental sustainability of their forest industries. Ongoing membership of ITTO is consistent with Australia's sustainable forest management objectives, including the reduction of illegal logging and mitigation of and adaptation to climate change.

¹ [1997] ATS 2

Reasons for Australia to take the proposed treaty action

6. Australia's ongoing involvement with the ITTO provides a number of opportunities to advance, and would be consistent with, Australia's sustainable forest management and overseas aid objectives, including the reduction of illegal logging, mitigation of and adaptation to climate change, and assisting developing countries to reduce poverty and achieve sustainable development.

7. In particular, ongoing membership of the ITTO will provide a mechanism to:

- demonstrate commitment to improving management of tropical forests;
- deliver specific Australian objectives to assist Asia-Pacific countries build capacity to sustainably manage tropical forests;
- focus on our region through partnerships with other donors;
- enhance Australia's impact on tropical forest management in the region beyond that which could be achieved through direct bilateral application of available funds;
- promote Australian operational and training expertise in sustainable forest management.

8. While ITTA 2006 is largely based on ITTA 1983 and ITTA 1994, it will introduce a new provision for thematic funding programs enabling greater collaboration on issues such as forest law enforcement and governance, and climate change. This provision will enhance Australia's capacity to pursue issues of critical importance to Australia's forest industries.

9. If Australia does not ratify ITTA 2006, we may lose international credibility for failing to engage in a forum through which we have actively promoted sustainable forestry and aid objectives in the past. In addition, not becoming a party to ITTA 2006 would be inconsistent with our involvement in the framework of United Nations forestry fora which share a mandate for sustainable forest management and in which ITTO is the key focal point for trade. Australia would also lose the opportunity to contribute to the comprehensive and cost-effective funding mechanism that ITTO provides.

10. Australia's continued commitment to the ITTO is consistent with our active involvement in other forest policy fora, including the United Nations Forum on Forests, Convention on Biological Diversity, Convention on International Trade in Endangered Species of Wild Fauna and Flora, and the United Nations Framework Convention on Climate Change. The role of ITTO is also closely aligned to the activities of the Food and Agricultural Organization of the United Nations, of which Australia is an active member.

11. There are no foreseeable adverse impacts on Australian business and individuals, or the economy as a result of Australia's continued membership of the ITTO.

Obligations

12. ITTA 2006 contains little in the way of direct obligations on Parties.

13. Article 19 sets out financial obligations which require members to pay annual contributions to the Administrative Account assessed in accordance with paragraphs 4, 5 and 6 of this article. Under ITTA 1994 these contributions are assessed on an annual basis but under ITTA 2006 they will be assessed biennially. In addition, under ITTA 1994 core operational costs related to communication and outreach, expert meetings and preparation and publication of studies and assessments are shared equally among members. Under ITTA 2006 these costs will be shared among members in the proportions of 20 per cent for producers and 80 per cent for consumers (which includes Australia), and assessed in the proportion the number of each member's votes bears to the total votes of the member's group. These costs shall not exceed one third of the basic administrative costs, which include salaries, benefits, installation costs and official travel.

14. Article 27.3 states that members shall, to the fullest extent possible not inconsistent with their national legislation, furnish, within the time specified by the Executive Director, statistics and information on timber, its trade and activities aimed at achieving sustainable management of timber producing forests, as well as other relevant information as requested by the International Tropical Timber Council established under Article 6. 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. There is no change in this obligation from ITTA 1994.

15. Under Article 29, members shall, for the duration of ITTA 2006, use their best endeavours and cooperate to promote the attainment of its objectives and avoid any action contrary thereto. Members undertake to accept and carry out the decisions of the Council under the provisions of the ITTA 2006 and shall refrain from implementing measures that would have the effect of limiting or running counter to them. There is no change in this obligation from ITTA 1994.

Implementation

16. No legislative amendments are required for Australia to meet its obligations under the ITTA 2006. The obligations that exist can be met by administrative action as they currently are met under ITTA 1994.

Costs

17. Australia will be required by ITTA 2006 to pay annual contributions to an Administrative Account. Contributions for Australia are to be assessed based on the number of votes held by Australia in a biennial period. The number of votes in a biennial period is in proportion to the average volume of Australia's net imports of tropical timber during the five-year period commencing six calendar years prior to the distribution of votes.

18. Annual contributions are estimated to be approximately US\$50,000. Under ITTA 1994 these funds were met by the Australian Agency for International Development (AusAID). Funding is available for contributions under ITTA 2006 through the existing Department of Agriculture, Fisheries and Forestry budget if AusAID cannot continue funding.

Regulation Impact Statement

19. The Department of Agriculture, Fisheries and Forestry has completed a Best Practice Regulation Preliminary Assessment. Becoming party to the ITTA 2006 has low or no impact on business and individuals or on the economy and a Regulation Impact Statement or Business Cost Calculator report is not required.

Future treaty action

20. The ITTA 2006 shall remain in force for a period of 10 years after its entry into force unless the Council decides to extend, renegotiate or terminate it in accordance with provisions in Article 44. The Council may decide to extend the ITTA 2006 for two periods, an initial period of five years and an additional one of three years. If a new Agreement to replace ITTA 2006 has been negotiated but not yet entered into force before the expiry of the ten year, or the additional five year or three year period, whichever it may be, the Council may extend ITTA 2006 until the provisional or definitive entry into force of the new Agreement.

21. Pursuant to Article 40, the Council may, by special vote, recommend an amendment of ITTA 2006 to members. The Council shall fix a date by which members shall notify the depositary of their acceptance of the amendment. An amendment shall enter into force 90 days after the requirements for its entry into force are met. Any member which has not notified its acceptance of an amendment within a period for acceptance set by the Council shall cease to be a party to ITTA 2006. If the requirements for the entry into force of the amendment have not been met by the date fixed by the Council the amendment shall be considered withdrawn.

22. Entry into force of an extension or amendment to ITTA 2006 in Australia would be subject to Australia's domestic treaty process, including consideration by JSCOT.

Withdrawal or denunciation

23. Pursuant to Article 41, a member may withdraw from the ITTA 2006 at any time after the entry into force of the Agreement by giving written notice of withdrawal to the depositary. That member shall simultaneously inform the Council of the action it has taken. Withdrawal shall become effective 90 days after the notice is received by the depositary. Financial obligations to the Organization incurred by a member under the ITTA 2006 shall not be terminated by its withdrawal.

24. Pursuant to Article 43, the Council shall determine any settlement of accounts with a member that ceases to be a party to the ITTA 2006. A member that has ceased to be a party to the ITTA 2006 shall not be entitled to any share of the proceeds of liquidation or the other assets of the ITTO. Nor shall such member be liable for payment of any part of the deficit, if any, of the ITTO upon termination of the ITTA 2006.

25. Withdrawal by Australia would be subject to Australia's domestic treaty process.

Contact details

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ATTACHMENT ON CONSULTATION

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CONSULTATION

26. The Department of Agriculture, Fisheries and Forestry (DAFF) consulted with Australian States and Territories through the Forestry and Forestry Products Committee (FFPC). The FFPC is comprised of the Heads of the Commonwealth, State, Territory and New Zealand forestry agencies. DAFF submitted an out of session paper to FFPC members on 28 March 2008. DAFF received only minor queries from FFPC members and there were no further contributions. The queries related to: the current status of the Agreement; how annual contributions under ITTA 2006 would be assessed; whether or not there was scope under the Agreement for Vietnam and the Solomon Islands to become Parties; and what, if any impact there might be on tropical timber producers in Australia.

27. DAFF consulted with Australian industry in February 2007 through the National Association of Forest Industries (NAFI), the Australian Plantation Products and Paper Industry Council (A3P), the Timber and Building Materials Association (TABMA), and the Australian Timber Importers Federation (ATIF). DAFF wrote to these associations seeking comments and support for ongoing membership of the International Tropical Timber Organization (ITTO). All responded in support of Australia becoming a Party to ITTA 2006. A3P noted that Australia's contribution to the ITTO is relatively small and encouraged DAFF to pursue greater outcomes through the ITTO in relation to illegal logging and its effect on higher value manufactured products such as pulp, paper and furniture, as well as solid timber.

28. DAFF consulted again with Australian industry in April 2008 through NAFI, A3P, TABMA, ATIF, Timber Communities Australia (TCA) and Australian Forest Growers (AFG). Through AFG, Treefarm Investment Managers Australia were also informed of the intent to become a party to ITTA 2006 and offered the opportunity to contribute to Australia's engagement in the ITTO. NAFI, ATIF, TCA, A3P and AFG endorsed Australia becoming a Party to ITTA 2006. No further contributions have been received. NAFI stated that it sees Australia's participation within ITTO as fundamental for the promotion of sustainable forest management both within Australia and in neighbouring countries and as critical in addressing the issues of illegal logging and climate change within the region. ATIF emphasized the importance of continuing support for ITTO projects in the Asia-Pacific region and expressed interest in ATIF participation in future forest and timber projects of benefit to its members. AFG requested DAFF to implement a strategy to ensure tropical forest growers in Australia have their issues addressed through the ITTO and expressed concern with ITTO's lack of focus on the Australian tropical timber industry. A3P urged the Australian Government to ensure that, via its support for ITTA 2006 and involvement in ITTO, it does everything possible to ensure that forest managers and wood and paper product producers in other countries meet the same rigorous standards that are in place in Australia.

29. DAFF provided an undertaking to States and Territories and industry representatives to continue to consult on ITTO issues as they arise, and to seek input from stakeholders for ITTO sessions.

30. ITTA 2006 was listed on the Schedule of Treaties sent to representatives of the Commonwealth-State/Territory (Officials') Standing Committee on Treaties (SCOT) on January 2006, July 2006, February 2007, July 2007 and February 2008.

31. The Attorney General's Department and the Department of Foreign Affairs and Trade were consulted during negotiations of ITTA 2006. In July 2007 the former Minister for Fisheries, Forestry and Conservation sought agreement for Australia to sign ITTA 2006 from the then Attorney-General, Minister for Environment and Water Resources, Minister for Foreign Affairs, and the Minister for Trade. All approved ITTA 2006 and Australia becoming a Party to the Agreement. The then Prime Minister and Minister for Finance and Administration were informed.

32. In March 2008 the Minister for Agriculture, Fisheries and Forestry sought approval for Australia to sign the ITTA 2006 from the Attorney-General, the Minister for Foreign Affairs, the Minister for Trade, the Minister for the Environment, Heritage and the Arts, and the Minister for Climate Change and Water. All ministers approved signature of the ITTA 2006. The Prime Minister and the Minister for Finance and Deregulation were informed.

33. The Australian Agency for International Development, the Department of the Environment, Water, Heritage and the Arts, and the Department of Climate Change are regularly consulted with regard to all Australian involvement in the ITTO and remain supportive of our engagement.