



Australian Government

Department of Agriculture, Fisheries and Forestry

Development of a UNFF Non Legally Binding Instrument on Forests

Australia's Response to Consolidated Submissions on the Indicative Elements

Background

Australia has made two previous contributions to the United Nations Forum on Forests (UNFF) regarding the proposal to develop a Non Legally Binding Instrument (NLBI) on forests.

At UNFF6 we prepared a short list of nine potential elements of a NLBI. We prepared this list during the UNFF session in an attempt to assist delegations to find some common ground on what a NLBI might cover, even before the Forum had agreed to develop the NLBI. As such it was not meant to be a definitive Australian position on potential elements, but rather an attempt to find common elements among the various proposals being suggested by delegations.

Australia's second contribution (June 2006) was provided to the UNFF Secretariat in an attempt to provide a possible framework for integrating most of the "potential elements" that had been proposed in seven submissions made during UNFF6. We tried to propose a logical approach to incorporating the various issues and elements raised by countries, without suggesting detailed text. Once again our contribution was not a definitive Australian position on the potential elements of the NLBI.



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Australia's Perspectives on the NLBI and the Submissions

Australia supports the development of a NLBI on Forests and welcomes the submissions made by the 10 member states and three major groups. The submissions received help to clarify the perspectives of delegations and assist in the provision of matters that need to be incorporated into a draft NLBI.

We want the UNFF to move on from the governance issues that have been the entire focus of the UNFF for the past three years. Australia considers that UNFF must begin to focus on substantive issues from UNFF8, once the NLBI and Multi Year Program Of Work have been agreed to at UNFF7.

Australia is concerned however, that there is considerable confusion with regard to the role of a NLBI and the scope of its content. As Australia does not support protracted and ongoing negotiation of a NLBI we are concerned that without clarity on these issues it will be difficult to negotiate an endorsed NLBI by the conclusion of UNFF7.

Australia is concerned that, because of the disparity of views among those few countries that have made submissions to date, it will be a difficult process for the ad hoc expert group to agree on a synthesised working draft of the NLBI in one week. Australia is also concerned that unless delegations are provided with a draft text for the NLBI negotiations by the end of January 2007, there will be insufficient time for "within country" consultations, thereby seriously jeopardising the likelihood of success of negotiations at UNFF7 in April 2007.

Australia considers that the main purpose of the NLBI should be to articulate the common voluntary commitments that countries agree to implement from a national perspective. These voluntary commitments should foster implementation of relevant components of the UNFF mandate and agreed proposals for action to facilitate the management, conservation and sustainable development of all types of forests. Under this model the elements of the NLBI would primarily focus on aspects that members would implement within their jurisdiction.

Australia would prefer that the NLBI does not attempt to include all global forest related issues, such as the roles of global and regional processes, commitments to the Collaborative Partnership on Forests (CPF) or the mechanisms for reviewing the UNFF in the future. Australia feels that these issues are reasonably well covered in the current UNFF mandate and that any further issues of this kind would be best dealt with by the Forum and through the ECOSOC process.

However, the NLBI could include commitments by members to participate in the shared global objectives on forests, global and regional processes and assisting other countries through the provision of financial assistance, technology transfer and capacity building. Additional consideration could be given to the inclusion of some elements of a global or regional dimension, if they were particularly relevant to implementation by countries.



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Examples of these types of elements could include agreement on global principles for sustainable forest management, mechanisms to achieve a reduction in the trade of illegal forest products and mechanisms to provide objective mutual recognition of forest certification schemes.

To this end Australia considers that the indicative elements proposed under the headings of “Principles for Sustainable Forest Management”, “National Policies” and “Means of Implementation” are the most important things to consider for inclusion in the text of the NLBI. This would not preclude the insertion of previously agreed text covering the preamble and global goals incorporated in the NLBI.

Australia does not support an attempt to include “potential elements” in the NLBI that represent global issues that have not yet been agreed to in negotiations at the Forum. For example, despite years of negotiations there is no consensus on the issue of establishment of a global forest fund. Australia considers that if we try to bring issues such as this into the NLBI, then there is little prospect of reaching consensus on a NLBI within the agreed timeframe.

The preparation of the NLBI must recognise the issue of national sovereignty over the management of natural resources and should be prepared in a way that takes account of the wide range of circumstances that exist in forest management around the world and appropriately take into account the varying roles of governments, forest owners, the private sector forest industries, local communities and indigenous people in forest management.

Australia sees considerable merit in using as much “agreed language” as possible, once agreement is reached on the elements of the NLBI. This will avoid re-opening difficult issues that have already been the subject of considerable negotiation. This will be particularly important with issues such as the provision of financial resources, traditional forest related knowledge, fair and equitable sharing of benefits and participation of stakeholders in forest related decision making.

A Potential Way Forward

Australia urges the Bureau to develop an effective process for guiding our work on the development of the NLBI.

Australia considers that the Bureau must set a clear goal for the ad hoc expert group. This goal should encompass the preparation of preliminary text for a NLBI that can form the basis of negotiations at UNFF7. This should also include detailing the existing models within the UN system for non-legally binding instruments and any potential legal precedents.

Australia believes that without a consolidated proposal to consider at the beginning of its work the ad hoc expert group will be unable to complete its task in one week of



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deliberations.

Australia recognises that the Forum will ultimately be the body to determine the form and scope of the NLBI and to negotiate text. However, Australia strongly believes that the Forum will need strong support and cooperation from the members if the negotiations are to be concluded at UNFF7.

Australia considers that the Bureau will need to provide clear direction to the Secretariat, and seek support from relevant members of the CPF, to prepare a “draft NLBI framework document” in providing guidance for the work of the ad hoc expert group in December. This document should draw on the existing submissions and as much “agreed language” as possible to present a single document for the ad hoc expert group to consider and amend as appropriate.

The draft NLBI framework document should clearly indicate the source of “agreed language” (as has been done in the USA proposal). Where other text is proposed for elements every effort should be made to use language that is consistent with the type of language that has been used throughout the IPF/IFF/UNFF processes.

Australia considers that it would be very helpful if this draft framework document could be prepared in a manner whereby elements and text that focus on national implementation are clearly separated from elements and text that focus on international implementation. This will allow the ad hoc expert group to provide some guidance to the Forum on the role and scope of the NLBI.

In summary, Australia would like the Bureau to communicate with member states outlining very clearly how the process of preparing the NLBI, including the ad hoc expert group meeting, will be conducted. Australia would also request that the UNFF Secretariat and CPF prepare a NLBI framework document, rather than a Secretary General’s Note. This document should be high level, use agreed text where possible and be circulated to member states by 31 October 2006. This document would form the basis for the work of the ad hoc expert group in December 2006.