



EU

Forest Watch

www.fern.org

Informing NGOs, MEPs, member states, the European Commission and the media. Issue 71, February 2003.

Aarhus Convention: First EU directives

The right of European citizens to be informed about and have a say in decisions that affect the environment received a boost in December and January with the European Parliament's acceptance of the first two directives to implement the UNECE Aarhus Convention. The Convention has the potential to transform public involvement in environmental decisions and is based on three principles: access to information, participation in decision-making and access to justice. With the first two now underway, the third and most controversial pillar, that of access to justice, remains to be resolved before the Convention can move towards ratification.

5 steps to EU implementation of Aarhus

1. Directive on access to information (affecting member states)

This guarantees access, free of charge, to environmental information held by public authorities, defines the practical procedures for getting information and seeks to ensure that environmental information is disseminated widely. Potential hitches include conditions for withholding information. **Parliament approval:** December 2002.

2. Directive on public participation (affecting member states)

This aims to encourage public involvement in decisions that affect the environment. The preparation of projects, plans or programmes must be publicly announced and accompanied with useful information. The public must have the opportunity to make comments before decisions are made and public authorities will have to take these comments into account. **Parliament approval:** January 2003.

3. Directive on access to justice (affecting member states)

If an environmental law is broken, who can take this to court and who can be held responsible? DG Environment wants to restrict the 'right of standing' to the public directly affected or likely to be affected. Private enterprises want to protect themselves from being sued and are arguing that public bodies alone should be held liable for failing to enforce environmental laws. **Commission proposal:** March 2003.

4. Regulation on implementation (Community institutions)

This will include all three pillars of the Aarhus Convention, but there is a risk they will be watered down. Crucial issues are the right of access to documents and the right to take EU institutions to the European Court if environmental laws are broken. **Expected:** 2003.

5. Formal decision to ratify

Technical and political obstacles make it unclear when and how the European Community can ratify the Convention. **Watch this space.**

Ecolabel criteria

A working group will meet on 18 March to define ecological criteria for furniture products seeking the award of the EU ecolabel.

FERN fears that the working group will reproduce the weak revised criteria set last year for ecolabelled tissue paper and copy paper – which included poor definitions of certified forests and allowed high levels of wood from old-growth forests (see *EU Forest Watch* 60). In FERN's view, these criteria mislead consumers and undermine the EU policies and statements that aim to protect forests and the environment.

FERN urges the working group to support the European Environmental Bureau position on ecolabel criteria. This requires certification to be carried out by credible, independent, third-party forest certification schemes based on minimum performance standards equal to the Pan European Operational Guidelines for Europe and equal to the Forest Stewardship Council's international principles and criteria for outside Europe.

The working group should also ensure that any proportion of non-certified wood qualifying for the ecolabel does not include CITES species nor

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come from illegal or controversial sources. Companies applying for the ecolabel must be committed to barring suppliers that offer timber from controversial sources.



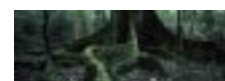
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Kakamega Forest.

Half of Kenya's only tropical rainforest has already been lost. What is left provides a unique sanctuary for biodiversity and a vital resource for local people, many of whom depend on it for fuel, medicine and food. Photo: A. Arbib.

NEWS IN BRIEF

Funding season

EuropeAid has issued three 'calls for proposals' for European NGOs. These are: *Co-financing with European development NGOs operations in developing countries* (deadline 12 March 2003); *Operations to raise public awareness of development issues to be co-financed with European development NGOs* (deadline 19 March 2003) and *Co-financing with European development NGOs operations in developing countries block grant* (deadline 02 April 2003). The call for proposal for environment and tropical forests is expected before March 2003. See: <http://europa.eu.int/comm/europeaid/cgi/frame12.pl>.

BTC lessons from Chad-Cameron

FERN has published a briefing note written by Korinna Horta of Environmental Defense assessing the Chad-Cameroon pipeline project. The briefing examines evidence from official monitoring reports that show how weaknesses in capacity building and social and environmental safeguards have put the poverty reduction goals of the project at risk. The briefing also draws lessons that can be applied to the Baku-Ceyhan pipeline – a highly controversial, ECA-backed project. See www.fern.org.

ECAs: new briefing and demands

Joint demands for Export Credit Agency reform endorsed by 58 NGOs from Europe and beyond are available in printed format from FERN and online at www.fern.org. We have also produced a new briefing, *Responsibility abroad: How ECAs impact on biodiversity*, enclosed with this issue of *EU Forest Watch*.

Nice Treaty now law

On 1 February the Nice Treaty came into force, making changes to the Amsterdam Treaty. It has extended the powers of the Parliament and also to the Commission in trade negotiations.

Community land rights: Scottish reforms

Land rights are not only a big issue in tropical areas, nor is unequal distribution of land. In Scotland about 1,200 landowners possess nearly two-thirds of land in Scotland, and more than 84% of the land is owned by less than 7% of the population. This is about to change, as the Scottish Parliament adopted a Land Reform law this month that has the potential to transform access and ownership of most of Scotland's 8m hectares. The law will grant local communities first right to buy land once it is put on the market, and the Scottish government has set up a fund to back such purchases.

The most controversial part of the law gives certain communities the right to buy land and fishing rights from owners even without their consent. Opponents who are considering challenging the law under the European Convention on Human Rights have called it a 'Mugabe style' land grab. Supporters argue that the law is an overdue measure to tackle one of the highest concentrations of land ownership anywhere.

Flexibility is key to FSC success in Indonesia

A report¹ on the obstacles facing Forest Stewardship Council (FSC) certification in Indonesia concludes that restricted land rights and an inadequate legal framework make FSC certification impossible without reform.

The report comes from the Indonesian national indigenous peoples' alliance (AMAN) and the national environmental forum (WALHI). It examines whether two central principles of the FSC standards – recognition of land rights and free and informed consent – are realisable in Indonesia's forests, which are inhabited by between 30 and 65 million people with customary rights. FSC is the only certification scheme that clearly demands these rights to be respected; all other certification schemes ignore them.

The findings show that the Indonesian state lacks effective measures for securing customary rights to land and forests and does not have a workable framework for communities to exercise their right to free and informed consent. The Indonesian administrative system and legal framework deny customary rights and encourage top-down forestry, in violation of internationally recognised norms.

The authors believe it is therefore extremely difficult for FSC to certify forestry operations to FSC standards. Nonetheless the authors argue that a more

flexible and locally-adapted interpretation of FSC's principles 2 and 3 should allow for FSC certification if forest managers, certification bodies and forest peoples agree on how to interpret the principles and criteria to suit local realities, and if clear measures are taken to go beyond what the law currently requires.

While studying the application of Indonesian forestry laws, the authors made a startling discovery: 90% of state forest lands have never been legally transferred to the jurisdiction of the Forestry Department, meaning that most 'legal' forest operations in Indonesia are in fact illegal. The discovery illustrates the clear need for changes in the Indonesian administrative and legal system.

1. *Implementation of FSC Principles 2 and 3 in Indonesia: Obstacles and Possibilities*. Available from WALHI.

Forest Agenda

19 February: *Asia and Latin America - a new approach to aid?* European Parliament public hearing, Brussels.

10-14 March: CBD SBSTTA, Montréal.

17-20 March: UNFF inter-sessional on monitoring, assessment and reporting, Rome.