

Legally binding agreement on forests in Europe: “same, same but different”?

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“Same same but different”. Most people that have travelled to Thailand will have heard that sentence dozens of times. It is what the sellers in the street shops tell you to explain that what they are selling is the same thing as what’s in the next shop, but a little better. That is also what policy makers behind the legally binding agreement (LBA) on forests in Europe are trying to convince us, that an LBA would strengthen the implementation of sustainable forest management. But is this true? Ministers will gather in mid June in Oslo to take a decision about whether to enter into negotiations on an LBA for forests in Europe. NGOs question what the added value of this instrument will be and whether an LBA will really be able to deal with potential conflicts of interest concerning the future of Europe’s forests.

Deja vu

At the Rio Summit in 1992, the Climate Convention (UNFCCC) and the Convention on Biological Diversity (CBD) were set as legally binding agreements. Attempts to also agree a forest convention failed, leading to the “Non-Legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of All Types of Forests,” known as the Forest Principles. Since then, several countries have tried to create a legally binding forest convention, without success. Many NGOs argued that if countries were to properly implement existing legally binding commitments such as the CBD and the numerous human rights agreements that spell out rights of forest peoples, there would be no need for such a convention. In fact, they stated, the campaign for a forest convention would undermine existing agreements, as many of the countries keen for such an agreement were those with a strong and well organised timber industry, such as Canada, Malaysia and Finland. These countries, they argued, saw a forest convention as a way forward to come to a global agreement on principles for sustainable forest management. After more than fifteen years of negotiations, parties still could not find an agreement and NGOs remained unsupportive and so the debate stopped. It seems that Forests Europe is now reopening the debate, only focussing on Europe and not looking closely at the problems identified around the long and tortuous discussions concerning a global forest convention.

Forests in Europe: as they stand

In order to understand the difficulties inherent in coming up with the LBA, it is important to understand the state of forests in Europe today... to understand the serious threats that they face. Human activities and intensified forest management practices have had a negative impact on Europe’s forests and led to a serious decline in biodiversity. Forests are also under increasing pressure from climate change, making the need for biodiverse forests even stronger. Biodiverse forests are much more resilient and adaptive to climatic events. To ensure forests in Europe can adapt to and play a role in mitigating climate change, both forest protection and forest management practices need to be improved.

The demand for timber will grow rapidly in the coming years. Woody biomass is an important renewable energy source, but EU renewable energy policies will give a further boost to its use. The biobased economy is rapidly expanding, but replacing petrochemicals will require raw materials. The growing demand for wood will inevitably lead to more intensive forestry practices in certain regions, and will put new pressure on forests in Europe. Intensification and increased harvesting will decrease the carbon storage capacity of forests, and will have negative impacts on biodiversity. The growing demand for timber will also intensify conflicts between different users of forests. We need policy instruments that will guide us to make choices so that we can improve forest management and increase forest protection.

Sustainable forest management is no longer the panacea

Forests Europe was created in the nineties as the Ministerial Conference on the Protection of Forests in Europe or the MCPFE. It is a high level political initiative for the “protection and sustainable management of forests in Europe”, supported by more than 45 European countries. Since 1990, 19 resolutions have been adopted at five ministerial conferences.

Forests Europe claims it has defined and continuously developed the concept of sustainable forest management at a pan-European level through its “commitments,” which serve as a framework



for implementing sustainable forest management in European countries.¹ Although the principle of sustainable forest management gives - in theory - equal importance to ecological, economic and social considerations, in practice, perceived or real economic benefits have always prevailed, leading to a serious loss of biodiversity and hampering the capacity of forests to mitigate climate change. NGOs have regularly communicated the shortcomings of Forest Europe.² Amongst others, implementation of the commitments, has proved difficult with very mixed results. Even Forest Europe itself recognises this: in its technical background document³ for the ministerial decision on the LBA, the organisation recognises that “the existing European concept for sustainable forest management, developed and promoted by Forest Europe lacks full recognition by all relevant institutions and needs consistent implementation.”

The word “protection” might have been part of the original acronym MCPFE, but it is clear that during Forest Europe’s existence the emphasis on protection has slipped away and there has been a tendency towards an overarching emphasis on sustainable forest management. WWF stated this in a report in 2003, published in the context of the 4th Ministerial Conference of Forest Europe: “from the Helsinki conference onwards, sustainable forest management has developed to become the overarching mechanism by which all the disparate aims and objectives of forestry, including protection, can be achieved. As a consequence, the process has steadily moved away from the recognition of the distinct and separate needs of nature conservation. This is an undesirable development. Sustainable forest management is unlikely to achieve the aspirations for production and protection in all cases.”⁴

The process towards an LBA shows that Forest Europe still focuses too narrowly on the promotion of the concept of sustainable forest management, without addressing its lack of implementation. The text of the proposed ministerial decision and “negotiation mandate” give no indication that past failures to address the lack of improvement in forest management and the need for increased protection would not be repeated with a new LBA. There’s even a danger that an LBA may legalise the existing unsustainable situation.

Some organisations claim that with an LBA, forest protection and biodiversity conservation might finally be picked up. They point out that paragraphs in the proposed text for a ministerial decision and negotiation mandate for an LBA refers to the Convention on Biological Diversity (CBD). Such hopes however, raise the more important question of why there is a need for a new LBA to implement commitments that have already been made. It is clear that implementing CBD commitments has so far not been the highest priority of the signatory parties, and there is no guarantee that an LBA would fare any better. In fact, there is the serious danger that it would further weaken the CBD.

Emerging challenges: the choices we will have to make

Today, it is more important than ever to ensure that the debate about the future of Europe’s forests is about reducing consumption and making choices between intensification of their use and improved protection and biodiversity conservation. With demands for timber increasing, discussions must centre around on what forests can sustainably supply, and the concept of sustainable forest management is not able to deal with issues of consumption, and competition between sectors for resources, etc. Notwithstanding this fact, Forest Europe keeps on pushing the ‘mantra’ that sustainable forest management will be able to deal with emerging challenges. In the technical background document⁵ they state that “sustainable forest management requires effective means for bridging potential conflicts of interests with regard to forests, arising eg from the request for reliable carbon sequestration, the need for maintaining and enhancing vitality, resilience and biodiversity, and the rising demand for renewable biomass”. This would mean, however, that in defining and implementing sustainable forest management at national and local level, a process including all stakeholders and rights holders would need to be developed to come to consensus decisions on what sustainable forest management means and how the forest resource should be developed to ensure we focus on sustainable supply rather than future European demands. Such a debate is not happening.

Even though the proposed negotiation mandate states that “the challenges faced by forests in a rapidly changing environment cannot be addressed through forest policy measures alone and seeking to strengthen relationships and synergies in the work of the forest sector with others sectors and institutions for greater coherence in forest-related policy-making”, there is a lack of vision to really deal with the emerging challenges. This is clear from the proposed ministerial decision because the 2020 targets that are defined sometimes contradict each other rather than making the difficult choices. For instance, responding to political objectives on the use of renewable raw material and energy in Europe and “substantially” increasing the supply of wood products would likely be at the cost of improved biodiversity.

Participation

Forest Europe claims to be open to participation. The important question, however, is what is done with stakeholders’ input, and how far this triggers forest policy changes and concrete output on the ground. FERN wants to be part of a process that leads to positive changes, but with limited resources, we are very hesitant to engage in long-lasting processes that have no substantial influence on practices on the ground.

It is also about compliance, but where are the tools?

In its technical document, Forest Europe highlights what a legally binding instrument “would” do. In the list, it mentions that it “would strengthen the implementation of sustainable forest management through applying agreed common principles when formulating national policies, and allow to measure more precisely progress in implementation across the continent, through harmonised monitoring assessment and reporting”.

It would also “set a stage for developing means to bridge potential conflicts of interests with regard to forests, and give a long term stable framework for enhanced cooperation on forests with other sectors and civil society, including major groups and NGOs”.

But how an LBA would finally succeed in dealing with implementing sustainable forest management or bridging upcoming potential conflicts of interest remains a big question. In the proposed negotiation mandate, countries have already built in enough room to manoeuvre around any decisions taken and use the sovereignty argument to continue existing unsustainable practices. Paragraphs, like the following, allow sufficient manoeuvring space for countries who want to do exactly that:

- Stressing the importance of national circumstances, national sovereignty over natural resources and national responsibilities in implementing sustainable forest management bearing in mind ownership structure in Europe⁶
- Request that the intergovernmental negotiating committee in developing a legally binding framework agreement for forests, considers the importance of flexibility so that Parties can take decisions adjusted to their specific forest conditions and to provide for addressing changing and emerging needs in the future.⁷

What is needed?

In its reaction to an NGO open letter⁸ from September 2010, the European forest owners and industry called for NGOs to be involved in actively contributing to the development of improved forest governance through Forest Europe.⁹ It is difficult however for FERN and others to continue engaging in this process as we feel the concerns we have raised over the years have not been responded to. We have looked at the negotiation mandate that is currently on the table, and it doesn't give the impression that a new wind is blowing through the organisation.

Forest Europe needs a clear vision about how to proactively tackle the challenges forests in Europe are facing. They also need to analyse how to deal with failures of national forest related policies to improve forest management and increase protection. One concrete proposal would be to look at how to effectively implement the existing commitments made under the CBD.

NGOs are willing to be part of a process, but only one that is forward looking, visionary and has the necessary tools to ensure effective changes on the ground. In mid June, the ball is in the court of the ministers as they meet to take a decision on whether to enter in negotiations...

ENDNOTES

1. www.foresteuropa.org/eng/Commitments

2. Amongst others : WWF and Greenpeace Joint Position Statement at the 5th Ministerial Conference on the Protection of Forests in Europe, 5-7 November 2007, Warsaw, Poland. To be downloaded from: http://wwf.panda.org/who_we_are/wwf_offices/poland/news/?116380/Europe-must-take-responsibility-for-global-forest-protection

3. Technical background for a ministerial decision on negotiating a legally binding agreement on forests in Europe. Compilation of the technical results of the working groups (2008-2010). 8 November 2010.

4. WWF (2003). State of Europe's forest protection. WWF European Forest Programme within the context of the 4th ministerial conference on the protection of forests in Europe.

5. Technical background for a ministerial decision on negotiating a legally binding agreement on forests in Europe. Compilation of the technical results of the working groups (2008-2010). 8 November 2010.

6. Oslo Ministerial Mandate for Negotiating a Legally Binding Agreement on Forests in Europe, para 12

7. Oslo Ministerial Mandate for Negotiating a Legally Binding Agreement on Forests in Europe, para 24

8. http://www.fern.org/sites/fern.org/files/NGO_open_letter_LBA_MCPFE_final-logos_all.pdf

9. http://www.cepf-eu.org/vedl/LBA_%20press%20release%20-%20Forest%20Europe_October%202010.pdf