

EU Forest Watch

Informing NGOs, MEPs, Member States, the European Commission and the media

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Binding Forest Agreement: Déjà Vu

Forest Europe,¹ has embarked on an initiative to create a Legally Binding Agreement (LBA) for forests. European NGOs have responded with an open letter² showing great scepticism, while the forestry industry applauds the initiative.³

NGOs assert that key questions surrounding the failings of current legal instruments and the best options to increase forest protection have not been discussed, while a poor quality process towards an LBA is already underway. NGOs are concerned by Forest Europe's apparent assumption that forests in Europe are in a comparatively good state.

The forestry industry considers Forest Europe's LBA initiative an opportunity

to strengthen both Pan-European cooperation on the protection of forests and the implementation of sustainable forest management (SFM).

But many NGOs have a clear feeling of déjà vu. The debate for a binding forest agreement started pre-Rio, in 1990, and in two decades has led to nothing. It has, however, deviated attention away from clear measures toward forest protection and biodiversity conservation required under the CBD. NGOs argue that those favouring a convention are interested not in addressing the underlying causes of forest loss but in developing the concept of sustainable forest management (SFM), implementation of which can help

maintain or intensify logging practices.

NGO concerns seem understandable as Member States have been advocating against the Commission playing a stronger role in ensuring better forest protection, biodiversity conservation and improved forest management.⁴ An LBA would likely attempt only to reaffirm existing SFM practices in Europe, which have done little to halt the biodiversity crisis in forests in Europe.

1. A rebranding of the Ministerial Conference for the Protection of Forests in Europe.

2. www.fern.org/lba

3. available by contacting info@fern.org

4. See www.fern.org/sites/fern.org/files/FW%20152%20September%202010.pdf

EAP: Seven times a charm?

Discussions at EU level have started about the development of a new, seventh, legally binding Environmental Action Programme (7EAP). The 6EAP, which forms the basis for LIFE+ financing, expires in 2012. Opinions are divided about the merits of a new plan. While some NGOs favour the idea,¹ some officials caution that a 7EAP may be no better implemented than the 6EAP.

Two European Commission officials² have questioned the need for a 7EAP on the grounds that the existing plan neither inspired nor foresaw radical innovations such as the EU emission trading scheme (ETS) – widely considered by NGOs to be a policy disaster.³ Others have pointed out that a new EAP would offer a unifying policy narrative,⁴ be agreed by Member

States, and be legally binding. Danish environment minister Karen Ellemann has underscored that it would strengthen the Environment Commissioner's mandate.

For its part, looking back at previous action plans and their (lack of) implementation, FERN believes any new plan must outline strategies to finally implement all previously made commitments. Presenting ever-weaker action plans merely underlines that the environment is dropping off the agenda while biodiversity and climate crises increasingly affect Europe.

1. EEB, a coalition of European NGOs

2. MM. Kurt Vandenberge and Peter Vis

3. www.fern.org/tradingcarbon

4. E.g. John Hontelez, head of the EEB

www.loggingoff.info re-launched and bilingual

Recently updated and revamped, LoggingOff is a one-stop-shop for all those involved in Forest Law Enforcement Governance and Trade Voluntary Partnership Agreements (FLEGT VPAs). Managed jointly by NGOs working on VPAs, the relaunched version is bilingual (English and French) and designed to work better with slow connections. It is now easier to search for information and find LoggingOff publications, including clear explanations of key issues and updates.

To find out more about the project visit www.loggingoff.info/about. To find out more about FLEGT visit: www.loggingoff.info/processes/FLEGT



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NEWS IN BRIEF

Carbon Frauds unmasked: Congolese Minister of Environment, José E. B. Endundo declared on 1 October 2010 that an Australian carbon-trading firm's (Shift2neutral) carbon-offset deal, covering the entire Democratic Republic of Congo, was "illegal" and "void". This project would have been the biggest ever deal to reduce emissions from deforestation and degradation between a private company and a government, and calls to mind Carbon Harvesting Corporation's Liberian carbon-offset deal which could have bankrupted the country.¹ It also shows the dangerous tactics used by 'carbon cowboys'.

1. <http://www.guardian.co.uk/environment/2010/jul/23/uk-liberia-carbon-forest-bankrupt>

On the Voluntary Partnership Agreement front: Gabon and the EU began VPA negotiations on 23 September 2010, and Vietnam and the Democratic Republic of Congo are to start negotiations in November and December respectively. Cameroon and the EU signed a VPA on 6 October 2010, and the European Parliament is preparing resolutions on both the Republic of Congo and Cameroon VPAs. If you want to know more about the ratification process visit www.fern.org/ratification

Forests in Danger, a new report from FERN examines EU policies towards forest protection in the context of a changing climate. The report (www.fern.org/forestsindanger) recommends urgently needed policy actions to protect forests in the EU and concludes that a well-coordinated EU-wide response to forest protection is increasingly important.

Illegal timber regulation adopted. On 11 October 2010 the European Council adopted an illegal timber regulation, bringing to an end a long battle to get the EU to act against operators putting illegal timber on the EU market. The regulation comes into effect in 2012, and will make operators placing timber products on the market for the first time legally responsible for ensuring their products have been legally harvested.

BITs: The Commission passes the baton?

NGOs have long been critical of the practice of agreeing Bilateral Investment Treaties (BITs),¹ but the European Commission's recently launched draft regulation to establish transitional arrangements will not bring the changes needed. The draft regulation and a communication giving the Commission's view on a future EU international investment policy² came out as competency for foreign direct investment moves from Member States to the Commission due to changes brought in with the Lisbon Treaty. The Commission will now be able to negotiate trade and investment treaties on behalf of Member States (MS).

The draft regulation details the Commission's right to review and withdraw current BITs should they present obstacles to a common EU commercial policy, and establishes Commission oversight of MS

LIFE+ goes on?

A Commission communication reporting on DG Environment's evaluation of its €4.3 billion LIFE+ programme,¹ states that it is relevant as the only EU financial instrument focused on the environment. In fact, it is "even more needed given the failure to meet EU biodiversity targets and the need to enhance and invest in natural capital and green economy." The evaluation notes the problems caused by the disappearance of Forest Focus, the programme to monitor EU forests. It recommends consultation with Member States on this weakness in LIFE+ and concludes that financing environmental NGOs is positive as they make a necessary contribution to EU policy. The Commission will conduct an impact assessment of options for reviewing the regulation and the results will be available by the third quarter of 2011. If relevant, they will form the basis of a Commission proposal for a new financial instrument for the environment.

1. COM(2010)516 final

BIT negotiations. Although most MS object to this approach, the European Parliament and Council will consider the draft regulation under the Ordinary Legislative Procedure.³

The communication shows that the Commission does not envisage an investment policy changing much: companies investing overseas are still afforded excessive protection from host country legislation. While the communication mentions the need for investment agreements to be consistent with other EU policies such as environmental protection and respect for human rights, it still lacks a strategy for how this will be achieved.

1. COM(2010)343 final

2. COM(2010)344 final

3. Formerly co-decision procedure, it is the main legislative procedure by which directives and regulations are adopted.

Biofuels lawsuits

In September 2010, a coalition of environmental NGOs led by ClientEarth filed the second of two lawsuits¹ against the European Commission to gain access to documents containing critical information on the negative climate impacts of biofuels use in the EU. The NGO coalition which includes Transport & Environment, the European Environmental Bureau and BirdLife International is seeking access to data and related correspondence for studies conducted by the International Food Policy Research Institute and Joint Research Centre on behalf of the Commission. It alleges that unreleased information shows the environmental impacts of indirect land-use change caused by biofuels, include significant deforestation worldwide, and reveals internal Commission efforts to modify the findings to justify promoting land-using biofuels.

1. www.clientearth.org/clientearth-and-others-vs-commission-biofuels-lawsuit