

The International Forests Regime
Legal and Policy Issues

IUCN's Forest Conservation Programme

IUCN's Forest Conservation Programme coordinates and supports the activities of the IUCN Secretariat and members working with forest ecosystems. The goal of forest conservation is achieved through promoting protection, restoration and sustainable use of forest resources, so that forests provide the full potential range of goods and services.

The programme makes contributions to policy at various levels and uses field projects to derive lessons to feed into the policy debate. The principles of *Caring for the Earth*, published jointly by IUCN, WWF and UNEP in 1991, are applied to these projects, which combine the needs of conservation with those of local communities. One major activity is to develop coherent and informed policies on forest conservation in order to advocate the translation of policies into effective actions. IUCN frequently advises major development institutions on forest issues, to ensure that conservation priorities are adequately addressed in their projects and programmes.

The Forest Conservation Programme receives generous financial support from the Government of the Netherlands.

Environmental Law Programme

IUCN's Environmental Law Programme (ELP) is carried out jointly by the Commission on Environmental Law (CEL) and the Environmental Law Centre. The programme's objective is to promote the progressive conceptual development of environmental law and to help establish a strong national and international legal foundation to support conservation. The ELC, an outpost unit of IUCN, located in Bonn, Germany, serves as the secretariat for CEL and administers ELP project. ELC has three units: Environmental Law Development; Environmental Law Services; and the Environmental Law Information System (ELIS). This paper is produced by the Environmental Law Development unit.

WWF Forest Programme

WWF has worked to protect forests — tropical, temperate and boreal — for more than 30 years. The WWF network currently has over 400 practical forest conservation projects in more than 50 countries, and continues to lobby on international forest policy issues. The organization's objectives are to gain full protection for at least ten per cent of each of the world's forest types; ensure that all forests outside these protected areas are managed sustainably; and halt net forest loss by the year 2000.

Issues in Forest Conservation

The International Forests Regime
Legal and Policy Issues

Richard G. Tarasofsky

IUCN-The World Conservation Union

World Wide Fund For Nature

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Foreword

This work is an updated version of an earlier paper, prepared for an NGO meeting, co-sponsored by IUCN, entitled "Forests Policy at the Crossroads: A Forum for Policy-makers and NGOs on Global Forest Policy Options". The meeting was held at UN headquarters on 27 February 1995. That date is significant: being the first day of the Intersessional Meeting of the UN Commission on Sustainable Development (CSD), which was meeting for the first time to consider the forests issue. The NGO meeting was attended by many of the delegates to the CSD meeting and by many NGO representatives. One of the results of the Intersessional Meeting was the recommendation that the Third Session of the CSD establish an open-ended Intergovernmental Panel on Forests (IPF). This paper was revised so as to take this proposal into consideration and was widely circulated at the Third Session of the CSD, along with recommended terms of reference for the IPF. We were pleased to note that the terms of reference decided on by the CSD in establishing the IPF included many of these recommendations.

The decision to establish the IPF comes at a time when the political environment seems ready to consider future directions in global forest policy. At no time in the past several years has the prospect of making significant progress seemed so bright. The IPF — dealing with an issue long plagued by political divisions, especially between developed and developing countries — represents an opportunity to develop a real global consensus. While agreement on establishing the IPF is itself important, the true test of the IPF's potential contribution begins now, in preparing to effectively meet the objectives set out in its daunting, and somewhat sweeping, mandate.

In recognition of the important role that law can play in underpinning global forest policy, the IPF is charged with the task of considering the current legal context governing the world's forests, and making recommendations about the advisability of new legal instruments. By publishing this paper now, we are hoping to provide background information so as to better inform the IPF's work: the paper synthesizes the various components of international law that have an impact on forests and provides a policy framework for conservation and sustainable use, against which any future global regime should be measured.

The cross-sectoral and inter-disciplinary nature of the challenge to conserve and sustainably use the world's forests manifested itself from the outset of the project. While the paper is a cooperative undertaking of IUCN's Forest and Environmental Law programmes, staff of other IUCN programmes also made important contributions, as did several outsiders. This is one of the first products of IUCN's new Conservation Networking Group, an intra-institutional collaboration that is likely to continue. It is being published as one of a joint series "Issues in Forest Conservation" in collaboration with WWF International.

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Executive Summary

The United Nations Commission on Sustainable Development (CSD) recently established an Intergovernmental Panel on Forests (IPF). For such a politicized and divisive subject, the IPF panel may be the best possible initiative to pave the way forward for the next steps in international policy-making on forest conservation and sustainable use.

Although there is a well-recognized need for international cooperation, the crisis of deforestation persists. The presence of many international institutions, whose work has an impact on forests, has not been able to improve matters. Clearly, further commitment and coordination are required.

At the United Nations Conference on Environment and Development (UNCED), efforts to conclude a legally-binding instrument failed, on account of deep divisions between North and South. A variety of initiatives since UNCED have improved the negotiating climate; however, so that the notion of a treaty on forests is no longer simply dismissed by developing countries. Indeed, some major timber-producing countries may be close to agreeing.

Despite the pressures from some states to rush into intergovernmental negotiations, there seems to be little point in doing so before: a) a firmer consensus is reached on a whole range of

issues; and b) there is a thorough appraisal of the many existing international instruments relating to forests. This latter point is particularly important, since any new instruments on forests should not undermine the effectiveness of those already in place.

In some quarters, discussions have focused on a choice between a convention on forests and a protocol on forests to the Convention on Biological Diversity (CBD). Such a debate may be premature without the assessment referred to above. It is hoped that this paper makes a contribution to the preliminary assessment process.

The current international forest regime is composed of global and regional treaties, as well as soft-law instruments, which are not legally binding. The most important global treaties dealing with forests are the International Tropical Timber Agreement (ITTA) and the CBD. Guidelines relating to conservation and sustainable use have been developed under the ITTA and a wide range of actions are possible under the CBD, even without a specific protocol on forests.

Other relevant global treaties include the following:

- Ramsar Convention;
- World Heritage Convention;

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- Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES);
- ILO Indigenous Peoples Convention;
- Climate Change Convention; and
- Desertification Convention.

Regional instruments relating to forests include the following:

- Western Hemisphere Convention;
- African Convention;
- Apia Convention;
- Treaty for Amazonian Cooperation;
- Berne Convention;
- ASEAN Agreement;
- Central American Forests Convention; and
- North American Agreement on Environmental Cooperation.

Soft-law instruments relating to forests include the following:

- World Charter for Nature;
- UNCED Forest Principles; and
- Agenda 21.

Several international initiatives have taken place in recent years that ought to be considered in the process of further developing global forest policy:

- Tropical Forestry Action Programme;
- Helsinki Process (European Ministerial Conference);
- Montreal Process (CSCE);
- Inter-Governmental Working Group on Forests;
- United Kingdom-India Workshop;
- United Nations Food and Agricultural Organization;
- Forest Stewardship Council;
- World Commission on Forests and Development;
- International Organization for Standardization (ISO); and
- European Working Group on Amazonia.

The international regime relating to forests must contain a series of elements if it is to effectively support the conservation and sustainable use of forests. The following elements are described in detail:

- objectives;
- underlying principles;
- strategies and techniques to achieve the objectives, including actions directly aimed at conservation and sustainable use of forest resources, actions aimed at structural issues that affect the conservation and sustainable use of forests, and implementation actions (international dimensions, procedural techniques and issues relating to stakeholders).



Three options — a convention on forests, a protocol to the CBD and better use of existing instruments — are examined in a preliminary fashion. Whichever route is ultimately chosen by the international community, it is fundamental to ensure that all the relevant instruments relate in a synergistic manner.

Present efforts should be directed at ensuring that the Intergovernmental Panel on Forests functions as effectively as possible. The panel's success hinges on its credibility and the strength of its actions. Its mandate is necessarily broad, but even with the limited time and resources available, the work must be approached in an action-oriented manner. The panel should receive the support necessary to allow it to work in "an open, transparent and participatory manner", so that all relevant participants have the opportunity to be heard.



Introduction

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In April 1995 an open-ended Intergovernmental Panel on Forests (IPF) was established at the Third Session of the UN Commission on Sustainable Development (CSD). There is widespread and cross-sectoral institutional support for the panel: in 1995 it was recommended at the informal meeting of Environment Ministers at Brocket Hall (United Kingdom) held on 10-11 February, again at the Ad Hoc Intersessional Working Group on Sectoral Issues of the CSD (Intersessional CSD Meeting) held in late February and early March, and at a Ministerial Meeting on Forests convened by the UN Food and Agriculture Organization (FAO) in March. In addition it received an endorsement from the 18th session of the UN Environment Programme (UNEP) Governing Council.

It is hoped that an international forum for examining forest issues in a scientific and credible manner will prove to be the best way to pave the way forward to the next steps in international forest conservation and sustainable use. Perhaps following the successful model of the Intergovernmental Panel on Climate Change, the IPF may allow for reasoned dialogue in an otherwise polarised and highly charged political context.

Despite many inherent difficulties, international cooperation to conserve forests and use them sustainably is essential to the well-being of the global environment. The global chal-

lenge is indeed complex; the problems affecting forests and the implications of forest loss are well summed up in Paragraph 11.10 of *Agenda 21*, adopted at the 1992 United Nations Conference on Environment and Development (UNCED):

Forests world wide have been and are being threatened by uncontrolled degradation and conversion to other types of land uses; influenced by increasing human needs; agricultural expansion; and environmentally harmful mismanagement, including, for example, lack of adequate forest-fire control and anti-poaching measures, unsustainable commercial logging, overgrazing and unregulated browsing, harmful effects of airborne pollutants, economic incentives and other measures taken by other sectors of the economy. The impacts of loss and degradation of forests are in the form of soil erosion; loss of biological diversity; damage to wildlife habitats and degradation of watershed areas, deterioration of the quality of life and reduction of the options for development.

The situation has not improved since UNCED. The secretariat of the FAO Committee on Forestry recently reported the following:

The number of projects aiming at more involvement of the "major groups" in forest management at local and national levels has increased, but much more remains to be done. On the other hand, little progress has been achieved in intersectoral planning, including land-use planning, and indiscriminate clearing and over-exploitation of forests continue unabated in too many parts of the world. Capacity-building continues to be hampered in most developing countries by financial difficulties and the severe structural adjustment

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programmes which many governments have to face. And the levelling off of official development aid to the forestry sector, despite the high expectations raised by UNCED, has been a major setback in efforts by developing countries to implement their national forest action plans.¹

Although the FAO and the International Tropical Timber Organization (ITTO) have been important to the forest sector, it is clear that further commitment and more international institutional support will be required to ensure that forests are conserved and sustainably used. It is also apparent that the activities of other intergovernmental institutions, such as the United Nations Environment Program (UNEP), United Nations Development Programme (UNDP), World Trade Organization (WTO), World Bank, Global Environment Facility (GEF), United Nations Educational, Scientific and Cultural Organization (UNESCO), United Nations Conference on Trade and Development (UNCTAD), and Organization for Economic Cooperation and Development (OECD) can have a significant impact on forests. Overall, gaps and overlaps exist, however, and more coordination is needed.

The idea of a global instrument for forests has been on the international agenda for several years. The run-up to UNCED revealed just how challenging this prospect is: the Northern countries were thwarted in their push to

elaborate a convention on Forests² by several key Southern countries, who saw such a convention as eco-imperialism. At UNCED itself, the result was by contrast a “soft-law”³ instrument; the Non-Legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of all Types of Forests (“Forests Principles”) was adopted at virtually the last minute. The one concession the Northern countries managed to win, in their effort to keep the convention idea alive, was in Preamble paragraph (d), which states:

These principles reflect a first global consensus on forests. In committing themselves to the prompt implementation of these principles, countries also decide to keep them under assessment for their adequacy with regard to further international cooperation on forest issues.

This provision leaves open the possibility that an international instrument on forests might become viable in the future. In addition, *Agenda 21*, also adopted at UNCED, indicates in Paragraph 11.12 (e) that one of its objectives is:

to facilitate and support effective implementation of [the Forests Principles] ... and on the basis of the implementation of these principles to consider the need for and feasibility of all kinds of appropriate internationally agreed arrangements to promote international cooperation on forest management, conservation, and sustainable development of all types of forests, including afforestation, reforestation and rehabilitation.



The fact that the Forests Principles was finally adopted at UNCED as an environmentally-specific instrument⁴ is in itself significant in demonstrating the global importance of forests, and illustrates that the elements and potential for a global agreement do exist. A variety of initiatives, involving many key states, have flowered since UNCED. The discussion has now progressed to the point where the notion of a binding agreement on forests is no longer simply dismissed by developing countries; indeed, some countries that are major timber producers may now be close to agreeing to such an initiative. UNCED has made it clear, however, that any binding agreement will have to encompass all forests, not only tropical ones, but also temperate and boreal forest. Anything less will be seen by developing countries as a hypocritical attempt by the North to regulate only Southern forests, while imposing less stringent standards on Northern forests.

There recently has been pressure from some quarters, especially the European Union and Canada, to rush into negotiations on a binding legal instrument — without the presence of a consensus on a whole range of factors — even though this might be counterproductive. The most significant of these factors include:

- addressing the causes of deforestation;
- effectively conserving and sustainably using forests as a whole, not just for timber;

- equitably addressing the interests of forest-dwellers and local communities;
- designing effective intergovernmental institutional support; and
- implementing existing legal instruments to their full potential.

There is little point in elaborating an instrument which is weak or which undermines other important initiatives.

This latter point is especially important. There is a whole range of instruments, global and regional, which affect one or more aspects of forests. One noteworthy example at the regional level is the Central American Forests Convention, which is the only treaty to deal with forests in a holistic manner. At the global level, many environmental conventions, especially newer ones such as those governing climate change, biological diversity and desertification, are closely linked to forest issues. If a new instrument is eventually considered to be the best option, it must not take away the environmental potential of any of these other treaties.

Although there has been discussion in some quarters about the desirability of a Convention on Forests versus a possible Protocol on Forests to the convention on Biological Diversity (CBD), this paper refrains from endorsing either view as being the best option at present.

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Focusing only on these two possibilities might divert attention from the substantive issues and risks thereby foreclosing other sensible options. For example, there may be merit, after a thorough evaluation, in pursuing a possible Forests Protocol to the Climate Change Convention or some kind of combination of a Convention on Forests, a Forests Protocol to the CBD, and a Forests Protocol to the Climate Change Convention. Other actions, such as the elaboration of non-binding instruments and measures, both within the framework of the CBD and beyond it, might also prove appropriate.

This paper takes the position that it is premature to rush to any conclusions. What is needed is an overall appraisal of the existing international forests regime to determine the adequacy of existing international law, the existence of any gaps, and whether there is effective implementation of those laws which do exist. It is in this way that an assessment should be

made of all the possible ways forward. It is hoped that this paper can contribute to the process by approaching some of these issues in a preliminary way.

The paper is divided into the following parts:

- **Part 1** is an introduction;
- **Part 2** is a survey of the existing global legal regimes that regulate forests;
- **Part 3** is a summary of the major pre- and post-UNCED international initiatives relating to the conservation and sustainable management of forests;
- **Part 4** is a collection of elements of an international regime for the conservation and sustainable use of forests;
- **Part 5** is a discussion of some possible options for the future; and
- **Part 6** addresses the next steps that might be taken, particularly within the context of the new Intergovernmental Panel on Forests.



Existing global regimes

2

There is currently no binding global treaty on the conservation and sustainable use of all types of forests. What does exist is the following:

- a) the International Tropical Timber Agreement, which is a globally binding commodity treaty;
- b) the Convention on Biological Diversity, although not limited to forests, encompasses many, if not all, of the issues relating to forests;
- c) other global treaties which address some aspects of forest issues;
- d) regional agreements that have an impact on forests; and
- e) "soft law" agreements, which largely reflect political, rather than legal, commitments.

This section presents a survey of these agreements. In addition, there is an array of global, regional and bilateral agreements that regulate pollution control. These measures form part of the international regime for forests, since pollution — particularly air pollution — directly threatens forests in many parts of the world.⁵ These latter treaties are not, however, examined in this document.

a) International Tropical Timber Agreement

The International Tropical Timber Agreement (ITTA) was adopted in 1983 and renegotiated in 1994. So far, the renegotiated agreement does not have enough adherents to allow it to

enter into force. Recently, however, the European Community has announced its intention to become a party.

The ITTA is primarily intended to be a commodity agreement between producer and consumer countries, and has established the International Tropical Timber Organisation (ITTO). In 1990, the ITTO agreed to a non-binding goal of sustainable management by the year 2000, and has now developed three sets of guidelines, two of which are described in detail in Box 1.⁶

The ITTO has been the target of considerable criticism, particularly by Northern countries and Northern NGO's. It has been argued that the ITTO has become too bogged down on specific project approval; it has also been asserted that many of the projects have been poorly designed. The ITTO is also seen as being overly concerned with forest management, rather than on the aspects of the ITTA that address the broader issues raised by international trade policy. Perhaps the greatest disappointment about the ITTO, however, has been that policy decisions made within the organisation have not been effectively implemented. This is partly due to the ITTO's own lack of human and financial resources. In addition, there have been cases where the ITTO's firm recommendations have been effectively ignored. Finally, the delay in



Box 1

Guidelines adopted by the ITTO

In 1990, the ITTO and its member countries adopted Guidelines for the Sustainable Management of Natural Tropical Forests, containing 41 principles and 36 recommended actions. The guidelines apply to both national and privately-owned or customarily-held forests. Principle 1 calls for a strong and continued political commitment to sustainable forest management “at the highest level”, with the creation of national land-use policy with forest policy as an integral part (Possible Actions 1 and 2). The guidelines call for appropriate legislation to support the agreed forest policy (Principle 2) and for research and monitoring to allow for regular revision and updating of such policies (Principle 3). The establishment of a permanent forest estate is called for (Principle 6), which is to include land to be protected, land for nature conservation, for production of timber and other forest products, and land to fulfill combinations of all these objectives (Principle 7). In addition to timber production, other important objectives of forests are to be safeguarded, including environmental protection and the conservation of species and ecosystems (Principle 11). The guidelines make provision for detailed inventories (Principle 13), rationally set management objectives (Principle 14), and yield regulation (Principle 17). Detailed environmental impact assessments are called for (Principle 20). The guidelines also seek to control outside adverse influences, such as roads (Principle 23), use of heavy machinery (Principle 24), shifting cultivators (Principles 26), fire (Principle 27), and chemicals (Principle 28).

The socio-economic aspects of forests are addressed, such as having the local population benefit from the use of forests (Principle 29), as well as an equitable distribution of incentives, costs and benefits associated with forest management among the main participants (Principle 34). The guidelines advocate that the recommendations of the World Bank and the International Labour Organization be considered when timber permits are issued for areas inhabited by indigenous peoples (Principle 36). Finally, the guidelines recommend the use of economic incentives and taxation to support sustainable forest management (Principles 37-40).

In 1993, the ITTO, with input from IUCN, adopted Guidelines on the Conservation of Biological Diversity in Tropical Production Forests. Principle 1 calls for national forest policy and legislation to recognize biodiversity conservation as an important goal of forest management. The guidelines call for those national agencies responsible for forests to have the mandate and capability for managing all forest values, including biodiversity, in an integrated fashion (Principle 2). Principle 4 stipulates that certain areas, including lands for nature conservation, for ecosystem preservation, and fragile lands, should be kept under permanent forest cover. Management plans for these areas should be developed in consultation with forests dwellers and surrounding popula-



tions (see Recommended Action 5). Principle 5 relates to the creation of protected areas; Principle 6 advocates maintaining connectivity between undisturbed forests when some amount of clearing or disturbance becomes necessary. The guidelines call for particular care to be taken during silviculture to maintain adequate populations of species important in food chains or in providing ecological functions (Recommended Action 8), and to minimize the use of pesticides and other chemicals (Recommended Action 10). The guidelines make recommendations regarding yield regulation, annual allowable cut and rotation time (Principles 8 and 9), as well as for the maintenance of old-growth forests and the creation of a system of small undisturbed forest reserves and small virgin reserves (Recommended Actions 11-13). In terms of implementation, the guidelines call for the use of market mechanisms so as to involve local people in managing forests (Recommended Actions 18 and 19), and for increased research and monitoring (Principle 14).

...Existing global regimes

establishing strong feedback loops, such as country reporting systems, has also reduced the ITTO's effectiveness.

Because of tensions between consumer and producer countries, renegotiation of the ITTA was a highly-charged and occasionally acrimonious exercise. As a result, some important participants have not yet adhered. There was considerable debate about whether the ITTA should include binding requirements for sustainable management and whether the agreement's scope should be expanded to include all forest timber, including temperate and boreal.

Ultimately, the scope of the ITTA was not expanded. Instead, the consumer countries pledged in a joint statement to apply the same standards for sustainable forest management as those developed under the ITTO. The goal of national sustainable management by the year 2000 is reaffirmed in the Preamble and in Article 1 (d), but not as a legally binding target. The renegotiated ITTA also establishes the Bali Partnership Fund, with contributions from donor members and other sources. The fund is aimed at helping build national capacity to implement a strategy for achieving exports from sustainably managed sources by the year 2000 (Article 21).

b) Convention on Biological Diversity

The Convention on Biological Diversity (CBD) is the global treaty with the most significant potential effect on the conservation and sustainable use of forest resources (see Box 2). The CBD entered into force on 29 December 1993 and now has more than 115 parties. Negotiated under the auspices of UNEP, the CBD aims to protect the earth's biological diversity by promoting its conservation, the sustainable use (defined in Article 2) of its components, and by ensuring that the benefits arising from genetic resources are shared equitably (Article 1). The preamble to the CBD provides that the conservation of biological diversity is a "common concern of humankind", and that, while states have sovereign rights over their biological resources, they also bear a responsibility for conserving their biological diversity and sustainably using their biological resources.

The CBD "hardens" Principle 21 of the 1972 Stockholm Declaration⁷. This principle affirms that states have sovereign rights to exploit their natural resources as well as the responsibility to ensure that activities within their jurisdiction or control do not harm the environment of other states or of areas beyond national jurisdiction (Article 3). The CBD applies to the use of biological resources within national jurisdiction, and applies to processes and activities within national jurisdictions and beyond (Article 4).



The CBD imposes obligations in relation to *in situ* conservation (within natural surroundings) and *ex situ* conservation (e.g. botanical gardens and gene banks) of species, habitats, and ecosystems (Article 8 and 9). As regards *in situ* conservation, Article 8 of the CBD requires parties to:

- establish a system of protected areas;
- regulate or manage biological resources important for the conservation of biological diversity with a view to ensuring their conservation and sustainable use;
- promote the protection of ecosystems, natural habitats, and the maintenance of viable populations of species in natural surroundings;
- rehabilitate or restore degraded ecosystems;
- prevent the introduction of alien species which threaten ecosystems, habitats or species, and, where introduced, control or eradicate them;
- develop or maintain necessary legislation and/or other regulatory provisions for the protection of threatened species or populations; and
- regulate and manage processes and activities which have or are likely to have significant adverse impacts on the conservation of biological diversity and the sustainable use of biological resources.

Annex I of the CBD contains an indicative list of categories to assist in identifying compo-

nents of biological diversity important for its conservation and for sustainable use.

The CBD requires parties to conserve and sustainably use biological resources by, among other things, integrating the goal of conserving biodiversity into national decision-making, and by adopting measures aimed at avoiding or minimizing adverse impacts on biological diversity (Article 10). The convention also requires parties to develop national biodiversity strategies and plans, promote the sharing of information, adopt incentive measures, undertake research and training, encourage public education and carry out environmental impact assessments (EIA) on projects likely to have significant adverse effects on biological diversity (Articles 6 and 10-14).

In Article 15 (1), the CBD affirms the right of a country providing genetic resources to determine access to those resources, and requires that such access must be subject to that party's prior informed consent (subsection 5). In Articles 15 (7) and 19 (2) the convention seeks to channel the benefits derived from the exploitation of genetic resources to the party of origin. This is achieved through requiring the recipient of the benefits to share, in a "fair and equitable way", the results of research and the benefits of commercial and other use. Such sharing is to be done in way that is appropriate and mutually agreeable. The CBD also provides for transferring technology to developing coun-



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...Existing global regimes

tries, taking into account existing patents and other intellectual property rights (Article 16).

New and additional financial resources are to be provided by developed countries, as per Article 20 (2), to enable developing countries to meet the “agreed full incremental costs to them of implementing measures which fulfil the obligations of this convention and to benefit from its provisions”. The CBD does not affect the rights and obligations parties may have pursuant to other international agreements except where fulfilment of those rights and obligations will cause “serious damage or threat to biological diversity” (Article 22).

A Conference of the Parties is established by the CBD (Article 23), along with a Secretariat (Article 24) and, in Article 25, a Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA). In addition, the Conference of the Parties is to set up a financial mechanism for the transfer of funds to developing countries (Article 21). It was agreed at the first meeting of the Conference of the Parties (COP) that the Global Environment Facility (GEF) would be the interim institutional structure overseeing the financial mechanism and the policy decision has now been taken within the GEF that funding for biodiversity projects will only be available for parties to the CBD. Article 26 requires parties to report on measures taken to implement the CBD and on their effectiveness.

c) Other global treaties

In addition to the agreements listed above, there are several other major global treaties which have an impact on forests. A few of the more significant ones are described briefly:

Ramsar Convention. *The 1972 Ramsar Convention on Wetlands of International Importance Especially as Waterfowl Habitat*, adopted under the auspices of UNESCO, requires parties to promote the conservation of listed wetlands and the “wise use” of wetlands in their territory (Article 3). The convention’s definition of wetlands, as areas of marsh, fen, peatland or water, is broad enough to encompass some forest ecosystems, especially mangroves.⁹ When becoming a party, each state must nominate suitable wetlands in their territory to the List of Wetlands of International Importance, on the basis of such aspects as ecology, botany, or hydrology (Article 2). Inclusion in the list does not affect a party’s exclusive sovereign rights (Article 2). According to Article 4 (1), conservation of all wetlands is to be promoted by establishing nature reserves with adequate management. By the terms of Article 4 (2), if a party changes the boundary of a listed wetland in its “urgent national interest”, it is supposed to compensate for the loss of wetland resources; in particular by creating additional reserves for waterfowl and for the protection of “an adequate portion of the original habitat”.



World Heritage Convention. The 1972 *UNESCO Convention for the Protection of the World's Cultural and Natural Heritage* provides for the protection of such heritage which is of "outstanding universal value" from several points of view, including conservation (Article 2), and places the primary duty on states to ensure the continuance of this heritage for future generations (Article 4). By the terms of the convention, states are required to endeavour to include in their planning the protection of their natural and cultural heritage and to take appropriate measures to protect, conserve, and rehabilitate this heritage (Article 5). The international community also has a duty to cooperate in this regard, and parties undertake to provide assistance when so requested (Article 6). The convention establishes the World Heritage Fund, which provides international assistance (Articles 15 and 16), and the World Heritage Committee, which maintains the World Heritage List and the World Heritage in Danger List. To date, 30 forests have been designated as World Heritage sites, with four more being reviewed in 1995.

CITES. The 1973 *Convention on International Trade in Endangered Species of Wild Flora and Fauna* (CITES) focuses specifically and exclusively on trade. It is premised on the view that the control of international markets will contribute to the preservation of endangered species. The convention establishes three appendices, which classify species in accordance

with their conservation status: Appendix I species are most endangered and international trade in them is highly restricted; Appendix II species may become endangered unless trade in them is regulated; and Appendix III species are identified by individual parties as subject to domestic regulation on their exploitation and as requiring cooperation to control international trade in them (Articles II-V). Depending on the classification of a particular species, international trade is regulated by certain permits, which involve input from each state's management and scientific authorities.

The convention's wording is broad enough to encompass timber species. To date, some 15 timber or "woody" species have been placed onto its appendices. These species include several widely-traded timbers, although listing such species was vocally opposed in principle by several countries at the 9th meeting of the Conference of the Parties, in 1994. At that meeting, red sandalwood from India was added to Appendix II after a protracted fight; other proposals were withdrawn. In addition, the proposal to list big-leaf mahogany from Central and South America onto Appendix II failed by just six votes, despite meeting the scientific criteria. It was decided to establish a temporary working group to study the role of CITES in relation to timber and to report to the 10th meeting. It is hoped that the working group will help diffuse some of the political tensions underlying this issue.

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International Labour Organization (ILO) Indigenous People Convention. The *1989 ILO convention 169 on Indigenous and Tribal Peoples in Independent Countries*¹⁰ is especially relevant to indigenous people who live in or around forests. Article 2 (2) (a) requires states to take measures that ensure the full realisation of the social, economic and cultural rights of indigenous peoples; and to safeguard the environment of indigenous peoples (Article 4 (1)). The convention is to be implemented in consultation with indigenous peoples and with their participation in the decision-making bodies which concern them (Article 6).

The convention affirms the right of indigenous peoples to decide their own priorities for development as it affects their lives, beliefs, institution, spiritual well-being, and the lands they occupy or otherwise use. Article 7 (1) requires that indigenous people participate in the formulation, implementation, and evaluation of development plans and programmes which affect them directly. States must also assess the environmental impact of any development activities and, in cooperation with indigenous peoples, take measures to protect and preserve the environment of the territories such people inhabit (Articles 7 (3) and 7 (4)). The convention requires recognition of the ownership and possessive rights of indigenous peoples over the lands which they occupy, and that their rights to use such lands be safe-

guarded (Article 14). Finally, the convention places particular emphasis on the rights of indigenous peoples to use, manage and conserve the natural resources pertaining to the lands they occupy, and to share in the benefits of state-owned natural resources (Article 15).

Climate Change Convention. The *1992 United Nations Framework Convention on Climate Change* relates to forests in their capacity to be sinks that can help reduce the level of greenhouse gases in the atmosphere. The convention requires the promotion of the sustainable management and conservation of sinks and reservoirs of greenhouse gases, including forests (Article 4 (1) (d)). New and additional funding from developed country parties will pay for the "agreed full incremental costs" incurred by developing country parties in implementing the convention (Article 4 (3)). These funds will also pay for the transfer of, or access to environmentally-sound technologies and expertise to developing countries (Article 4 (5)). However, a recent decision has been taken within the GEF, the Convention's financial mechanism, that no funding under its climate window will be available for forests projects. At the first meeting of the COP, a decision on joint implementation was taken; this allows industrialised parties to contribute to meeting the objectives of the convention by taking action, such as reforestation and the prevention of deforestation, outside their territories.



Desertification Convention. The *1994 United Nations Convention to Combat Desertification in Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa* is not yet in force. It aims to adopt an integrated approach that addresses the physical, biological and socio-economic aspects of the processes of desertification and drought (Article 4 (2) (a)). To the extent that forests carry out important ecological functions which prevent both drought and desertification, forests are an important element of this convention.

The convention anticipates the development of national and regional action programmes to identify both the factors contributing to desertification and the practical measures to combat it and to mitigate the effects of drought (Articles 10 and 11). The convention includes regional implementation annexes; those for Africa and Latin America and the Caribbean require national action programmes to integrate and sustainably manage natural resources, including forests (Article 8 (3) (b) (i) for Africa and Article 4 (c) for Latin America and the Caribbean). The convention contains provisions for information exchange (Article 16), technical and scientific cooperation (Article 17), transfer of technology (Article 18), and capacity building (Article 19). It also establishes a financial mechanism to facilitate implementation (Article 21).

d) Regional treaties

There are several regional treaties which affect the conservation and sustainable use of forests.

Western Hemisphere. The *1940 Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere* was adopted under the auspices of the Pan-American Union (now the Organization of American States). It seeks to conserve wildlife through the designation of specially protected areas. The convention classifies different types of protected areas: national parks, nature reserves, nature monuments and strict wilderness areas. Each of these can include forests. Parties are required to explore the possibility of establishing such areas as soon as possible (Article II). The convention also requires restrictions in international trade of protected fauna and flora (Article IX). Although the convention is in force, it has not been rigorously implemented. There have been recent attempts to revive it, but the results of the recent Summit of the Americas indicate that this may not be possible.

African Convention. The *1968 African Convention on Conservation of Nature and Natural Resources* was adopted under the auspices of the Organization of African Unity. The convention is intended to conserve, utilise and develop natural resources according to scientific principles and the "best interests of the people" (Article II). It contains specific

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provisions for soil conservation (Article IV) and the protection of flora, including the setting aside of forest reserves (Article VI). Article III defines three categories of conservation areas (strict nature reserves, national parks, and special reserves). Parties are to maintain and extend these areas as appropriate in order to protect representative ecosystems and conservation of all species (Article X).

Apia Convention. The *1976 Apia Convention on Conservation of Nature in the South Pacific* requires parties to encourage the creation of protected areas to safeguard representative samples of natural ecosystems, paying particular attention to endangered species (Article II). The convention has particular relevance to forests in setting out requirements for national parks (Article III) and national reserves (Article IV). Parties are also required to use best efforts to protect indigenous fauna and flora outside protected areas against unwise exploitation and other risks of extinction (Article V (1)), and to take special measures regarding endangered species (Article V (2) and V (3)). The South Pacific Commission provides the administration set forth under the convention.

Treaty for Amazonian Cooperation. The *1978 Treaty for Amazonian Cooperation* creates a framework for all eight Amazonian basin states to take joint action in their development in a manner which is equitable, preserves the environment, and achieves the "rational

utilisation" of their respective natural resources (Article I and IX). The parties are to rationally plan their exploitation on the basis of scientific research and the exchange of information to protect the region's flora and fauna (Article VII).

In 1992, the treaty's temporary secretariat held an experts' meeting to develop a regional strategy for the sustainable use of Amazon forests. A preliminary version of this strategy was published in 1993. It requires each Amazonian state to undertake particular strategic actions regarding forestry and instructs the Special Commission on the Environment to develop and implement a specific forestry programme. This programme is now being developed. A preliminary version identifies five major themes: forest protection; silviculture and forest management; wood utilization; agro-forestry and non-timber forest products; and an Amazonian Forestry Action Plan.

The secretariat has also begun to promote a forest conservation programme in cooperation with the *Treaty of the Plata Basin* and the *Central American Forests Convention*.

Berne Convention. The *1979 Berne Convention on the Conservation of European Wildlife and Natural Habitats* is aimed at protecting both species and habitats. It encompasses forests both as habitats and, potentially, as tree



species. It requires that legislative and administrative measures be taken to conserve the habitats of wild flora and fauna listed in its appendices and to conserve endangered habitats (Article 4 (1)). Parties are to consider the conservation requirements of such areas to avoid or minimise any deterioration that results from planning and development policies (Article 4 (2)). Parties are also required to specially protect the areas of importance for migratory species listed in the appendices and are to coordinate with other parties when those parties have an involvement in the habitats to be protected (Articles 4 (3) and (4)).

ASEAN Agreement. The *1985 ASEAN Agreement on the Conservation of Nature and Natural Resources*, which is not yet in force, seeks to protect a wide variety of natural resources with a view to integrating conservation and development efforts. Article 6 of the agreement is specifically devoted to vegetation cover and forest resources.

The primary obligation is to conserve vegetation, particularly forest cover (Article 6 (1)). Article 6 further requires parties to:

- control clearance of vegetation;
- prevent bush and forest fires;
- prevent overgrazing;
- regulate mining and mineral exploration so as to minimize the disturbance of vegeta-

- tion and the rehabilitation of vegetation;
- set aside forests reserves and other protected areas to help conserve natural forest genetic resources;
- avoid monoculture planting, which causes an ecological imbalance in reforestation and afforestation;
- designate areas that will have the primary function of maintaining soil quality and regulating water quality and quantity;
- ensure the conservation of natural forests, particularly mangroves, to maintain maximum forest species diversity; and
- develop forestry management plans on the basis of ecological principles.

Other provisions of the agreement are also relevant, such as those relating to soil (Article 7), pollution (Article 11), land-use planning (Article 12), protected areas (Article 13), impact assessment (Article 14) and access to information and public participation in decision-making (Article 16).

Central American Forests Convention. The *1993 Central American Regional Convention for the Management and Conservation of the Forest Natural Ecosystems of the Development of Forestry Plantation* is the first treaty to focus specifically on the conservation of forests, although it has not yet entered into force. Its stated objectives include preventing change in the land-use of forest areas with forestry poten-

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tial; recovery of deforested areas; reorienting settlement policies in forest lands; discouraging destruction of forests in lands where there is forestry potential; and promoting land-use planning and sustainable options (Article 2).

It is fundamental to the convention that states have the sovereign right to use, manage and develop their forests. Article 1 requires this to be carried out in accordance with policies that relate to the following:

- developmental needs;
- the conservation and sustainable use of forests for social and economic purposes;
- ensuring that activities under their control or jurisdiction do not cause environmental damage to their territory or to other states in the region; and
- strengthening the application of policies and strategies in each state's Forestry Action Plan.

The convention contains a series of policies in Article 3 aimed at sustainable development:

- consolidating national and regional systems of protected areas which ensure the conservation of biological diversity, the maintenance of vital ecological processes, and the sustainable utilisation of goods and services from forest ecosystems;
- integrating national and regional agricultural programmes so that trees and soils are

used effectively;

- helping national and regional forest management programmes achieve the goal of conservation by rehabilitating degraded and secondary forests and by managing natural forests so that the pressures to convert them to other land use is stopped or reduced;
- orienting national and regional reforestation programmes to recover degraded land in such a way as to promote native species, and to ensure local participation in programme planning and implementation, as well as in the distribution of benefits; and
- conducting a large-scale inventory of forest cover in the region.

The convention advocates the creation of specific national funds to support these priorities, mechanisms to invest the income derived from forest resources, and initiatives to support the efforts of local communities and others in developing programmes in accordance with the convention (Article 4 (a)-(c)). The convention also calls for international financial resources to strengthen the national funds and to help establish mechanisms to avoid illegal trade in flora, fauna, timber and other products (Article 4 (d) and (f)).

The convention promotes public participation by requiring the participation of all interested parties in developing any resultant national policies; and calls for the rights of indigenous



communities and other forest-dwellers to be respected (Article 5).

In addition, Article 6 of the convention addresses legal and institutional matters by requiring that the following be established or strengthened:

- sectoral and inter-sectoral coordination mechanisms which support the transition to sustainable development;
- institutions supporting forest development;
- more environmentally-sensitive Attorney General offices; and
- training and research programmes.

The convention also specifies that environmental impact assessments be legally compulsory where an activity may have a negative impact. A regional institution is created to follow up on this convention (Article 7).

North American Agreement on Environmental Cooperation. The *1993 North American Agreement on Environmental Cooperation* was adopted as a side-agreement to the North American Free Trade Agreement (NAFTA). The environmental agreement is broad-based; it aims to promote environmental protection and improvement by cooperative means, and potentially could have a positive impact on North American forests. The agreement does not create substantive new environmental

standards, but instead places particular importance on enforcement of national environmental laws (Article 5), including the provision of private access to remedies (Article 6) and procedural guarantees (Article 7).

The agreement provides for individual submissions that a party is failing to effectively enforce its environmental laws. In such cases a "factual record" may be prepared by the secretariat and, ultimately, may be released publicly (Article 15). An interstate dispute resolution mechanism is established for complaints of a "persistent pattern of failure" to effectively enforce environmental law in another state (Part Five). Monetary penalties may eventually be assessed in such cases (Article 34 (4), Annexes 34 and 36).

The Commission on Environmental Cooperation (CEC) is established (Article 8) as the institutional basis for the agreement. The CEC Council may develop policies relevant to forests in the form of recommendations on matters such as transboundary and border environmental issues, harmful exotic species, conservation of wild flora and fauna and their habitat, and endangered and threatened species (Article 10 (2)). The CEC plans to deal with forest issues, particularly by establishing an experts' group to address the ways that NAFTA will affect forests. In addition, the 1995 CEC Work Program includes specific initiatives that

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deal with forest issues. These initiatives include Cooperation in Conservation of Biodiversity and Regional Ecosystems (P95.2), Cooperation on Regional Ecosystem Planning and Programming (P95.3), and Environmental Evaluation Methodologies (P95.7). All these items involve convening a series of meetings from which specific projects may be developed.

e) "Soft-law"

World Charter for Nature. The *World Charter for Nature* was adopted and solemnly proclaimed in the United Nations in 1982. It is the first international instrument that is intended to protect nature holistically for its own sake. Its guiding principles are to be given effect through national legislation and international practice (Principles 14 and 22). These principles include:

- respect for nature (Principle 1);
- safeguard of habitats necessary to maintain sufficient population levels for the survival of all life forms (Principle 2);
- protection of unique areas, representative samples of all ecosystems and habitats of rare or endangered species (Principle 3); and
- the use of the environment so as to maintain "optimal sustainable productivity" while maintaining the integrity of all ecosystems and species (Principle 4).

The charter sets out several specific requirements in order to realise these principles:

- economic development activities should consider their effect on natural resources and the environment during the planning stage (Principles 6-9);
- natural resources should not be wasted (Principle 10);
- activities which risk harming nature should be controlled by using the best available technologies, avoiding high-risk activity, and restoring degraded areas (Principle 11); and
- the discharge of pollutants should be avoided (Principle 12).

States are also required to do the following to further implement the charter's objectives: disseminate information on nature (Principle 15); encourage public consultation and participation in all planning decisions (Principle 16); provide funding for the conservation of nature (Principle 17); and allow all persons the right to participate in decisions of direct concern to their environment, and provide them with access to redress where harm to their environment has occurred (Principle 23).

2. Forests Principles. The *Non-Legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of All Types*



of *Forests* was adopted at UNCED. It aims to do the following:

- relate the subject of forests to the entire range of environmental and development issues (Preamble paragraph (a)); and
- have forestry issues examined in a “balanced manner within the overall context of both the environment and development” (Preamble paragraph (c)).

The Forest Principles call for efforts to improve the world’s environment (Principle 8 (a)) and to maintain and increase forest cover and productivity in ecologically and economically sound ways (Principle 8 (b)).

The Forests Principles affirm, in Principle 2 (a), that states have the sovereign and inalienable right to utilise, manage and develop forests in accordance with their development needs and in a manner consistent with sustainable development. The Forest Principles acknowledge the importance of the international economic climate (see Box 3) to the sustainable development of forests (Principle 7 (a)). They urge that sustainable economic, trade, development, aid and other policies should be integrated with forest conservation policies (Principles 3 (c), 6 (b), 9 (a) and 13 (d)). Governments are to promote, and provide opportunities for, the participation of interested parties in the development, implementation and planning of national forest policies (Principle 2

(d)). States are also required to “duly support” the culture and rights of indigenous peoples and forest dwellers (Principle 5 (a)).

The Forests Principles advocate that the costs of forest conservation and sustainable development be shared equitably by the international community (Principle 1 (b)). In particular, developing countries are to receive new and additional financial resources to enable them to sustainably manage, conserve and develop their forest resources (Principle 10). Agreed rules that are nondiscriminatory and consistent with international law should govern trade in all forest products (Principle 13 (a)); unilateral measures to restrict and/or ban international trade in forest products should be removed or avoided (Principle 14).

The Forests Principles deem it essential to have national, regional and international institutional capabilities that support the conservation and sustainable development of forests; and call for such capabilities to be strengthened (Principle 12 (b)).

Agenda 21. *Agenda 21* is a comprehensive action plan that was adopted at UNCED to address a whole host of issues relating to sustainable development. It represents the most detailed global instrument on the conservation of forests. Many paragraphs touch on forests issues,¹¹ but Chapter 11, entitled “Combating Deforestation” is the most relevant.

Box 3

Structural causes of deforestation

Deforestation and forest degradation, particularly in developing countries, are influenced by an array of structural problems related to the international economic regime. There are complex causal links between the international economic regime and environmental harm, although the effects of these links should not be oversimplified. Indeed, in some cases, it is clear that domestic factors such as national policy-making and demographics have had the greatest adverse impact on the environment. Nonetheless, the international economic regime does have an impact on policy choices (e.g. by limiting available options) in many developing countries and does have a significant effect on human welfare and natural resource use. In this regard, the Forests Principles call for promoting a “supportive international economic climate conducive to sustained and environmentally sound development of forests in all countries” (Principle 7 (a)).

Many structural problems, such as international debt and the activities of transnational corporations (TNCs), are not covered by legally binding instruments. There are bodies to address these issues, such as the Paris Club (for bilateral inter-state debt) and the London Club (for commercial bank debt), although participation is voluntary. Attempts to conclude a non-binding international code of conduct on TNCs within the UN system broke down because of a lack of consensus. There is consensus on TNCs within the OECD, which makes some provision for environmental protection.

International financial institutions are designed to address some of the most important structural problems, and are an important part of the international economic regime. At the global level, these include the World Bank and the International Monetary Fund (IMF). Both are created by treaties that guide their operation, but neither treaty establishes rules relating to environmental conservation or sustainable development. This is in contrast to Articles 2 (vii), 11 (1) (v) and 35 (2) of the *Agreement Establishing the European Bank for Reconstruction and Development*, which has specific rules relating to these issues. In the absence of any binding environmental requirements, the practices and policies of the World Bank and the IMF must be studied in order to evaluate the environmental effects of their activities.

The World Bank aims to financially assist economic development by supporting projects and engaging in structural adjustment lending. In the past the Bank has incurred severe criticism by environmental NGOs for supporting projects that were ecologically damaging. Partly in response to such criticism, and because of an increased environmental awareness, the bank has adopted directives on environmental impact assessment and other environment-related policy areas.



Since 1987, the World Bank has had an environmental division, which ensures that environmental and ecological considerations are taken into account when projects are designed and implemented. The Bank's new Inspection Panel carries out independent inspections concerning alleged harm to anyone's rights or interests arising out of the Bank's failure to follow its operating policies and procedures. The panel could be effective in ensuring that the Bank's environmental policies are followed.

The IMF aims to ensure the stability of the international monetary system. It focuses largely on balance-of-payments and other currency problems. The IMF has short- and medium-term structural adjustment programmes for countries requesting its assistance. Although the IMF's agreements are not legally binding in the strict sense, they tend to be adhered to, partly because of recipient countries' need for funds. Countries who are in great need of money will often see no alternative to accepting any social or environmental hardships brought by the agreements. It is not apparent that the IMF considers the environmental impacts of its policies when it seeks to stabilize the balance of payments or stem the depletion of foreign exchange reserves. For example, devaluation of an "overvalued" currency may, in the absence of other regulatory controls, induce over-exploitation of a country's natural resource base as exports become more attractive. In addition, by not addressing the way wealth is distributed, the IMF's programmes support existing inequalities and do little to eradicate poverty, at least in the short term.

Perhaps the greatest concern about the international economic regime is that it has not succeeded in eliminating poverty, despite numerous entreaties to do so (e.g. at the recent UN Social Summit). Although the links between poverty and environmental degradation vary from country to country and are not always easy to quantify, it is agreed that environmental degradation tends to pose the harshest long-term threat to the poorest households.

A vicious circle can be created as short-sighted and inappropriate responses to poverty, particularly rural poverty, further aggravate environmental harm and do little to alleviate poverty. This particularly tends to occur where development policy is poorly integrated with the objectives of poverty eradication and environmental conservation. The important role forests can play is articulated in Preamble paragraph (g) of the Forest Principles: "forests are essential to economic development...". Forest-based enterprises are important in tackling rural poverty. At the same time, they are a potentially important source of food security, by directly supplying food products, conserving the land and water base for agriculture and providing fuelwood to prepare food. It is therefore essential that forest conservation not be neglected in the developmental process.

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The chapter is divided into four programme areas.¹² The first: "Sustaining the multiple roles and function of all types of forests, forest lands and woodlands", focuses on improving the policies, methods and mechanisms which affect the roles and functions of forests (Paragraph 11.1). The programme advocates strengthening forest-related institutions dealing with management, conservation and sustainable development of forests, and improving human, technical and professional skills to effectively formulate and implement all relevant policies, plans, programmes and research (Paragraph 11.2). Suggested activities listed in Paragraph 11.3 include:

- rationalising and strengthening administrative structures and mechanisms;
- promoting participation by all stakeholders and access to information and training programmes;
- reviewing and revising measures and programmes on forests to relate them to other land uses, development policies, and legislation;
- promoting adequate legislation and other measures to combat uncontrolled conversion to other types of land uses;
- developing and implementing plans and programmes; and
- increasing public education.

The second programme area, "Enhancing the protection, sustainable management and

conservation of all forests, and the greening of degraded areas, through forest rehabilitation, afforestation, reforestation and other rehabilitative means", contains several prescriptions for conserving and sustainably managing forests. Specifically, Paragraph 11.12 calls for:

- conservation of natural forests;
- forest rehabilitation, regeneration, afforestation, reforestation, and tree-planting, so that the ecological balance is maintained or restored and the contribution of forests to human needs and welfare is expanded;
- developing national forestry action programmes and/or plans that are integrated with other land uses;
- maintaining and increasing the ecological, biological, climatic, socio-cultural and economic contributions of forest resources; and
- supporting the implementation of the Forests Principles (Paragraph 11.12).

This programme area calls for categorizing forests by types, setting up sustainable units in every region or watershed to ensure conservation, and maintaining and expanding vegetative cover (Paragraph 11.13). Specifically, Paragraph 11.13 (a)-(e) indicates that this should be accomplished by the following:

- ensuring sustainable management;
- establishing protected area systems;
- managing buffer and transition zones;



- carrying out revegetation;
- developing industrial and non-industrial planted forests;
- developing or strengthening national and/or master plans for planted forestry;
- increasing protection from pollutants, fire, pests, diseases, and other hazards;
- improving the participation of all people in formulating, developing and implementing forest-related programmes and other activities; and
- seeking to halt destructive shifting cultivation.

This programme area also calls for increased international cooperation on reducing pollutants and adverse transboundary impacts; more research; and greater coordination and capacity for intergovernmental organisations so that they can provide technical support (Paragraph 11.15).

The third programme area, "Promoting efficient utilization and assessment to recover the full valuation of the goods and services provided by forests, forest lands, and woodlands", addresses the socio-economic importance of forests. Its objectives are to improve recognition of the social, economic, and ecological value of forests, to promote their rational and sustainable utilisation, to support more efficient use of forests and trees for fuelwood and energy supplies, and to incorporate eco-tourism into forest management and

planning (Paragraph 11.21). Specific activities listed in Paragraph 11.22 include the following:

- creating a favourable investment climate and better management of forests;
- formulating scientifically-sound criteria and guidelines for management, conservation and sustainable development;
- improving methods and practices of forest harvesting;
- promoting better use and development of natural forests and woodlands;
- promoting and supporting downstream processing of forest products;
- promoting the use of non-timber forest products and other forest resources;
- improving the effectiveness and efficiency of forest-based processing industries;
- supporting management of wildlife, eco-tourism and farming for improved rural income and poverty without harmful ecological impacts;
- promoting small-scale forest enterprises that support rural development and local entrepreneurship;
- improving value assessment methodologies;
- harmonizing sustainable development with national developmental needs and with those trade policies compatible with ecologically sound use; and
- developing and strengthening national programmes for evaluating the economic and non-economic values of forest.

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In terms of regional and international cooperation and coordination, this programme area includes a call for promoting fair terms of trade without resorting to unilateral restrictions and/or bans contrary to GATT and other trade agreements, as well as for the application of market mechanisms to address global environmental concerns.

The fourth programme area, “Establishing and/or strengthening capacities for the planning, assessment and systematic observations of forests and related programmes, projects and activities, including commercial trade and processes”, is based on the need for more and

better-quality information about forests. Its activities include:

- assessing and systematically observing the quantity and quality of forests;
- estimating the impact of activities affecting forestry development and conservation; and
- developing systems to assess and evaluate forest resources (Paragraph 11.31).

Internationally, the programme area calls for establishing a conceptual framework and formulating acceptable criteria, norms and definitions for making such observations and assessments (Paragraph 11.33 (a)).



Recent international initiatives

3

This section summarizes some of the most significant international initiatives relating to the conservation and sustainable use of forests. The number of these initiatives is further testament to the considerable international interest in forest issues.

a) Tropical Forestry Action Programme

The Tropical Forestry Action Programme (TFAP) was created through the joint efforts of FAO, UNDP, World Bank and the World Resources Institute (WRI). Arising out of a task force formed in 1985, the TFAP is the largest ad hoc forestry initiative to date. It was originally created to be the most ambitious environmental aid programme ever conceived. The TFAP was designed to coordinate and stimulate donor funding for its five programme areas: forestry and land use; forestry-based industrial development; fuelwood and energy; conservation of tropical forest ecosystems; and institutions.

The TFAP began to attract criticism that it was not meeting its objectives and that it did not focus on the root causes of deforestation. In fact, evidence emerged that, in some cases, deforestation actually increased under the TFAP. It was asserted that too little attention was paid to building national capacity, and that the fundamental sectoral reform promised by the TFAP was not taking place. There were further disputes about implementing improve-

ments to the TFAP. This created dissension among the founding institutions, such that WRI pulled out.

The FAO's role in the TFAP reform process was widely viewed to have been obstructive. In particular, FAO's refusal to take to heart important recommendations made by the TFAP Independent Review Panel is seen to be the main reason for the loss of political and financial support for the programme. The lingering doubts about the appropriateness of FAO taking a lead role on forests may be traced back to the failure of TFAP.

Although it has now been agreed that the TFAP should be country-led and process oriented, instead of strictly donor-led, the process of reorientation continues. The programme is now administered exclusively within the FAO and its focus seems to be on National Forest Action Plans. A number of regionally-based TFAPs have also been created.

b) Ministerial Conference for the Protection of Forests in Europe (Helsinki Process)

The so-called Helsinki Process was launched by a European ministerial conference in Helsinki in June 1993. It began as a joint initiative of the Finnish and Portuguese governments, following an initial meeting in Strasbourg in 1990. The conference agreed to four resolutions regarding forestry. All European countries

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are involved; several other large temperate countries attended meeting as observers, bringing the number of involved governments to more than 40.

Resolution H1 is entitled "General Guidelines for the Sustainable Management of Forests in Europe". The guidelines call for the control of such hazards as emissions of air pollutants and greenhouse gases, forest fires, and pollution of soils (Guideline 1). Forestry policies are to encourage sustainable management, including conservation and enhancement of biodiversity (Guideline 2). Forest management should be based on stable and long-term land-use policies and on the general presumption that natural or semi-natural forest land will remain dedicated to that use (Guideline 3). The guidelines also call for multiple-use forestry to be promoted in order to achieve a balance between society's various needs (Guideline 5). Guideline 6 outlines the need for forestry to have due regard for areas of ecological fragility; with the aim of maintaining and improving ecosystems' resistance and adaptation to stress. Finally, the guidelines encourage forest products to be recycled and used to generate energy (Guideline 10).

The Helsinki Process has been criticized as too self-congratulatory. Developing countries felt that industrialised countries were more rigorous in applying sustainable criteria to developing country forests than to their own; ITTO

criteria and guidelines for sustainable management of tropical forests are stricter than the Helsinki guidelines for temperate forests.

c) **Conference on Security and Cooperation in Europe (Montreal Process)**

A workshop on sustainable management of temperate and boreal forests was convened by the Conference on Security and Cooperation in Europe. It took place in Montreal in October 1993 and examined in detail what constitutes environmentally sustainable forestry. The Montreal Process specifically focused on the development of scientifically-based criteria and indicators for sustainable management. The initial meeting was followed by a secret meeting between seven countries, in which the Europeans indicated that they would work within the Helsinki Process. The non-European countries established the Working Group on Criteria and Indicators of Temperate and Boreal Forests to work out similar criteria. It is expected that the Montreal and Helsinki processes will be closely coordinated.

Four other meetings have occurred: in Kuala Lumpur (April 1994), Geneva (June 1994), Delhi (July 1994), and Santiago (February 1995); a related meeting took place in Olympia, U.S. (September 1994). Members include Australia, Canada, Chile, Japan, Mexico, New Zealand, South Korea, Russia, and the United States, with Finland and Germany as observers.



d) Inter-Governmental Working Group on Forests (Canada/Malaysia Initiative)

The Inter-Governmental Working Group on Forests was set up by Malaysia and Canada to identify common ground regarding forests and to have input into the Third Session of the CSD in 1995. It was expressly designed not to be a negotiating body. Initially a Malaysian idea, Canada was invited to add temperate and boreal country input. The first meeting was in Kuala Lumpur in April 1994; the second was held in Ottawa/Hull in October 1994. Topics of discussion included:

- forest conservation;
- criteria and indicators for sustainable forest management;
- trade promotion and the environment;
- new approaches to finance and technology transfer in forestry;
- institutional links;
- people's participation; and
- cross-sectoral links.

Each discussion has led to a series of recommendations, mostly directed to the CSD. There were 12 other countries that participated in the first meeting: Cameroon, Chile, Finland, Germany, Ghana, India, Indonesia, Japan, Russia, Sweden, the United Kingdom and the United States; Brazil was invited but declined. At the second meeting, 33 countries, nine NGOs, and five intergovernmental organisations participated.

e) United Kingdom - India Workshop

A workshop was convened in June 1994 to develop a framework for reporting to the CSD on forestry-related issues. It was based on the Memorandum of Understanding on Forestry Issues signed by India and the United Kingdom. There were 40 countries involved in the meeting, but few NGOs attended due to short notice.

The workshop recommended that reports to the CSD be organised under the following six headings:

- 1) promotion and implementation of conservation, management and overall aspects of sustainable development of forests;
- 2) promotion and implementation of the sustainable use of forests and related economic development;
- 3) the role of major groups and social aspects of forests;
- 4) institutional strengthening and capacity-building;
- 5) international and regional cooperation and support; and
- 6) forest issues relating to other chapters of *Agenda 21* and international agreements.

By limiting itself to the way issues should be reported, without concerning itself with their substance, the organisers considered the workshop to have been a success. Unfortunately, the timing was such that recommendations came

...Recent international initiatives

too late for most countries to include the relevant information in their reports to CSD III.

f) UN Food and Agriculture Organization (FAO)

The FAO hosted a first-ever meeting of ministers responsible for forestry on 16-17 March 1995. They considered options for evolution of the Forests Principles and provided a forum to harmonize current initiatives in forestry. The outcome was the Rome Statement on Forestry, which underlines the need for achieving UNCED's objectives in the shortest amount of time possible. The ministers identified certain key areas where action is required:

- cross-sectoral approaches;
- national forest plans and programmes;
- defined national priorities;
- rational land-use policies and plans;
- capacity building;
- criteria and indicators for sustainable forest management;
- international cooperation;
- bilateral and multilateral assistance;
- new and additional financial resources;
- technology transfer;
- valuation of the benefits of forests;
- international trade;
- certification;
- participation of all interested parties;
- the role of international organizations; and
- the possibility of legally-binding instruments.

By virtue of Article I (2)(3) of its constitution, the FAO has a mandate to promote the conservation of natural resources. This, along with its general mission, has provided the basis for the FAO to be significantly involved in forest management issues. The FAO has been involved in developing national forestry legislation and the TFAP through its own forestry programme and the Committee on Forestry; and has been designated as the Task Manager for international efforts on forests within the UN system. A High-Level Panel of Experts on Forestry was convened by the FAO Director-General in 1994; the most recent meeting of the Committee on Forestry has recommended that such a group be convened regularly.

The FAO has been criticised for focusing too much on conventional forestry and timber aspects of forests as compared with their conservation. In general, the forestry programme has suffered from insufficient resources and a low priority compared to the food-related aspects of the FAO's overall programme. More specifically, many of the criticisms of the TFAP relate directly to the FAO, which acts as the central organisation in that programme. In addition, the FAO officially promoted a treaty on forests during the UNCED process, but in a manner which roused the suspicions of developing countries. There are recent signs that the FAO is seeking



to reform its approach, giving more weight to the conservation and sustainable use of forests. It is significant, however, that the Rome Statement on Forestry refrained from giving the FAO the lead responsibility on developing the global policy on forests, and that the CSD did not choose to have the Intergovernmental Panel on Forests administered by the FAO.

g) Forest Stewardship Council

The Forest Stewardship Council (FSC) is a non-governmental initiative to establish an international framework supportive of sustainable forest management. The council is composed of representatives from industry, scientists, indigenous peoples and NGOs, and has focused its work on accrediting local and national efforts towards forest product certification. In 1994 the council adopted a set of principles and criteria for sustainable management of forests. These address forest management specifically, as well as other factors such as social and legal aspects of forest use; compliance with national and international law; land tenure rights; indigenous peoples' rights; worker health; and the social impact of forest activities. The FSC has also established guidelines for certifiers and their accreditation.

h) World Commission on Forests and Sustainable Development

The idea to create the World Commission on Forests and Sustainable Development

(WCFSD) emerged in the aftermath of UNCED. The WCFSD had its formal inauguration on 5-6 June 1995. It has three broad objectives:

- policy and institutional reform;
- conflict resolution arising from application of forest conservation and utilisation; and
- strengthening scientific and policy collaboration.

The WCFSD is concerned with a wide range of issues relating to forests, including market failure; biodiversity loss; rural poverty; inequitable land tenure; and inappropriate agricultural policies. The WCFSD is composed of individuals prominent in politics, policy-making, and science; it attempts to be representative of forest-holding and forest-producing nations.

The WCFSD will hold a series of meetings and public hearings in different regions to allow a wide range of people to present their views. The commission has decided to establish three working panels:

- sustainable and equitable use and management of forests resources;
- trade and environment (Box 4); and
- financial mechanisms, international agreements, and the role of international institutions.

Box 4

The role of international trade

The international trade regime seeks to promote liberalised trade and has an important effect on the rate and manner in which natural resources are exploited. This is particularly so in the case of forests.

In 1995, the *Agreement Establishing the World Trade Organisation* entered into force. Along with the other agreements developed under the Uruguay Round, it builds upon and strengthens the international trade regime created under the 1947 General Agreement on Tariffs and Trade (GATT). The GATT is based on two fundamental principles: most favoured nation (Article I) and non-discrimination (Article III).

Many of the Uruguay Round agreements, such as those relating to subsidies, intellectual property, agriculture, technical barriers to trade, sanitary and phytosanitary measures and dispute settlement, may affect a state's ability to effectively protect its environment. A decision taken at the conclusion of the Uruguay Round established a World Trade Organization (WTO) Committee on Trade and Environment to examine these issues in greater detail and to make appropriate recommendations on modifying the international trading system.

Recent GATT panel decisions have caused concern on environmental grounds. In particular, the *U.S. Restrictions on the Imports of Tuna* cases (1991 and 1994) have recommended that U.S. embargoes (primary and secondary) on tuna taken by Mexican fishermen violates the prohibition of quantitative restrictions (Article XI). Based on U.S. legislation aimed at protecting marine mammals; the U.S. embargoes were in response to Mexican fishermen's not complying with the targets set under that legislation. Although the GATT permits exceptions to its free trade rules for certain environmental reasons (Articles XX (b) and (g)), the panel ruled that the exceptions were not applicable in these cases.

In terms of the panel's ruling in the first *Tuna* case, one aspect that is particularly relevant to timber is the recommendation on eco-labelling. The Panel held that a marking indicating that tuna was "dolphin-safe" did not infringe Article I of the GATT, since it did not affect the right to sell tuna or give access to a government-conferred advantage, and since it was applied in a manner which did not discriminate among the products of particular countries. In spite of this ruling, in 1992 the Austrian government received severe criticism and threats of counter-measures from Malaysia and Indonesia in the GATT Council. They protested Austria's adopting a law that



established a mandatory labelling scheme for tropical timber along with a voluntary quality mark for timber that was from sustainably-managed forests. The matter was never formally ruled on within the GATT, since Austria reacted to the intense pressure by withdrawing the mandatory requirement and by applying the voluntary quality mark to timber from all types of forests. Both the WTO Committee on Trade and Environment and UNCTAD are examining the trade aspects of eco-labelling.

Rules of international trade affect the measures that states can take to restrict trade in products for environmental reasons. They also affect the processes and production methods used in relation to those products. An example of the latter case is a country restricting the import of timber exploited in an unsustainable manner. The ruling in the *Tuna* cases suggests that such restrictions may not be admissible, but work continues to be done on this issue by other bodies, such as the OECD. The European Union (EU) is in the process of developing a regulation that may include import restrictions on tropical timber that is not sustainably produced (see Eur. Parl. Doc. EN\RR\275\275352, 2 June 1995). In addition, a voluntary agreement was concluded in 1991 in the Netherlands between the government, environmental NGOs, the timber industry and trade unions. They plan as of 1995 to import only tropical timber which is sustainably-produced, although difficulties in defining sustainable production and in establishing monitoring systems have prevented the agreement from being fully implemented.

Trade and environment issues also arise in relation to regional trade agreements, such as NAFTA and the North American Agreement on Environmental Cooperation, Mercosur, Andean Pact, ASEAN and the treaties underlying the EU.

...Recent international initiatives

Scientific and policy advisory councils will also be created. A final report will be completed by the spring of 1997, in time for a review of progress since UNCED by a special session of the UN General Assembly. The WCFSD has announced its intention to support ongoing initiatives, including the Intergovernmental Panel on Forests.

International Organization for Standardisation (ISO)

The ISO was formed in 1947 and is a non-profit non-governmental federation of national standardization bodies, with a current membership of 110 such bodies. The ISO promotes the development of standardisation and related activities; ISO technical meetings are open to NGOs as well as members. To date more than 8,500 standards have been adopted. This harmonization is intended to facilitate international trade and cooperation.

The ISO 14000 standards on assessing and certifying environmental performance are now being developed. These standards are scheduled for implementation in 1997 and may contain a forestry element. The current drafts of the standards do not contain any specific levels of environmental performance. Rather, the focus is on firms committing themselves to developing publicly-available environmental management systems (EMS), and to complying with relevant environmental legislation. The

standards also call for businesses to establish environmental objectives and targets, taking into account significant impacts on the environment caused by their activities, and for the systems to be periodically audited.

There has been some scepticism about the overall environmental effect of the ISO 14000 standards, since certification does not take into account actual compliance with environmental regulations. Nonetheless, the ISO 14000 standards will not be without significance, and it is imperative that a proper environmental assessment of them take place before they are adopted.

The complexity inherent in developing appropriate standards relating to forests was recently affirmed by the experience of a New Work Item Proposal (NWIP). This was put forth by the ISO national bodies of Canada and Australia and was partly funded by the Canadian Pulp and Paper Association. Proposal N76 sought to extend the ISO's work on EMS to the forestry sector, based on the concept of sustainable forest management. This was to be done within Technical Committee (TC) 207, which was established in collaboration with the Business Council on Sustainable Development after UNCED to deal with environmental management issues.

But when the proposal was circulated in May 1995, for a vote in November 1995, there was



serious opposition from national and international environmental NGOs. Criticism centred on several factors:

- the theoretical foundations of the EMS concept (i.e. that the EMS did not contain sufficient environmental safeguards);
- the lack of broad-based participation in the process of developing NWIP N76;
- the haste with which the proposal was put forth; and
- the possible competition with, and undermining of, the work of the Forests Stewardship Council on certification issues.

Ultimately, the proposal was withdrawn at the plenary meeting of TC 207, held on 1 July 1995, with the sponsors acknowledging that it contained "technical and other shortcomings". Canada and Australia indicated that they would continue to improve the NWIP; however, so that it could be re-submitted in 1996.

European Working Group on Amazonia (EWGA)

The EWGA was established in 1989 by two European NGOs: the Environment and Development Resource Centre and the Netherlands Committee for IUCN. The working group was established to coordinate a network of 275 NGOs from Europe, North American and Japan, who are concerned with sustainable development in Amazonia. It also

works with partner organizations in Amazonia itself. Forests are a significant focus of EWGA's work. The working group's four objectives are:

- to identify the ties between Europe and the Amazon states which may contribute to economic, social, cultural and ecological stability in Amazonia;
- to identify the relevant actors in these relations, especially European ones;
- to inform these actors about views and positions on sustainability, especially when this information comes from EWGA partners in Amazonia; and
- to enter into a dialogue with EWGA partners from the region to promote relations between Europe and Amazonia that support sustainability.

To date, the EWGA has published several reports with the support of the European Commission. In November 1993 it convened Amazon Round table I, entitled "European Amazonian Relations: Towards Integration of Policies". This round table brought together representatives from government, NGOs and academic communities and the private sector to discuss the major sustainability issues of the region; a second round table is planned to be held in Amazonia itself. This upcoming meeting will finalise proposals for political commitments between the European Union and the Amazon states on policies for sustainability.

Elements of a forest regime

4

The following elements are drawn from existing instruments and other major sources¹³. They are intended to form part of the international regime that will ensure the conservation and sustainable use of forests. This outline is presented to assist in evaluating both the existing international regime and the prospects of future reform.

a) Overall objectives

There are global, regional, and national aspects to forests issues, with differing needs, problems, and circumstances. Nonetheless, a set of objectives relevant to all countries can be identified and should form the basis of the global regime. The global regime should not, however, preclude any nationally-specific objectives. At the global level, the objectives are as follows:

- maintaining an appropriate quality and quantity of forests;¹⁴
- sustainable use of forest resources and enhancement of the productive capacity and other socio-economic benefits of forests ecosystems;¹⁵
- safeguarding the cultural, spiritual and recreational value of forests;¹⁶
- ensuring that all participants play a meaningful role in decision-making;¹⁷ and
- ensuring an equitable North-South voice in any global governance mechanisms.¹⁸

b) Principles

This section outlines generally accepted principles of international environmental law, which are intended to guide the operative aspects of a regime of conservation and sustainable use:

- states have sovereign rights over the forests under their jurisdiction;¹⁹
- each state bears responsibility to conserve and/or sustainably use forests under their jurisdiction, taking into account the needs of future generations;²⁰
- the conservation of forests is a common concern of humanity;²¹
- each state has the right to develop sustainably;²²
- states share a common but individual responsibility towards protecting the world's forests;²³
- states are to adopt a preventive approach in the management of their forests;²⁴ and
- states are to adopt a precautionary approach to threats of serious harm to forests.²⁵

c) Ways to achieve objectives

This section outlines broad strategies and implementation techniques which might help fulfill the objectives of the international regime relating to conservation and sustainable use of forests.



Actions aimed directly at conservation and sustainable use of forest resources include the following:

- establish permanent estates of natural and modified forest in every state and manage them to meet the needs of all levels of society;²⁶
- promote forest regeneration;²⁷
- identify and regulate those processes and activities that are threatening forests' biological diversity;²⁸
- ensure that the use of all forest resources is governed by management plans;²⁹
- establish systems of protected areas;³⁰
- preserve representative samples of all types of forest ecosystems;
- avoid using those natural forests which have been undisturbed by industrial processes or other damaging human activities for a significant period of time;³¹
- plant new forests so as to relieve the pressure to exploit natural forests;³²
- manage forest systems as whole ecological units;³³
- provide special protection for endangered species;³⁴
- ensure that access to genetic resources in forests is based on prior informed consent, as well as equitable and mutually agreed terms, and that the benefits arising out of their use are equitably shared;³⁵
- control the introduction of alien organisms and eradicate those organisms which are harmful to the forest ecosystem;³⁶ and
- improve the level and quality of information about forests.³⁷

Actions aimed at structural issues which affect the conservation and sustainable use of forests include:

- address the root causes of unsustainable forest use;³⁸
- seek to achieve a non-discriminatory international economic order that supports conservation and the sustainable use of forests;³⁹
- reform production processes so as to minimize the waste of forest products, and encourage recycling;
- reform over-consumption by encouraging recycling, reuse and substitution of forest products; and
- ensure that appropriate property rights support the conservation and sustainable use of forests.⁴⁰

Implementation actions

International dimensions

- work towards internationally agreed criteria and indicators of sustainable forest management;⁴¹

...Elements of a forest regime

- ensure that certification systems are based on agreed international standards of sustainable forest management;⁴²
 - ensure that future international instruments do not undermine the effectiveness of existing international law relating to the conservation and sustainable use of forests;
 - establish a flow of financial and technical assistance to enable developing countries to achieve these objectives;⁴³
 - ensure that developing countries have access to environmentally sound technology that relates to the conservation and sustainable use of forests;
 - establish procedures for the regular exchange of information between countries;
 - establish an international mechanism for each state to report on their national forests situation and on the implementation of their international commitments regarding forests;
 - ensure the development or coordination of existing international institutions to support the implementation of the regime;
 - notify and consult with other states in accordance with international law in cases where forests in those other states might be threatened;
 - promote a global network of well-managed forest sites;⁴⁴
 - establish mechanisms to ensure scientific and technical cooperation in order to build capacity in developing countries;
 - conclude regional agreements where appropriate to conserve whole ecosystems or natural systems; and
 - safeguard the right of individual states to establish higher standards.⁴⁵
- Procedural techniques
- develop national and regional plans that ensure the conservation and sustainable use of natural forests;⁴⁶
 - integrate developmental and environmental planning;⁴⁷
 - establish mandatory EIA mechanisms that consider all environmental and social impacts of activities, programmes, and policies that affect forests;⁴⁸
 - develop accounting and pricing systems which accurately value and internalise environmental and social costs of forest use and recognise the multiple value of forest resources;⁴⁹
 - use economic and social incentives to achieve voluntary compliance with the objectives of the international regime;⁵⁰
 - remove perverse incentives that discourage conservation and/or sustainable use;⁵¹
 - establish national and international programmes to monitor the health of forests and the effects of conservation and/or sustainable use measures;⁵²
 - develop contingency plans to address emergency threats to forests, such as fires, pests, floods, etc;



-
- enact national legislation to implement the international regime and to establish institutions to support the implementation and enforcement of the legislation; and
 - establish and strengthen national institutions to support the activities in pursuit of the regime's objectives.⁵³
- Issues relating to stakeholders
- involve all interested parties, including forest-dwellers and local communities, in decision-making and management of forests;⁵⁴
 - provide appropriate public access to information held by public authorities about the environment;
 - recognise indigenous and local knowledge, innovations and practices regarding the use of forest resources and ensure that benefits arising out of such knowledge, innovations and practices are equitably shared; and
 - establish programmes for public education, training for forest professionals, and public awareness about forests issues.

Possible ways forward

5

Three options are being discussed in international circles as ways of further developing the current international forests regime to ensure the conservation and sustainable use of forests. The first option is to conclude an international convention on forests. The second is to agree a protocol to the CBD.⁵⁵ The third option is to make better and fuller use of existing instruments, which might include the pursuit of non-binding approaches. It must be emphasized that this is not an exhaustive list and that the options are not mutually exclusive.⁵⁶ All possible options should be considered by the Intergovernmental Panel on Forests.

a) Convention

The main argument in favour of a convention on forests is that the issues are so distinct and varied that a holistic approach to them would transcend the confines of existing agreements. The negotiating process for such a convention could stimulate fresh thinking about whether the international institutional framework is adequate to meet current challenges. These challenges include not only conservation of forests and their biodiversity — which should certainly be a primary objective of any forest agreement — but also the role of forests in natural systems (e.g. as carbon sinks and in stabilizing watersheds), their local socio-economic significance, the effects of international trade and their cultural and spiritual value.

The framework of a stand-alone convention would allow states to craft a set of rules that properly integrate all these elements. The didactic effect of negotiating and then implementing a convention could be significant. The anxieties of some timber-producing countries might be eased if they were involved in negotiating a new convention, instead of allowing one of their most important resources dealt with under the CBD. Some countries may perceive the CBD as strictly a conservation convention, in spite of the fact that it also provides for sustainable use. Beginning with a blank slate might also provide an opportunity for new thinking on the orientation and coordination of all the international institutions that affect forests. There is a risk, however, that an existing institution might be assigned the responsibility of supporting the convention without it undergoing sufficient reform and fine-tuning to become truly effective.

A new convention on forests need not undermine the CBD, which has an obvious role to play, just as the separate instruments to protect the marine environment, species and habitats do not weaken it. But this risk should be openly addressed during the drafting process and be appropriately dealt with so that synergy, rather than competition, is achieved. A separate convention should establish links to the CBD, as well as to the conventions on climate change



and desertification and other relevant international agreements.

In some cases, regional agreements on forests might also be appropriate. A convention could be designed to be a framework for further regional protocols or annexes.

b) Protocol to the CBD

The importance of the relationship between forests and the CBD cannot be over-emphasized, since so much the world's terrestrial biological diversity (50-90 per cent of all species of flora and fauna) is found in forests. To a certain extent, therefore, the CBD is itself a forests instrument, and its effective implementation would address many problems relating to forests. The description of the CBD in Part 2 includes some of its forest-specific actions that could be implemented.

A forest protocol to the CBD could, in addition, further develop and refine a holistic approach to forest conservation and sustainable use. The advantage of the CBD approach is that it is based on the premise that conservation of forest biological diversity cannot be achieved without the sustainable use of all the goods and services a forest can provide. Developing a protocol would build on an internationally-agreed balance that already exists between conservation and sustainable use. A protocol could, without conceptual

difficulty, supplement this with new socio-economic elements specific to forests.

For all these reasons, renegotiating a completely new convention on forests might be unnecessarily time-consuming, a strain on resources, and, to a certain extent, redundant. Given the gravity of the deforestation crisis, this exercise would use up precious time and diplomatic resources which could be put to better use elsewhere.

Some environmentalists have argued for a new convention on the basis that the CBD is couched in too much qualifying language.⁵⁷ Given the contentious nature of forest issues, however, there is little reason to believe that the obligations in a separate agreement would be any less qualified. In any event, all states are required under international law to implement treaties in good faith. Even if there are elements of the CBD which should be strengthened, a forest protocol could correct these deficiencies. International law permits protocols to be stronger than their parent convention so long as the new obligation does not go against the object and purpose of the parent convention.⁵⁸

Another advantage of a forest protocol would be that it could shift the focus of existing institutions that deal with forest matters. The fact that potentially effective institutions already exist is especially important now, when

...Possible ways forward

many donor countries are experiencing financial constraints and are reluctant to create new institutions or financial mechanisms. Specifically, the SBSTTA could be used to support sustainable forest management, should an international harmonization be determined to be effective. The SBSTTA could also provide advice and technical assistance for issues covered under the protocol. But, perhaps more importantly, funds to support activities under the protocol could be made available under the Global Environment Facility, since it has been designated as the CBD's interim institutional structure overseeing the financial mechanism.

c) Making better use of existing instruments

As indicated in Part 2, the current international forest regime already contains many instruments which can and do contribute to the conservation and sustainable use of forests. The answer to the crisis of deforestation is not necessarily elaborating new instruments, it may be sufficient to make current ones work better in a synergistic fashion. For example, the full potential of the CBD, so important for forests, has not yet been achieved. A large-scale evaluation is needed of each initiative's effectiveness and impact, both individually and collectively. The impact of all relevant international institutions should be considered when carrying out such an evaluation.



The next steps

6

It is clear that a significant amount of consensus-building is still needed before the international forests regime is developed further. The diversity and complexity of the issues relating to forests suggest that this process will be an immense challenge. Despite some progress in the recent years, difficult issues still remain to be resolved, such as the application of the concept of sustainable management, measurement of forest quality, or even the question: “what is a forest?” Forests, like many other natural resources, fall under domestic jurisdiction, and consensus on all these issues must be built at both national and international levels.

As stated earlier, this paper does not advocate any one particular position. But it is clear that the international community is now at a crossroads. There seems to be a real opportunity to further develop the international consensus, whether in binding legal form or otherwise.

The Intergovernmental Panel on Forests is poised to become the primary venue for international discussion and debate on the future of the international forests regime. It presents a useful opportunity to take stock of what is already in place and to make holistic and broad-based recommendations. The panel’s success will be directly related to the participating governments having the political will to develop constructive solutions to the

problems of deforestation and forest degradation. A strong commitment to success will also be necessary in ensuring that the panel operates in the most effective manner possible.

As indicated in its mandate, the panel is mandated to work in “an open, transparent and participatory manner”; this is essential if it is to make recommendations that are meaningful and effective. All the major stakeholders — including intergovernmental and non-governmental organisations, secretariats of the relevant conventions, local communities, indigenous peoples and women — must be given the opportunity to provide an appropriate contribution to the panel process. Independent experts in science, economics and social science should also be called on. All relevant reports and documents should be circulated, as far in advance and as widely as possible, so that all interventions are relevant and constructive.

The panel is ultimately responsible for its process and product, but the international community has a vital role to play in contributing to its success. Appropriate levels of funding must be provided for operations, appropriate levels of research, seminars and conferences to raise awareness, and effective participation. The Intergovernmental Panel for Climate Change sets a good example, particularly in the trust fund it established to ensure a high level of participation by developing countries.

...The next steps

The panel's programme of work is broad-ranging, as it must be, but tasks must be approached in a well-defined way. The current timetable, with a progress report submitted in 1996 and final conclusions submitted to the CSD in 1997, should assist in ensuring that the panel's results are as specific as possible.

Given the relatively tight time frame, it is imperative that all states devote the necessary political and financial resources necessary for the IPF to effectively deal with its heavy burden. The best opportunity in recent times to address the global crisis of deforestation must be seized by all.

The results of the panel's assessment should be in the form of concrete recommendations for an integrated and cross-sectoral global strategy for the conservation, management and sustainable development of all forests. This strategy should point the way forward for the development and/or strengthening of appropriate

national, regional and global action, including possible new legal instruments. It should also identify priorities and contain specific timetables and other measures by which to assess progress in implementation. Ideally, a mechanism should be identified or created to review this progress.

The CSD's decision to have the UN Department of Policy Coordination and Sustainable Development (DPCSD) provide secretariat support to the panel is welcome. This will help ensure that the panel is, and is seen to be, independent from other multilateral agencies with line management interests or responsibility for forests. As indicated in the CSD's decision, however, it is intended that the panel will receive technical input from all other relevant UN bodies. For example, UNEP has indicated that it is ready to provide help. Since the DPCSD does not yet have sufficient human and financial resources to adequately support the panel, these must be provided.



Appendix

An earlier version of this paper included recommended terms of reference for the Intergovernmental Panel on Forests, then being proposed. The final decision of the CSD includes many of these recommendations. They are reproduced in Box 5 to help guide the work of the panel. The roman numerals indicated in brackets refer to the item in the panel's actual programme of work which best corresponds to each recommendation. Although the programme of work does not specifically address each recommendation, it is hoped that the panel could consider the matters raised below.

There are two items in the panel's programme of work that were not specifically among the recommendations of this paper, but which should be welcomed. Paragraph I (4) calls for the monitoring of actions to support afforestation, reforestation and the restoration of forest systems, especially where affected by desertification, and consideration of specific actions where forests are affected by pollution. Paragraph I (5) calls for measures that address the needs of countries with low forest cover in order to promote conserving the existing cover.

Box 5

Tasks for the Intergovernmental Panel on Forests

Tasks as they relate to its programme of work

The Third Session of the CSD decided that the Intergovernmental Panel on Forests should “assess action already undertaken to combat deforestation and forest degradation and to promote management, conservation and sustainable development of all types of forests, including environmental and socio-economic impacts: and against that background to propose options for future action.” Given the complexities of forest issues, this assessment should, among other things:

- identify the root causes, including those which are socio-economic and structural, of deforestation, forest degradation, and unsustainable use of forests, bearing in mind that forests contain ecosystems, species and genetic resources (I (2));
- examine the cross-sectoral issues and linkages between forests, agriculture, urbanisation, land-tenure, consumption, trade, and demographics (I (2), IV);
- examine the actual and potential effectiveness of relevant international instruments, especially the Biodiversity and Desertification conventions, in promoting management, conservation and sustainable development of all types of forests (V (2));
- identify the relevant international institutions and policies which directly and indirectly have impacts on forests (V (1));
- examine the potential for effective coordination among relevant international instruments and institutions in order to achieve a holistic strategy for the conservation and sustainable use of forests (V (1));
- examine the need for future non-binding and binding legal instrument(s), especially the possibilities of a global treaty, a protocol to the CBD, and a protocol to the Climate Change Convention (V (2));
- review current international initiatives to develop criteria and indicators for sustainable forest management, with a view to facilitating their regional, national and local implementation (III (2));
- examine the feasibility of developing an international certification and labelling scheme of forest products, focusing particularly on the work of the Forest Stewardship Council (IV);
- examine the ways and amounts in which international financial assistance can and does achieve the management, conservation, and sustainable development of all forests (II);
- examine the means by which technology for sustainable forest use and management can be and is transferred (II);



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- identify how the participation of all stakeholders can be effectively ensured in the formulation and execution of national forest policy (I (1));
 - examine mechanisms to ensure equitable sharing of benefits derived from the use of forests (I (3));
 - explore mechanisms to ensure that forest policy does not have an adverse impact on indigenous and traditional communities (I (3)); and
 - review methodologies for the full valuation of forests, particularly all their products and services, as well as their ecological functions (III (1), IV).

Endnotes

1. See Committee on Forestry: "Assessing the Advantages and Disadvantages of a Legally Binding Instrument on Forests" (COFO 95/2, Supp. 4), paragraph 12.
2. See, for example, the 1990 Declaration, Houston Economic Summit of the G7.
3. Instruments that are not legally binding per se are considered to be "soft-law". "Soft law" is important in international environmental law for three reasons: it points to the likely direction of development of binding international law; it elaborates informal standards; and it may contain or reflect legally-binding principles of customary international law.
4. Strictly speaking, only two other instruments were formally adopted at UNCED: the *Rio Declaration on Environment and Development* and *Agenda 21*, both of which are of a general nature. The two conventions associated with UNCED, the Climate Change and Biodiversity conventions, had been adopted earlier and were opened for signature at Rio.
5. Examples include: U.S.-Canada Air Quality Agreement (1991), Geneva Convention on Long-Range Transboundary Air Pollution (1979) and its subsequent protocols (sulphur dioxide, nitrogen oxide, and volatile organic compounds). Several treaties on the marine environment, most significantly the UN Convention on the Law of the Sea, can also have an impact on forests, particularly those in coastal areas.
6. The ITTO Guidelines on the Establishment and Sustainable Management of Planted Tropical Forests are not summarized below, nor are the ITTO Criteria for the Measurement of Sustainable Tropical Management.
7. This is because the principle is restated in a binding treaty, in contrast to a political declaration ("soft-law"), such as the Stockholm Declaration. Note too that Article 194 (2) of the 1982 UN convention on the Law of the Sea also "hardens" this principle in relation to the marine environment.
8. In particular, the Report of the first SBSTTA meeting suggests that the following elements be considered: i) there is an urgent need to identify the main causes that lead to the decline of forest biological diversity, to develop and promote the use of methods for the management, conservation and sustainable use of forests, based on the identification and targeting of ecological processes and the multiple roles and functions of forest ecosystems, including ecological landscape planning and environmental impact assessment; ii) urgent development and application of ways and means to ensure fair and equitable sharing of benefits derived from the use of forest genetic resources would provide a major incentive for efforts to maintain forest biological diversity; and iii) the protection of the



knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles, and compensation through the equitable sharing of benefits arising from the use of such knowledge, innovations and practices, in accordance with Article 8 (j) of the CBD should be promoted in order to improve conservation and sustainable use of forest biological diversity.

9. The conservation of mangroves could be enhanced by two other important international developments: a) the International Coastal Reef Initiative (ICRI), being developed by governments and NGOs (and recently endorsed by the UNEP Governing Council), which may provide for the safeguarding of mangroves in order to maintain coral reefs; and b) the Draft Global Programme of Action to Protect the Marine Environment From Land-Based Activities, which currently includes measures to prevent harm to habitats and ecosystems in coastal areas. It is being negotiated under the auspices of UNEP.

10. Although this is a convention with global application, it should be noted that currently only six states are party to it: Bolivia, Colombia, Costa Rica, Mexico, Norway and Paraguay.

11. Eg., Chapter 15 on Biological Diversity, Chapter 10 on Land Use Planning, and Chapter 14 on Agriculture and Rural Development.

12. Each programme area contains sections entitled Basis for Action, Objectives, Activities (broken down into management-related activities, data and information, and international and regional cooperation and coordination), and Means of Implementation (broken down into financial and cost evaluation, scientific and technological means, human resource development, and capacity building).

13. These include all of the above noted legal instruments and guidelines, as well as *Caring for the Earth*, and the *Global Biodiversity Strategy*.

14. The purpose of this objective is to ensure that forests maintain their ecological functions, especially as reservoirs of biological diversity. It implies that forests will be conserved and managed in such a way as to safeguard the well-being of the ecosystem, with a view to ensuring that the habitats of forest-dwelling species and reservoirs of genetic resources are not gravely harmed. This objective also requires not only that a sufficient amount of forest cover remain in each state — possibly based on a percentage agreed internationally — but that the quality of forests also be maintained, as well as forest ecosystem health and vitality. This involves consideration of the health of trees, other species of flora and fauna, and the robustness and renewal capacity of the ecosystem in the face of changing conditions, such as pollution (both air and

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water), and climate change. Finally, the ecological functions of forests should be maintained because forests are intrinsically linked to the conservation of water and soils, nutrient cycling, and the mitigation of climate change, all of which also confer benefits on humans.

15. This objective requires that all components of forests (for timber as well as other products such as oils, rubber, genetic resources, fruits, nuts, game, medicines, etc.) are sustainably used so that the producer countries, and particularly their local communities, derive long-term economic benefit from them (benefits include those arising from their production and consumption, recreation and tourism, returns on investment, local employment and other community needs). This objective also involves ensuring that benefits from the use of forest resources are shared fairly. It is important to note that most of these non-timber products are crucial to the subsistence needs of indigenous and other forest-dwelling peoples.

16. This includes the management of forests so that they are valued not only for their strict economic worth, but also for their cultural and spiritual importance to indigenous and local communities, as well as the general public. This also includes protecting traditional lands and respecting, and rewarding, indigenous knowledge, practices and innovations.

17. The relevant stakeholders include local communities, indigenous and other forest-dwelling peoples, the private sector, and non-governmental organisations.

18. This objective is based on the assumption that solving the world's forest problems must be based on a global partnership, and that both the industrialized and the developing worlds must be meaningfully involved in the key decision-making, particularly with regard to international financial resources.

19. This is of fundamental concern to all forest countries and is highlighted in the Forests Principles. It is clear from the Stockholm and Rio declarations, as well as the CBD and numerous other international instruments, that states have sovereignty over natural resources under their jurisdiction (see also 1962 UN General Assembly Resolution 1803 on Permanent Sovereignty over Natural Resources). According to Principle 2 of the Rio Declaration "states have, in accordance with the Charter of the United Nations and principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other states or areas beyond the limits of national jurisdiction".



20. This is apparent from several international instruments, but especially the CBD, and is derived from the basic tenets underlying the concept of sustainable development.

21. Because of the important global functions of forests, as well as the international threats to them, the conservation of forests is a “common concern” and must be addressed by concerted international action. This notion should not be confused with “common heritage” or “stewardship”, which have proprietary or other distributional aspects. The adverse effects of global climate change and the conservation of biological diversity have both already been deemed of “common concern” (e.g. the Climate Change Convention and the CBD); by logical extension, forests too should be a “common concern”. Applying this concept to forests implies that all forests are of interest to the international community, and not just those in the tropics. The evidence of very significant state practices on the regulation of forests supports the idea that all countries are concerned with forests: the IUCN Environmental Law Information System indicates that there are over 600 pieces of legislation on forests, covering virtually every country in the world. In addition, many countries have developed national forest action plans, as well as national conservation strategies, national biodiversity actions plans and national environmental actions plans, all of which contain elements relating to forests.

22. The right to development has been affirmed in several international instruments, but its inherent meaning suggests it is not an unfettered right; i.e. it should be exercised in a sustainable manner so as to take into account the needs and development potential of future generations. Related to this is recognising the overriding priority to eradicate poverty.

23. Because of the greater capabilities, both technical and financial, which industrial countries command, and the historical patterns of forest use, industrialised countries bear a special responsibility for helping developing countries conserve and sustainably manage their forests. This concept is acknowledged in recent international instruments and implies greater action on the part of industrialised countries.

24. It is a well-established principle of environmental management that environmental harm is best prevented by being addressed at source. Since deforestation cannot be cured by simple afforestation, this principle calls on states to address the complex root causes — particularly the socio-economic causes — of deforestation and unsustainable forest use.

25. Because forests are such a precious resource, significant risks to their well-being should be addressed even if there is no scientific certainty about whether harm to the forest ecosystem will occur or about the precise magnitude of that harm.

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26. This should be done on the basis of broad-based consultations and clearly-defined national objectives. A certain amount of forest land is essential to maintain ecological functions, biological diversity, and the provision of forest products and services, although the extent of land in each country will vary.

27. Degraded forests should be restored and revitalized wherever possible. In reforestation, however, the objective should not be a simple matter of quantity, but also of quality and type, having regard for other components of the ecosystem. The primary objective should be to re-establish as much of the original forest as possible. This should be done with the active participation of the local population to ensure that appropriate economic benefits accrue to them. Efforts should also be made to encourage multiple use forests, avoid monoculture, and restore natural dynamics and biodiversity. The dangers of introducing exotic species during this process should also be recognised; if such species are introduced, measures should be taken to manage or eradicate those that are harmful.

28. This includes those processes and activities that are directly damaging, such as road building, pollution, and waste disposal, but also more subtle threats, such as inappropriate land use and international trade.

29. These plans should be drawn up in consultation with all sectors of society, particularly forest-dwellers and other local communities, and should allow for continued traditional use where it is sustainable. Forest land concessions to the private sector should be based on legally enforceable conditions requiring conservation and sustainable use.

30. Effective conservation requires the creation of zones which prohibit human activities that run counter to the objectives of the protected area. In order to be effective, protected areas may require appropriate buffer zones of lightly modified forests and inter-connecting corridors so as not to impede the necessary gene flow. The IUCN Categories of Protected Areas include some types of protected areas where people continue to live, and where there is local involvement in their planning and co-management. The Biosphere Reserves created under UNESCO's Programme on Man and the Biosphere are also important in combining conservation with the sustainable use of resources for the benefit of local communities.

31. This would entail using natural forests only as a last alternative, and then strictly on a sustainable basis.



32. Planted forests can supply important resources, such as fuelwood for household and industrial needs and sources of renewable energy. They should be created by consulting and involving local communities. Plantations should be managed in such a way as to enhance local employment and provide other social and economic benefits.

33. Since forests have important ecological functions, such as maintaining the integrity of aquatic systems and soil quality, they should be managed in a holistic manner. This would entail coordination and integration of relevant components of relevant administrative institutions.

34. Measures should include protection of habitats as well as restriction in the use and trade of endangered species which inhabit forests, including trees themselves.

35. States should ensure that they develop a system of "prior informed consent" to ensure that such access is truly on mutually agreed terms.

36. This would encompass exotic species of trees, flora and fauna, as well as pests and diseases.

37. Paragraph 11.29 of *Agenda 21* has noted the following:

Assessment and systematic observations are essential components of long-term planning, for evaluating effects, quantitatively and qualitatively, and for rectifying inadequacies. This mechanism, however, is one of the often neglected aspects of forest resources, management, conservation and development. In many cases, even the basic information related to the area and types of forests, existing potential and volume of harvest is lacking. In many developing countries, there is a lack of structures and mechanisms to carry out these functions. There is an urgent need to rectify this situation for a better understanding of the role and importance of forests and to realistically plan for their effective conservation, management, regeneration, and sustainable development.

See, too, the policy dialogue launched in 1994 by the Centre for International Forestry Research (CIFOR) and the Government of Indonesia, which addressed the need to undertake forestry research with a view toward ecosystem management as well as the broader socio-economic context. The results of this dialogue were presented at the meeting of the FAO's Commission on Forestry, held in March 1995.

38. Pressures leading to unsustainable land-use, such as poverty, inequitable land tenure, mismanagement, external debt, and poorly planned urbanisation, must be addressed both nationally and internationally.

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39. There are several elements involved: a) only sustainably harvested forest products should be internationally traded; b) international trade rules should not create incentives for unsustainable use; c) sustainably-produced forest resources and products should have access to all markets; d) trade restrictions for environmental reasons must be genuine, not disguised instruments of protectionism, and where unilaterally applied, they should be introduced only after all efforts to reach multilateral solutions have been exhausted; e) international rules and standards regarding sustainable management should be established so as to remove the incentive to externalise environmental costs and to help curb unilateral trade measures in consumer countries; f) prices of forest products should incorporate their full economic and ecological values; and g) international trade rules should not prohibit individual states from adopting appropriate standards for conserving their environment that are higher than international levels. In addition, trade measures should not encourage over-production or over-consumption of forest products. Concerted international action should also be taken to curb illegal traffic in forests products.

Finally, efforts should be made to prevent transnational enterprises from carrying out activities that adversely affect the conservation and sustainable use of forests. In this regard, see the OECD Guidelines on Multinational

Enterprises (MNEs), as amended, which call on MNEs to take due account of the environment and to avoid environmentally-related health problems. This is to be accomplished by MNEs assessing the environmental impact of their activities; communicating the information from those assessments to the relevant authorities; and acting appropriately to minimise the risks of accidents and damage to the environment.

40. This entails providing appropriate land tenure arrangements and recognising customary title, as appropriate.

41. This will involve seeking to harmonize the various international initiatives currently underway.

42. Any credible certification system must be based on sound scientifically-based criteria and be independent of political or other pressures.

43. Not only could this be done through international financial mechanisms such as the GEF, but bilateral efforts could also be explored, such as debt-for-nature swaps, joint implementation under the Climate Change Convention, and national environment funds.



44. This notion is being explored within the ITTO; both Canada and the U.S. have instituted such programmes (“Model Forests” and “Sister Forests”).
45. Recognising that different states have different climatic, social, and economic conditions, any state should always have the right to develop stricter standards, as appropriate, pertaining to the conservation and sustainable use of forests. At the same time, any agreed international standards regarding sustainable management should aim to achieve a high level of environmental protection and not be the lowest common denominator.
46. Conservation and sustainable use should be based on plans that aim to conserve forest diversity at the ecosystem, species, and genetic resource levels. These plans should be integrated with other planning activities, as called for in some international agreements, such as Article 10 (a) of the CBD.
47. This requires states to integrate the objectives of conservation and sustainable use of forests with all other sectors of society that affect forests, particularly land-use planning and the agricultural sector. It also entails ensuring that decision-making takes into account the effects of use on all components of the ecosystem.
48. These mechanisms should include an assessment of the impacts on forests of international financial institutions and the world trading system.
49. Wherever possible, the revenues from such use, particularly from fees and concessions, should be reinvested in forest conservation, research and management, as well as in local communities.
50. Such mechanisms include setting stumpage prices to reflect the timber’s full value, charging license fees that discourage exploitation of stands of marginal commercial value, auctioning concessions competitively, and using other eco-taxes and eco-labels.
51. This entails removing economic subsidies, both direct and indirect, from practices which cause unsustainable use.
52. A specific example would be ensuring that appropriate documentation is provided to allow tracing of each forest product’s “chain of custody”. International monitoring efforts, such as remote-sensing, could be used to support local efforts, but should not intrude on national sovereignty. The results of the monitoring should be fed back into the process of developing management plans.

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53. This involves ensuring that all institutions whose activities affect forests act in a coordinated fashion, and that disputes are avoided or resolved. Institutional effectiveness is predicated on sufficient capacity, both in terms of financial resources and technical expertise. Where appropriate, local institutions should be established in coordination with local communities.

54. Meaningful public participation includes more than just convening public information sessions, but would include appropriate representation on committees, access to information, opportunities to make comments during the decision-making process, etc.

55. To date, this option has only been advocated by some NGOs and not by any states.

56. A Forests Protocol to the Climate Change Convention was suggested during UNCED, for example, but that option is not explored in this paper. While such an instrument might contribute to the conservation and sustainable use of forests, it would primarily focus on forests as carbon sinks, and in so doing might neglect the many other values of forests.

57. An example is Article 7: "Each contracting party shall, as far as possible and as appropriate, ...".

58. There are even cases where protocols *de facto* amend the parent convention (eg. MARPOL 73/78).



Abbreviations

CBD	Convention on Biological Diversity
CIFOR	Center for International Forestry Research
CITES	Convention on International Trade in Endangered Species of Wild Flora and Fauna
COP	Conference of the Parties
CSD	Commission on Sustainable Development
DPCSD	Department of Policy Coordination and Sustainable Development
EIA	Environmental Impact Assessment
EMS	Environmental Management Systems
EWGA	European Working Group on Amazonia
FAO	Food and Agriculture Organization
FSC	Forest Stewardship Council
GATT	General Agreement on Tariffs and Trade
GEF	Global Environment Facility
ICRI	International Coastal Reef Initiative
ILO	International Labour Office
ISO	International Organization for Standardization
ITTA	International Tropical Timber Agreement
ITTO	International Tropical Timber Organization
IUCN	The World Conservation Union
MARPOL	International Convention for the Prevention of Pollution from Ships
MNE	Multinational Enterprise
NAFTA	North American Free Trade Agreement

...Abbreviations

NGO	Non-governmental organization
OECD	Organization for Economic Cooperation and Development
RAMSAR	Ramsar Convention on Wetlands of International Importance Especially As Waterfowl Habitat
SBSTTA	Subsidiary Body on Scientific, Technical and Technological Advice
TFAP	Tropical Forestry Action Programme
TNC	Transnational corporation
UNCED	United Nations Conference on Environment and Development
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
WCFS	World Commission on Forests and Sustainable Development
WRI	World Resources Institute
WTO	World Trade Organization



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