

Relevance of international legal instruments and processes to afforestation in the Baltic states

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During the last decade, following restoration of independence of the Baltic republics, these countries became active participants in international legal collaboration. During this period Estonia, Latvia, and Lithuania signed and ratified a number of legally and non-legally binding instruments and joined the whole range of global and regional processes. The environmental sector is probably one of those, which have been strongly influenced by international conventions and treaties, establishing a framework for environmental protection and sustainable development on global and regional levels. A significant number of instruments and processes, in particular those of the environmental sector, are directly or closely related to the forest management and protection.

Since there are no international legal instruments directly dealing with afforestation issues, the main objective of this paper is to review legal international instruments and processes relevant to the forestry sector in Estonia, Latvia and Lithuania, and assess their current or potential effects on afforestation in these countries. The particular emphasis is placed on legally and non-legally binding instruments and processes in forest or environmental general sectors, because it is expected that they may have a certain effect on afforestation activities. In this paper, I first provide the list of international legal instruments relevant to the forest sector. I continue with specifying to which of those instruments parties are Estonia, Latvia and Lithuania, and review the processes in which these countries participate. Then, I briefly discuss which of those instruments may have an effect on afforestation processes, and what type of effect can be expected.

International Legal Instruments Related to Forest Sector

International legal instruments related to the forest sector contain the whole set of legally binding and non-legally binding documents and processes. The review and descriptions of such legal acts and processes active world-wide were presented within various reports and policy analyses (IFF 1998a; IFF 1998b; IFF 1999a; Resources Future International 1998). A list of relevant legal instruments and processes reaches up to 53 items (Report of the Experts Meeting 1999), however, only those most often indicated in reports are provided in the Table 1.

As can be observed from Table 1, legal instruments can be divided into three groups. The terms "hard law" and "soft law" are quite often used, even though do not ex-

Table 1. Summary of international legal instruments related to forest sector

Legally binding instruments

- Convention on Wetlands of International Importance Especially Waterfowl Habitat (Ramsar Convention), 1971
- Convention Concerning the Protection of World Culture and Natural Heritage, 1972
- Vienna Convention for the Protection of the Ozone Layer, 1985 and Montreal Protocol on Substances that Deplete the Ozone Layer, 1989
- Framework Convention on Climate Change (FCCC), 1992 and Kyoto Protocol to the Convention, 1997
- Convention on Biological Diversity (CBD), 1992
- United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa (UNCCD), 1994
- Convention Concerning Indigenous and Tribal Peoples in Independent Countries (ILO Convention 169), 1989
- Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), 1973
- International Tropical Timber Agreement (ITTA), 1994
- General Agreement on Tariffs and Trade (GATT), 1947 and Agreement Establishing the World Trade Organisation (WTO), 1994
- Convention on Long-Range Transboundary Air Pollution and Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution on Long-Term Financing of the Co-operative Programmes for Monitoring, 1979 and Evaluation of the Long-Range Transmission of Air Pollutants in Europe (EMEP), 1984
- Amazon Cooperative Treaty (ACT), 1978
- Regional Convention for the Management and Conservation of the Natural Forest Ecosystems and the Development of Forest Plantations (Central America), 1993
- Protocol 10 on Sustainable Management of Forest Resources of the Agreement Amending the Fourth ACP-EC Convention of Lomé, 1995
- Convention on the Protection of the Alps (Alpine Convention), 1991 and Protocol for the Implementation of the Alpine Convention 1991 in the Area of Mountain Forests (Mountain Forest Protocol), 1996
- North American Free Trade Agreement Between the Government of the United States, the Government of Canada and the Government of the United Mexican States (NAFTA), 1992 and North American Agreement on Environmental Cooperation (NAAEC), 1993
- Treaty Establishing the Common Market for Eastern and Southern Africa (COMESA), 1993

Non-legally binding instruments

- Non-legally Binding Authoritative Statement of Principles for Global Consensus on the Management, Conservation and Sustainable Development of All Types of Forests (Forest Principles), 1992
- Agenda 21, 1992
- Conclusions and Proposals for Action of the Intergovernmental Panel on Forests, 1997

Processes Related to Forests

- Criteria And Indicators For The Conservation And Sustainable Management Of Temperate And Boreal Forests, 1995 (Santiago Declaration) (which resulted from, and continues to be refined by the International Dialogue on Criteria And Indicators For The Conservation And Sustainable Management Of Temperate And Boreal Forests - Montreal Process)
- Forest Stewardship Principles And Criteria For Natural Forest Management, 1994 (FSC)
- International Covenant on Environment and Development (IUCN)
- International Organisation for Standardisation (ISO 14001)
- Pan-European Criteria and Indicators for Sustainable Forest Management (Helsinki Process)

Source: Interministerial Working-Group on International Forest Policy 1999; Resource Futures International and Associates 1998.

actually correspond to the definitions of "legally binding" and "non-legally binding" instruments (Ruis 1999). Despite the above, for the purposes of simplicity, both groups of definitions will be given the same meaning further on. The group of "processes related to forests" is formed from governmental and private initiatives.

Legally binding and non-legally binding arrangements and mechanisms differ in terms of the degree of obligation and intent. The names of different types of "hard laws" tend to reflect negotiating procedure or degree of formality (FAO 1999). A legally binding instrument (e.g., treaty, convention) usually represents legal obligations on the part of the countries that are parties to it (those that have signed and ratified it) (IFF 1998a). Four stages leading to the entry into force of a treaty can be distinguished:

- 1) Acquiring domestic authority to negotiate and subsequently adopt a treaty;
- 2) The negotiations themselves;
- 3) Expressing consent to be bound by a treaty (usually ratification);
- 4) Period between expressing consent to be bound and actual entry into force (Ruis 1999).

If the text of a treaty is agreed upon, as stated by Ruis (1999), States express their intention of the consent to be bound by the treaty. Once a treaty is signed, customary law states that a State can no longer act against the objectives and the ideas behind that particular treaty, even if it is not binding yet (Ruis 1999). The signatories then must go back to the national level, where the treaty will be ratified. That means, for example, that the treaty has to be approved by the legislature, parliament, the head of the State, or other. With the ratification the signatory States express their consent to be bound by the treaty (Ruis 1999). Vienna Convention of Treaties defines "treaty" as "a formal international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation" (FAO 1999; United Nations 1970). A "protocol" is normally treated as an instrument subsidiary to a convention, or a supplementary treaty concluded at a later date; it is of independent character and operation to the convention and subject to independent ratification (FAO 1999). The most often mentioned International Tropical Timber Agreement, Convention on Biological Diversity and United Nations Framework Convention on Climate Change can serve as examples of legally binding instruments closely dealing with forest issues, more detailed analysis of which is presented in several other sources (IFF 1998b; Resources Future International 1998).

Non-legally binding instruments, on the other hand, reflect political commitment and endorsement by countries (IFF 1998a). The emergence of non-legally binding agreements has to do with the fact that States agree on a specific issue, but they do not, or do not yet, wish to bind themselves legally, but they however are ready to adopt and test certain rules and principles before they may become law, which often facilitates consensus more difficult to achieve on binding instruments (Ruis 1999). Obligations of "soft law" are no more than moral (FAO 1999). The Forest Principles, Chapter 11 of Agenda 21 and Intergovernmental Panel on Forests (IPF) Proposals for Action can be mentioned as only non-legally binding instruments comprehensively dealing with the forest sector (IFF 1999b; Interministerial Working-Group on International Forest Policy 1999; Report of the Experts Meeting 1999). The concepts contained within above documents are now widely

accepted, and reflect a holistic and comprehensive approach towards the management, conservation and sustainable development of all types of forests (IFF 1999b).

As shown in Table 1, the third group covers processes related to forests, which is several non-legally binding global, regional, local, non-governmental and private initiatives as a part of significant international instruments related to the forest sector. These include certification initiatives, criteria and indicator processes, SFM initiatives by the forest industry on a national level, and standard-setting efforts (IFF 1998a; Liaison Unit in Lisbon 1996; Resources Future International 1998; Vähänen, Halko, and Lazdinis 1998). These instruments are either specifically aimed at forests or contain components relevant to forests and substantive elements that could be useful in a discussion on forests at the international level. The elements reflect collective endorsement and stated will by the countries concerned, but have no legally binding obligations (IFF 1998a). The Pan-European Process on Protection of Forests can serve as a good example of process oriented instrument closely dealing with forest issues (Baltic 21 1998; Liaison Unit in Lisbon 1996).

Legal instruments signed and ratified, and processes attended by Estonia, Latvia, and Lithuania

List of international legally and non-legally binding instruments playing an important role in global forest regime was provided in the preceding section of this paper. However, not all the above mentioned documents are equally important on the national scale. Some of previously indicated legally binding instruments were not adopted and ratified by the Baltic states. Others, not considered as important on a global scale, play a major role at a regional level. A list of legally binding instruments, ratified or to be ratified by the three republics and to a lesser or greater extent related to the forest sector, is provided in Table 2.

Some of the legally and non-legally binding instruments, playing a major role in global forest regime, such as the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere (1942), International Tropical Timber Agreement (1994) and Convention to combat Desertification (1994), were considered as unimportant for the region and will not be joined by the Baltic countries. Also, not all the legal documents provided from the list have been signed or ratified. The International Plant Protection Convention is not signed by Latvia, International Convention for the Protection of New Varieties of Plants – both by Latvia and Lithuania. Bonn Convention is not signed by Estonia, and Protocol to the 1979 'Convention on the Long-Range Trans-boundary Air Pollution', on Long-Term Financing of the Co-operative Program for Monitoring and Evaluation of the Long-Range Transmission of Air Pollution in Europe is only signed and ratified by Latvia. The Kyoto Protocol is signed but not ratified by any of the three Baltic states, whereas the Aarhus Convention is ratified by both Estonia and Lithuania and only signed by Latvia. However, despite these minor differences the above table indicates that the set of legally binding instruments adopted by the three countries is generally the same.

Legally binding instruments, listed in Table 2 are related to the forest sector, however, there is no single instrument directly dealing with forests. Several documents, named below in Table 3 are directly related to the forest sector, however, all these instruments are of non-legally binding nature.

Table 2. Legally binding instruments, ratified or to be ratified by Estonia, Latvia, and Lithuania

Name of the Document	Year			
		Estonia	Latvia	Lithuania
International Plant Protection Convention	1951	r	-	r
International Convention for the Protection of New Varieties of Plants (UPOV)	1961	r	-	-
Convention on Wetlands of International Importance Especially as Waterfowl Habitat (Ramsar Convention)	1971	r	r	r
Convention Concerning the Protection of World Culture and Natural Heritage (UNESCO World Heritage)	1972	r	r	r
Convention on the International Trade in Endangered Species of Fauna and Flora (CITES)	1973	r	r	r
Convention on the Protection of the Marine Environment of the Baltic Sea Area (HELCOM)	1974, 1992	r	r	r
Convention on Long-Range Transboundary Air Pollution	1979	r	r	r
Convention on the Conservation of European Wildlife and Natural Habitat (Bern convention)	1979	r	r	r
Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention)	1980	-	r	r
Protocol to the 1979 'Convention on the Long-Range Trans-boundary Air Pollution', on Long-Term Financing of the Co-operative Program for Monitoring and Evaluation of the Long-Range Transmission of Air Pollution in Europe (EMEP)	1984	-	r	-
Convention for the Protection of the Ozone Layer (Vienna Convention)	1985	r	r	r
Protocol to the 1985 'Convention for the Protection of the Ozone Layer (Vienna Convention)', on Substances that Deplete the Ozone Layer (Montreal Protocol)	1987	r	r	r
Convention on Environmental Impact Assessment in a Transboundary Context (ESPOO Convention)	1991	r	r	r
Convention on Biological Diversity	1992	r	r	r
Convention on the Protection and Use of Transboundary Watercourses and International Lakes	1992	r	r	r
Framework convention on Climate Change	1992	r	r	r
Kyoto Protocol to the 1992 'United Nations Framework Convention on Climate Change'	1997	s	s	s
Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention)	1998	r	s	r

Source: Lithuanian Ministry of Environment 1999; Zickute 1999; Vähänen, Halko, and Lazdinis 1998; also see Internet sites of conventions (Annex X); r = ratified or equivalent; s = signed or equivalent; - = not s or r.

Table 3. Non-legally binding instruments directly related to forest sector and adopted by the Baltic countries

	Name of the Document	Year
1.	Agenda 21, Chapter 11	1992
2.	Non-legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of All Types of Forests (Forest Principles)	1992
3.	Conclusions and Proposals for Action of the Intergovernmental Panel on Forests	1997
4.	Pan-European Process Strasbourg 1990, Helsinki 1993, and Lisbon 1998 Resolutions	1990, 1993, 1998

Source: Lithuanian Ministry of Environment 1999; Vähänen, Halko, and Lazdinis 1998; also see relevant internet sites (Annex X)

Because of their status, the above documents cannot significantly influence national legislation. Forest sectors in Estonia, Latvia, and Lithuania mostly are being effected by the processes consequent to the adoption of non-legally binding documents (e.g., Intergovernmental Panel on Forests – UN Forum on Forests), which on the other hand, quite often are the consequence of the process itself (e.g.,

Pan European Process). Additionally to the above, several other global and regional processes are playing an important role in shaping the national forest management practices and forestry legislation of the Baltic republics. Some of the main ones are listed in Table 4.

Table 4. Forest related processes attended by the Baltic countries

	Name of the Process
1.	Baltic 21
2.	VASAB
3.	Forest Management Certification – FSC, ISO 14001, PEFC

Source: Vähänen, Halko, and Lazdinis 1998; also see relevant internet sites (Annex X)

Representation of Estonia, Latvia, and Lithuania, varies country-by-country among individual processes. However, none of the above processes have a direct influence on national forest politics and afforestation activities in particular. Probably, it can be assumed that in the long-term perspective, various measures of these initiatives could

in one way or another modify national forest policy goals or policy implementation frameworks.

Current or potential effects on afforestation processes

Legally binding and non-legally binding instruments signed and ratified by Estonia, Latvia and Lithuania and major forestry related processes officially attended by these countries were presented in the above section this paper. Below, I will concisely discuss the significance for and impact on the forest sector, with particular emphasis on the effects on afforestation activities.

The closer analysis of the above documents has indicated that the significance of existing legal binding instruments to the forest sectors of the Baltic countries is small. The impact on forest development of international legal regime is scattered between the whole range of Conventions, effecting individual elements of forestry and forest ecosystems. Several non-legally binding instruments are found to be directly drafted for the forest sector, however implementation of these instruments strongly depends on the goodwill of the national authorities. The direct impact of international legal regime on afforestation activities is even smaller. The increase of forest area and forest plantations are mentioned only in few document and do not receive much consideration. However, it must be noticed, that afforestation is a part of forestry activities and provisions of legal documents concerning forest management and land use planning, must also be considered while carrying out afforestation activities. Two documents can be found as potentially the most relevant to afforestation, namely: Convention on Biological Diversity and United Nations Framework Convention on Climate Change (and Kyoto protocol).

Convention on Biological Diversity is directly and closely related to the forest sector. Despite the fact that forests are not separately mentioned in the document, forest ecosystems harbour an abundance of biodiversity and form key elements supporting maintenance of biodiversity in forested landscapes. As, e.g., Lithuanian Biodiversity Conservation Strategy and Action Plan, resulting from Convention, indicates, there is the whole set of measures to be carried out at national level in order to protect biodiversity

in forest ecosystems. Some measures, initiated by Convention, are also essential for afforestation activities and must be carefully considered while carrying out afforestation planning and maintenance of forest plantations.

Due to its broad scope, the United Nations Framework Convention on Climate Change does not have a direct effect on forest management activities. However, the direct reference to forests is made in several clauses of the document. Forest ecosystems are capable of storing the greenhouse gases, and therefore, the Convention should be considered in carrying out forest management planning and afforestation activities. The Kyoto Protocol to the United Nations Framework Convention on Climate Change, contrary to the Convention itself, has a direct potential effect on forest management and afforestation activities. The document opens up an opportunity to increase forest area, which would positively effect the net changes in greenhouse gas emissions and would serve as reservoir and sinks of greenhouse gases. Considering the decrease of Baltic industries since 1990, it can be assumed that our countries will comply with commitments to reduce emissions and will probably still have an opportunity to transfer some of the emission units to other Parties to the Convention. Establishment of such a transfer mechanism would open an opportunity for international financial support to afforestation activities and increase national capacities of three Baltic states of absorbing and storing greenhouse gases.

Conclusions

This paper provided a short review of international legal instruments and processes related to afforestation activities in Estonia, Latvia and Lithuania. Instruments and processes relevant to the forest sector in general were analysed, since there are no legally or non-legally binding instruments or processes signed or attended by the above countries directly dealing with afforestation issues. The review and brief assessment have indicated that the current or potential effect of international legal instruments and processes on afforestation activities in three Baltic countries is very small and insignificant. Only two documents, Convention on Biological Diversity and Kyoto Protocol, were found to be more relevant to afforestation issues.