



Manual of European Environmental Policy

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Forestry

Introduction

The Treaty establishing the European Community made no provisions for a Common Forest Policy and the Lisbon Treaty as well does not provide any changes to the explicit or implicit powers conferred to the Union to act on the issue. According to the principle of subsidiarity, the development and implementation of related policy instruments is to a major part the responsibility of the Member States. However, many Common policies directly or indirectly affect forestry and forests, such as the Common Agriculture Policy, Cohesion Policy as well as Environmental Policy, including nature protection, air quality or climate change. The European Union has a long tradition in contributing to activities that support coherence and coordinated action on forest policy particularly regarding the implementation of sustainable forest management (SFM) or the support of national forest programmes (NFPs). These activities have been strongly influenced by the Community's international and regional commitments, such as its contributions to the United Nations Forum on Forests (UNFF) and the pan-European Ministerial Conference on the Protection of Forests in Europe (MCPFE, recently changed to FOREST EUROPE).

Since 2000, the UNFF has continued the work of the Intergovernmental Panel on Forests (IPF) and the Intergovernmental Forum on Forests (IFF), which laid down the implementation of 270 proposals for action (IPF/IFF proposals for action¹). They followed on from the conclusions of the 1992 UN Conference on Environment and Development, which included the Non-legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of all Types of Forests, also known as the 'Forest Principles'², as well as Chapter 11 of Agenda 21³ – Combating Deforestation. According to Resolution 2000/35⁴ of the Economic and Social Council of the United Nations (ECOSOC) adopting the UNFF, the forum mainly aims to promote '... the management, conservation and sustainable development of all types of forests and to strengthen long-term political commitment to this end ...'. The UNFF involves all Member States of the United Nations as well as international agencies and other major groups that aim to *inter alia* facilitate implementation of forest-related agreements and increase common understanding of SFM. The forum is a consultative process, based on voluntary and non-legally binding contributions and reporting. It led to the adoption of the 'Non-Legally Binding Instrument on All Types of Forests' (Resolution 62/98)⁵ by the UN General Assembly on 28 April 2007. Though without legal consequences, the instrument set a helpful framework for Community and national policies and activities by providing a more or less commonly agreed definition on SFM and supporting the role of SFM across different sectoral policies or international agreements and conventions.

The implementation of SFM is also a central objective of one of the strongest regional mechanisms addressing forests, the MCPFE initiative or otherwise called FOREST EUROPE. The pan-European policy process was initiated in 1990 at its first meeting in Strasbourg to improve common understanding of the protection and sustainable management of forests and enhance cross-border cooperation on forests in Europe. FOREST EUROPE is a high-level political initiative whose signatory states in the pan-European area, currently 46 countries and the European Community, are committed in voluntarily implementing decisions adopted in the process. The initiative consists of a series of conferences which were held in Strasbourg (1990), Helsinki (1993), Lisbon (1998), Vienna (2003) and Warsaw

(2007) and resulted in the release of nineteen legally non-binding resolutions⁶. These *inter alia* provide guidelines on aspects such as the monitoring of forest ecosystems, conservation of forest biodiversity, socio-economic aspects of SFM as well as cross-sectoral cooperation and NFPs. In this regard, FOREST EUROPE facilitates the implementation of global commitments and builds on the agreements achieved on NFPs in the IPF/IFF/UNFF process.

The European Union's involvement in these initiatives and its commitments regarding the implementation of multilateral environmental agreements such as the [UN Convention on Biological Diversity](#) and the [UN Framework Convention on Climate Change](#), as well as other international policies related to [trade](#) have shaped the Community's response to environmental, social and economic challenges affecting the forestry sector and forests. It resulted in the development of a series of policy instruments and will provide further scope of action at the Community level.

Summary of policies

At the very beginning, Community initiatives on forests mainly built on two Council Regulations: Regulation (EEC) No [3528/86](#), which established a Community scheme to protect forests against atmospheric pollution, and Regulation (EEC) No [2158/92](#), which provided a framework for the prevention of forest fires and monitoring their causes and effects. Council Regulation (EEC) No 3528/86 established a Community scheme to protect forests against atmospheric pollution, influenced by news on damage caused to forests in Germany. The Standing Forestry Committee was set up by Council Decision [89/367/EEC](#) initially with the aim of assisting the Commission in reviewing data and reports sent by Member States in the framework of the Regulation. The Committee continued to be central to the implementation of forest activities at Community level also later on and beyond its initial focus. The original proposal of the Regulation covered both - actions against forest fires and those against acid rain, with a proposed budget of €100 million over a five-year period and with three-quarters going to fire protection. Amendments to the original proposal resulting from the European Parliament's opinion were largely confined to requiring the Commission to define high risk zones and to adding programmes for developing technologies to prevent atmospheric pollution as well as for research into the causes of acid rain. The provisions concerning forest fire protection were later adopted under the separate Regulation (EEC) No [3529/86](#), which was extended by Regulation (EEC) No 2158/92 for another five years, based on the incidence of forest fires occurring largely in the Mediterranean region. Detailed rules for the application of the Regulation on forest fires were subsequently defined in Regulations (EC) No [1170/93](#) and No [804/94](#). In 1997 the Council adopted two amending Regulations, Regulation (EC) No [307/97](#) and Regulation (EC) No [308/97](#) which should have extended the scheme on the protection of the Community's forests against fire for another period of five years. However, these measures were adopted solely on the basis of the old Article 43 (Agriculture Title II) which required the European Parliament only to be consulted. The Parliament challenged this procedure at the European Court of Justice (ECJ) on the grounds that both Regulations pursue overwhelmingly environmental objectives ([C-164/97](#) and [C-165/97](#), European Parliament v Council of the European Union) and should therefore have been based on Article 130s (now Article 192 TFEU). In its Judgement of 25 February 1999, the ECJ ruled in favour of the European Parliament. It stated that the primary aim of the two Regulations on forest fires was to ensure that the natural heritage represented by forest ecosystems is conserved; not merely to consider the forests' utility to agriculture. Consequently, the Court annulled the two Regulations. To limit the effects of the Judgement, however, the Regulations were to remain in force until the Council adopted new legislation.

In compliance with the judgement of the ECJ a new implementing Regulation (EC) No [2278/1999](#) on forests protection against atmospheric pollution was adopted on 21 October 1999 on the basis of the then Article 175 of the Amsterdam Treaty (now Article 192 TFEU). It was later again amended by Regulation (EC) No [1484/2001](#) and Regulation (EC) No [805/2002](#) which prolonged the duration of the forest fire protection scheme for one year respectively. It expired on 31 December 2002, together with the scheme to protect forests against atmospheric pollution.

Forest Focus

On 15 July 2002, the Commission presented its proposal for the new ‘Forest Focus’ measures (COM(2002)404) replacing the previous schemes on forest protection from atmospheric pollution and forest fires. The resulting ‘Forest Focus’ Regulation (EC) No [2152/2003](#) combined most elements of the initial Regulations, but included some additional monitoring provisions. ‘Forest Focus’ established a framework within which Member States were to develop national programmes eligible for Community co-financing in order to monitor air pollution and its effect on forests, monitor and prevent forest fires and assess soils, carbon sequestration, climate change effects, biodiversity and the protective functions of forests. Following its expiration on 31 December 2006, the actions provided for by the Regulation were included in the LIFE+ Multi-Annual Strategic Programme 2007–2010 as part of the LIFE+ Regulation (EC) No [614/2007](#) on environmental funding, adopted in September 2007. In view of the role that forest monitoring played in the development of EU environmental policy and EU forest policies and as background to the relevant provisions of the [LIFE+ Regulation](#), ‘Forest Focus’ is hereafter described in more detail.

The objective of Regulation (EC) No 2152/2003 was to establish a Community scheme for harmonized long-term monitoring of the state of forests in order to assist in protecting them from stress factors, mainly air pollution and fires, while assessing the interactions of forests with their environment. Funding could be allocated to projects that provide policy relevant information on forest in relation to climate change (impact on forest ecosystems, mitigation and substitution effects), biodiversity (baseline information and protected forest areas), forest fires, forest condition and the protective function of forests. Elements of the ‘Forest Focus’ Regulation were intended to be in line with the key priorities in the Sixth Environmental Action Programme ([COM\(2001\)31](#)) and the Sustainable Development Strategy ([COM\(2001\)264](#)). The scheme provided for financial aid to be granted to Member States for activities implemented under national programmes drawn for periods of two years, comprising the following activities:

- Developing networks of points to conduct periodic inventories.
- Developing networks of observation plots for forest monitoring.
- Conducting studies on causes, dynamics and impacts of forest fires.
- Raising awareness campaigns and training for those involved in fire prevention.
- Developing studies, experiments, pilot projects and new monitoring activities for enhancing knowledge of forest conditions and the relationship between their condition and natural and anthropogenic stress factors assessing the impacts of climate change on forests and identifying indicators to assess biological diversity and protective function of forests.
- Carrying out studies, experiments, demonstration projects or monitoring in a test phase.
- Improving data collection and data harmonization at Community level.

The plans had to be accompanied by an ex ante evaluation, later followed by mid-term evaluations and ex post evaluations at the end of the scheme's period. On this basis the Commission decided the level of Community financial contributions to the eligible costs. The 'Forest Focus' estimated the cost of the scheme to the Community to amount to €61 million for the period 2003–2006, of which €9 million could be used for fire prevention measures. The scheme allowed for Community funding covering up to 50 per cent of the costs of each activity, except in the case of pilot projects and tests for which the Community could finance up to 75 per cent of the costs. The original proposal for the Regulation would have made available €52 million for the period 2003–2006 in Member States and Candidate Countries, and €13 million for 2007–2008 (subject to authorization by the budgetary authority). The budget allocation was the main point of discussion between Commission, Council and the European Parliament during discussions on the proposal. In past programmes on air pollution and fires the overall budget for forestry had already been cut from €100 million to €90 million with the Commission stating that the difference had been transferred to relevant activities covered by the new [EU Rural Development Regulation](#) in 1999. The proposal was discussed in a first reading at the Parliament in January 2003. On one side there was a southern perspective with a focus on increasing the budget for prevention of forest fires. On the other side Scandinavian members preferred to restrict the budget, following their opposition in principle to the EU having a forest policy. In the end, the Agriculture Council adopted most of the European Parliament's amendments, although it did not incorporate the most critical ones. It refused to integrate forest fire prevention measures arguing that they should be included in the Rural Development Programmes. They also agreed to raise the budget by only €0.5 million per year. The final compromise negotiated with the Council included the following points:

- Termination of the Forest Focus program in 2006, when funding mechanisms for environmental and regional policies were to be reviewed.
- Temporary inclusion of forest fire prevention measures (Article 1a).
- A budget up to €61 million of which €9 million are to be used for fire prevention measures (Article 13.1).
- Invitation to the Commission to come forward with new proposals for the continuity of existing programmes (Article 18).

Member States were required to forward data they gathered annually to the Commission, and disseminate it through electronic geo-referenced databases. In addition, they needed to send a report on the national situation regarding the condition of forests before 31 December 2005, and a report on the national situation concerning the impact of fires on forests or the state of indicators for the protective function of forests if applicable. Regulation (EC) [2121/2004](#) introduced criteria for the selection of competent bodies to manage the activities included in approved national programmes designated by Member States in accordance with the 'Forest Focus' Regulation. The Standing Forestry Committee assisted the Commission in reviewing the data and reports sent by Member States. In addition, the Commission assisted by the [European Environment Agency](#), was to submit a report to the Parliament and the Council by mid-2006, after which a proposal for the continuation of these activities was to be presented. As part of this exercise, a report was produced by independent consultants for DG Environment⁷ which recommended that substantial change was required to the current European forest monitoring programme in order for it to meet the current monitoring needs. An "interim" implementation report⁸ was published in January 2008, followed by the final report in August 2010⁹. The objective of both of the reports was to gather a better understanding of the implementation of the Forest Focus scheme and support future

developments on European forest policy such as the Green Paper on forest protection and information released in 2010.

From 2003, forest responsibilities for the protection of forests from fire and atmospheric pollution, previously overseen by DG Agriculture, were transferred to DG Environment, along with responsibilities for the information monitoring systems. Infrastructure protection measures, such as forest management, the introduction and maintenance of water points and access roads remained funded under the Rural Development Regulation (EC) No [1257/1999](#) (amended No 1698/2005 for the period 2007–2013), administrated by DG Agriculture.

EU Forestry Strategy

The EU Forestry Strategy was implemented by the European Council in December 1998 ([OJ C56](#), 26.2.99). The strategy emerged as a result of concerns over the inactivity of the European Union on forests and other concurrent processes which highlighted the importance of forests, including The Convention on Biological Diversity and the Ministerial Conferences on the Protection of Forests in Europe. The strategy was an attempt to step beyond the EU's focus on the monitoring of forest damage from atmospheric pollution and forest fires by emphasizing the importance of the multifunctional role of forests and of SFM. On 18 December 1996, the Committee of Agriculture and Rural Development of the European Parliament in collaboration with the Committee on the Environment, Public Health and Consumer Protection issued a report on the European Union's forestry strategy, named after the rapporteur David E. Thomas¹⁰. The Committee called on the Commission to draft a legislative proposal for an EU forestry strategy and set out several recommendations in this regard. In response, the Commission published a Communication on a forestry strategy for the European Union ([COM\(1998\)649](#)) in November 1998, describing a potential common strategy approach for the Community and Member States and providing a framework for Community action. However, this resulted in the adoption of an only non-legally binding Resolution [1999/C56/01](#) on an EU Forestry Strategy by the EU Council on 15 December 1998.

While recognizing that the main responsibility for forest policy and implementation of international commitments remained at the Member State level, the Strategy maintained that the EU could contribute to the implementation of SFM and support NFPs, while respecting the principle of subsidiarity and the concept of shared responsibility. Elements of the Forestry Strategy included the need to improve coordination, communication and cooperation within the Commission, between the Commission and the Member States and between Member States in respect of relevant policy areas. The Forestry Strategy also highlighted the importance of SFM for the conservation and enhancement of biological diversity and for the better integration of forests in all sectoral Common policies, including the Common Agricultural Policy. The Council invited the Commission to report on the implementation of the Strategy within five years.

The Commission reviewed the EU Forestry Strategy in 2005 ([COM\(2005\)84](#)) and reported on its implementation from 1999 to 2004. The respective Communication identified the need to adapt the EU Forestry Strategy for it to better correspond to both the [Lisbon and Sustainable Development Strategies](#) by *inter alia* taking steps to promote the economic viability of forests and their importance for sustainable development. The Communication concluded that a new framework was required in order to respond to these objectives as well as to changes in the policy context such as the accession of new Member States largely

covered by forests. It therefore recommended that an EU Action Plan for SFM should be developed and to review those Community practices which facilitate coordination and cooperation between different policy sectors related to forestry. A Court of Auditors report (Special Report No 9/2004)¹¹ published at approximately the same time as the above Communication criticized the funding of forestry under the [Rural Development Regulation](#). The report criticized most aspects of the forestry measures under the Regulation and their implementation, especially afforestation schemes. Among the main criticisms were that the central concepts of sustainability and multi-functionality were vague and ill defined and that the added value of Community funding was 'difficult to assess'. The report stated that Member States had generally failed to provide satisfactory forestry plans or to implement them and the Commission's overview of the process was considered too lax.

In May 2005, the Council adopted conclusions supporting the recommendation of the review and called on the Commission to present an Action Plan by mid-2006.

EU Forest Action Plan

The Commission published the EU Forest Action Plan ([COM\(2006\)302](#)) in June 2006. The Action Plan was drafted in close cooperation with Member States and acceding countries, in dialogue with stakeholders, and through cooperation among the Commission services through the Inter-Service Group on Forestry. The Standing Forestry Committee, including representatives of forestry administrations of the EU Member States and chaired by the European Commission, was consulted three times between 2005 and 2006. Stakeholders were mainly represented by the Advisory Group on Forestry and Cork, which besides being formally consulted were also involved in a number of bilateral meetings with the Commission to exchange opinions. The Advisory Group includes representatives of public and private forest-owner organizations, research organizations, forest-based industries, environmental NGOs, forest trade unions, traders, and consumer groups, and was established in May 2004 by Commission Decision [2004/391/EC](#). In addition, individual stakeholder contributions were received such as from BirdLife, Forests and the European Union Resource Network (FERN), European Landowners' Organisation (ELO) or the Union of European Foresters (UEF), and the results of a stakeholder consultation on the EU Forestry Strategy carried out in 2004 was analysed.

The final 13 pages document on the EU Forest Action Plan sets out a total of 18 key actions which the Commission has proposed to jointly implement with Member States. The Action Plan, which is intended to last for five years (2007–2011) is accompanied by a longer annex¹² that justifies the choice of actions and outlines their expected impacts. The key actions are structured around four main objectives:

- Improving long-term competitiveness (five actions), by *inter alia* encouraging innovation and research or promoting the uses of forest biomass for energy generation.
- Improving and protecting the environment (four actions); by *inter alia* improving the European forest monitoring system, developing afforestation guidelines or promoting the implementation of Natura 2000 and of agroforestry systems.
- Contributing to quality of life (three actions); by *inter alia* underlining the importance of maintaining and enhancing the protective function of forests or improving environmental information and education.

- Fostering coordination and communication in Member States and the Commission (six actions), by *inter alia* encouraging the use of wood and other forest products from sustainably managed forests or strengthen the EU profile in international forest-related processes.

The Action Plan supports the need for continued environmental monitoring and the need to work towards a European Forest Monitoring System and establish a European Forest Data Centre, acknowledging that the Forest Focus Regulation expired at the end of 2006. It suggests that future monitoring activity, as well as measures on forest fire prevention, the restoration of forests damaged by fire as well as studies on the causes of forest fires, awareness raising campaigns, training and demonstration projects shall be supported by [LIFE+](#) and the European Agriculture Fund on Rural Development (EAFRD) over the 2007–2013 period. In the end, the Rural Development Regulation (EC) No [1698/2005](#), became the main financing instrument for implementing forestry measures outlined in the EU Forest Action Plan.

A mid-term evaluation of the Action Plan took place in 2009¹³. It noted that it was too early in the implementation of the Action Plan to see major outcomes, but concluded that the Action Plan ‘is on track, and there is real progress with regard to more co-ordination across different policy areas, more coherent action within the Commission, more implementation in the Member States, and more awareness of the different situations and questions that relate to forests and forest-sector development in different parts of the EU’. The ex-post evaluation is to be carried out in 2012. Given the expiry of the EU FAP, the European Commission also initiated a process on the revision of the EU Forestry Strategy, launched by a workshop attended by representatives of SFC, AGFC and the European Commission in April 2011, and the creation of an SFC ad-hoc Working Group on the “Revision of the EU Forest Strategy” with work to be completed in spring 2012.

Forest Law Enforcement Governance and Trade (FLEGT)

Following its commitment for initiatives such as the UNFF and therefore the support to combat deforestation according to Chapter 11 of the Agenda 21 as well as taking into consideration the social, ecological and economic impact of illegal logging inside the European Union, in 2003 the Community published its proposal on a Forest Law Enforcement Governance and Trade (FLEGT) Action Plan ([COM\(2003\)251](#)). Albeit in Europe the total forest area has increased over the past decades¹⁴, the world faced a loss of over three per cent of its forest cover between 1990 and 2005. This amounted to 13 million hectares of forests, of which 96 per cent were lost in tropical regions¹⁵. Drivers of deforestation are manifold and very often occur outside the forest sector (e.g. mining, agricultural intensification, infrastructure development). However, unsustainable and illegal logging has been identified to be one of the major drivers as well as the problem area where the European Union can most effectively take actions on.

The overall intend of the FLEGT Action Plan is to support efforts to tackle the problem of illegal logging. It therefore includes a series of objectives and actions referring to governance reforms and capacity building in third countries as well as the development of multilateral cooperation and complementary measures designed to reduce the consumption of illegally harvested timber in the European Union (e.g. public procurement and private sector solutions). A core element of the Action Plan is a scheme of voluntary partnership agreements (VPAs) with timber-producing countries to ensure exports from these countries

are licensed as being harvested in accordance with relevant national legislation, including forest conservation and management and the harvesting of timber. Regulation (EC) No [2173/2005](#) forms the legal basis of the scheme and was adopted by the Council in December 2005. In October 2009, a Council Decision on the signature and conclusion of the first VPA was adopted, between the European Union and Ghana¹⁶, signed on 20 November 2009 and published in the Official Journal in 2010 (L 70, 19.3.2010, p. 1). It was followed by the adoption of a Council Decision on the conclusion of an agreement with the Republic of Cameroon¹⁷ and with the Republic of the Congo¹⁸ in February 2011. Both are pending ratification. On 9 February 2012, the Council also issued a proposal on a Council Decision on the conclusion of a Voluntary Partnership Agreement between the European Union and Central Africa¹⁹. VPA negotiations are taking place with other timber-producing countries such as Liberia, Malaysia, Vietnam and Indonesia.

Regulation laying down the obligations of operators who place timber and timber products on the market

In reaction to international discussions on the role of forests regarding mitigation of and adoption to [climate change](#), and in particular in relation to the potential use of reducing emissions from deforestation and forest degradation (REDD) in developing countries, in October 2008 the Commission released a Communication on addressing the challenges of deforestation and forest degradation to tackle climate change and biodiversity loss ([COM\(2008\)645](#)). The Communication was intended to form the basis of the EU position at the 14th and 15th conference of the parties (COP-15) to the United Nations Framework Convention on Climate Change (UNFCCC), where REDD formed a key element of the negotiations. In this regard, the Commission presented the need to halt global forest cover loss by 2030 and reduce tropical deforestation by a minimum of 50 per cent by 2020, compared to current levels. The two key proposals set out by the Communication to achieve these targets referred to:

- Establishing a Global Forest Carbon Mechanism (GFCM) to finance measures aimed at preventing deforestation and forest degradation as part of the future [UNFCCC global agreement for the period 2013 to 2020](#) – short-term response.
- Testing the inclusion of deforestation in carbon markets, more specifically the inclusion of forest credits in the [EU Emission Trading Scheme](#) – long-term response.

In addition, the Communication emphasized the importance of strengthening existing EU policies which help to promote SFM, including the enforcement of the FLEGT Action Plan as well as the need to endorse additional legislation to combat illegal logging.

From December 2006 to March 2007, the European Commission carried out a consultation process aimed at addressing some of the most urgent questions raised about the effectiveness of the FLEGT VPAs. FLEGT VPAs are bilateral agreements with specific countries and thus were considered insufficient in guaranteeing a widespread coverage. The VPA approach in itself is lengthy and voluntary (though the agreement is itself legally binding), which means that there is still ample opportunity for illegal timber to enter the Community market. Efforts of countries under FLEGT VPAs could also potentially be circumvented by producer countries which may not have joined the scheme and which could use the country as a route through which to enter illegally produced timber into the European Union.

Based on the results²⁰ of the public consultation and due to the fact that the FLEGT action plan offers the opportunity for additional actions to prevent trade in illegally harvested timber products, in October 2008 the Commission proposed a Regulation laying down the obligations of operators who place timber and timber products on the market ([COM\(2008\)644](#)) in a package with the before mentioned Communication on deforestation. The stated aim of the legislative proposals was to minimize the risk of illegally logged timber and timber products entering the Community market, and so to complement the existing actions envisaged by the FLEGT Action Plan. The proposal would require operators within the EU market to apply a system of ‘due diligence’ to ensure that timber and timber products are tracked and ‘reasonable assurance’ can be provided as regards their legality. In April 2009 the European Parliament undertook its first reading²¹ of the Regulation and suggested amendments that would impose stricter obligations on operators who place timber and timber products on the market than envisaged by the initial proposal. Hereby, all operators in the supply chain, not only those traders placing timber products on the Community market, would be obliged to put in place a system of ‘due diligence’. In addition, the Parliament stipulated tougher penalties for offences, provided more clarity about what is meant by ‘due diligence’ and allowed no exceptions to the Regulation for timber covered by mandatory sustainability criteria. The Council published its final position²² on a Regulation on illegal logging for a second reading in the European Parliament after a meeting of the ‘Agriculture and Fisheries’ Council in December 2009. The Member States backed the Commission's initial proposal and rejected many of the amendments suggested by the European Parliament, which would have implied a *de facto* ban on illegal timber throughout the European Union. In May 2010, the Committee on Environment, Public Health and Food Safety of the European Parliament adopted a draft recommendation for a second reading of the proposed Regulation, which re-enforced the Parliament's position and set itself for another confrontation with the Council and the European Commission. In July 2010, the European Parliament completed its second reading of the proposed Regulation²³. However, following negotiations between the Parliament, the Spanish Council Presidency and the European Commission in June 2010, Members of the European Parliament voted in favour of the Council agreement with suggested amendments in its plenary session on July 7 2010. The European Parliament achieved the requirement that all operators in the supply chain, not only traders placing timber products on the Community market, would be obliged to put in place a system of ‘due diligence’. On the other hand, it had to compromise on penalties, as a minimum framework of penalties across Europe was rejected, and it will be mainly up to the Member States to decide on the level of sanctions. The legislation will cover raw timber and products manufactured from wood from its entry into force in 2012, whereby printed material will be exempt for a further five years. In August 2010, the Commission sent an opinion²⁴ amending its proposal as set out by the second reading of the European Parliament.

The Council formally accepted the proposal on October 20, 2010. Regulation (EU) [No 995/2010](#) (OJ L295, 11.11.2010) of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market. After 3 March 2013 Member States are required to submit to the Commission a report on the application of the Regulation over the previous two years and by 30 April of every second year. Based on Member States input, the Commission will report on the application of the Regulation to the European Parliament and to the Council. It will also conduct a full review of the functioning and effectiveness of this Regulation every six years.

Further developments

Following a report²⁵ on the main causes of forest dieback damage in the European Union, in 2008 DG Environment launched a study²⁶ to explore which environmental challenges might necessitate a Community approach to protect European forests from harmful impacts and what policy instrument would be needed to effectively address those challenges. The study identified the wide spread of forest protection measures across different policy sectors as a major point of conflicts. It was argued to be the major cause for inconsistency regarding the enforcement of relevant policy instruments due to partly legally binding, partly financially supported with inconsistent and fragmentary control of objectives. The authors emphasized the need for a more coherent approach on forest protection at the Community level and identified four main policy options to achieve this target. The first referred to a slightly improved 'business-as-usual' scenario, which foresees the development of special inter-sectoral working group aiming *inter alia* for an improved policy coordination, communication and coherence across sectors. The second referred to the development of a functional European forest monitoring system that fills the currently existing gaps. Option three described the development of a legally binding Forest Framework Directive, whereby option four focuses on the open method of coordination to guarantee further coherence.

In light of the findings of the above mentioned studies, ongoing international processes such as CBD, UNFCCC and FOREST EUROPE, and the fact that the EU Forest Action Plan will expire in 2011, in March 2010 the Commission released a **Green Paper on forest protection and preparing forests for climate change** ([COM\(2010\)66](#)), including a staff working paper ([SEC\(2010\)163](#)) as accompanying background information. The purpose of the paper is to engage stakeholders in a debate on the EU's approach to forest protection and information with regard to the likely impact from climate change. In this regard the paper is part of the follow up process to the White Paper on adapting to climate change ([COM\(2009\)147](#)). The Green Paper outlines the state of forests; its importance with regard to social, economic and environmental functions; the impact of climate change on the capacity of forests to deliver those functions and the tools available for protection. Linked to those issues it poses a series of questions considered important for the development of future policy options, and invites the public to submit comments in a web-based consultation process open until 31 July 2010. As part of the consultation process, in May 2010 the Committee of the Regions published an own-initiative opinion²⁷ on forest policy, recommending an 'appropriate legal and structural framework to enable co-ordinated action in the area of European forest policy' after 2011, without, however, specifying its visions of the exact nature of such a framework. At the end of 2010, the European Commission published a summary of the results of the stakeholder consultation ([COM\(2010\)66fin](#)) as well as detailed insights into the different contributions²⁸. Overall, the Commission received 261 responses, which were rather evenly distributed over different interest groups (governments and public bodies, business and industry, forest owners and private citizens, NGOs, and research and academia), but with a clear focus on Western Europe and contributions particularly from countries such as France, Germany, Finland, Italy, Sweden, Spain and the United Kingdom. As regards the question on the sufficiency of existing EU and Member State policies in contributing to the protection of forests in light of climate change and biodiversity conservation, most of the stakeholders agreed that current policies were not adequate in addressing the different challenges. Only business and industry was mostly satisfied with the current situation, whereas the group of forest owners and private citizens was fragmented in its view. Divided opinions existed particularly on the actions considered to be necessary. An increased financial support at EU

level was at the top of the list of the most often requested measures, whereas a Framework Directive was most controversially discussed.

Any Decision in this regard will be influenced by the current debate on a **legally binding instrument on forests** initiated by FOREST EUROPE²⁹. A working group was established to explore the potential added value of and possible options for such an instrument. In the period from November 2008 until October 2009, the working group worked on identifying main challenges and emerging issues at national, regional and global level; identifying and analysing possible legally binding agreement options; analysing the potential added value and pros and cons of a legally binding agreement on forests in the pan-European region, and assessing possible relations or implications of legally binding agreement options for the FOREST EUROPE process, other European agreements, bodies and processes and the EU forest related activities. The working group suggested preparing for a Decision at the Ministerial Conference in Oslo on 14 to 16 June, 2011. In an open letter to Forest Europe signatories and observers sent in September 2010, a group of environmental NGOs including FERN, Greenpeace and BirdLife International also expressed concern over the development of a legally-binding agreement³⁰. With increasing evidence that the FOREST EUROPE expert level meeting (the decision-making body between conferences) would be likely to provide a mandate to open negotiations on such an agreement, following a Communication on the matter from the European Commission to the Council ([COM\(2011\)177final](#)) the Commission started to explore its possible role in such negotiations, in the context of Article 218(3) of the Treaty of the European Union (TFEU)³¹. Because any legally-binding agreement on forests would affect policy areas which fall under both EU and national competences, the decision on whether to open negotiations needed to be concluded by both, in the form of a decision authorising the Commission to participate on behalf of the EU, and a decision authorising the Presidency to negotiate on behalf of the Member States. However, the May 2011 Council of Agriculture Ministers³² initially decided to delay the decision on how to negotiate the LBA having not been able to reach agreement to authorise the Commission to participate on behalf of the EU or allow the Presidency to act on behalf of Member States. The UK expressed particular concerns that using a qualified majority vote to mandate negotiations that require consensus of all Member States to be concluded would set a precedent that could be used in other policy areas. Finally, in June 2011, the Council adopted two decisions on the participation of the EU and its Member States in the opening of negotiations, authorising the Commission to participate, on behalf of the EU, and the Presidency to negotiate an LBA on behalf of the Member States³³. On 16 June 2011, the ‘Mandate for Negotiating a Legally Binding Agreement’ (LBA) on forests in Europe was adopted at the Forest Europe Ministerial Conference³⁴. The ministers agreed that an Intergovernmental negotiating Committee (INC) will be established and start work before the end of 2011, chaired by Finland. It will conclude negotiations by the end of June 2013, and the results will be presented to a Forest Europe ministerial conference before the end of 2013. The Mandate lists 11 issues to be addressed by the Committee, including a possible commitment to halt the loss of biodiversity, to maintain and enhance the health, vitality and resilience of forest resources, and to ‘reduce, with the aim of eliminating, illegal logging’. However, the negotiation mandate already includes substantial room for manoeuvre by individual states to retain existing practices under ‘national sovereignty’ or ‘specific forest conditions’ arguments. The mandate specifies that the Committee is to base its work on existing Forest Europe resolutions and declarations, as well as the Convention on Biological Diversity (CBD) (see section on [Biodiversity: International conventions and cooperation](#)) and other international commitments related to forests, and to consider the possibility of the agreement being brought under the UN umbrella. In addition, the ministers adopted a

Ministerial Decision with targets for European forests to be achieved by 2020³⁵. The biodiversity target commits to halving the rate of loss of forest biodiversity by 2020. However, it is important to note that this conflicts with the more ambitious European Union Biodiversity Strategy's target of halting loss of biodiversity by 2020 (see section on [Overview of EU Policy: Biodiversity](#)), as well as the 2020 target agreed at the Nagoya Conference of the Convention on Biological Diversity (see section on [Biodiversity: International conventions and cooperation](#)). The targets also refer to both a substantial increase in the production of wood and other forest products from sustainably managed forests in response to Europe's political objectives on the use of renewable raw material and energy, and a significant increase in the socio-economic and cultural benefits of forests. From 27 February to 2 March 2012, the first session of the Intergovernmental Negotiation Committee (INC1) was held at the United Nations in Vienna. It resulted into the publication of a roadmap for the negotiation process and suggested work modalities³⁶. The INC2 session will be held in Bonn from the 3 to 7 September 2012. Prior to INC1 and on 4 November 2011, the Council Working Party on Forestry agreed on practical arrangements of the European Union and its Member States in LBA negotiations³⁷.

Furthermore, in the context of recent international discussions on how to account for the role of **land use, land use change and forestry (LULUCF)** in achieving climate change commitments, in November 2010 the European Commission's Directorate-General on Climate Action initiated a public consultation on the contribution of the EU agriculture and forestry sector to the EU commitment to reduce greenhouse gas emissions by 20 per cent or, if conditions are right, by 25 per cent compared to 1990 levels by 2020. Currently, accounting is only mandatory for emissions and removals related to afforestation, reforestation and deforestation under the UNFCCC Kyoto Protocol. It is optional for emissions and removals related to forest management, and as such is not part of the EU's reduction commitment. As emphasised in the recent roadmap for moving to a competitive low carbon economy in [COM\(2011\)112](#) (see also [Overview of EU climate policy](#)), forestry practices will have an important impact on the capacity of the sector to preserve and sequester carbon in soils and forests. It also emphasised the importance in addressing these aspects in a holistic manner, for example as regards LULUCF in EU climate policy. The issue gains increasingly importance in discussion on the use of biomass in reaching renewable energy targets, in relation to the accounting of potential emissions (see also see section [Overview of EU policy: climate change](#)), as well as the development of biomass sustainability criteria (see also section on [Promotion of the use of energy from renewable sources](#)). Following the publication of the results of the public consultation in February 2011³⁸ and the decision on a new set of accounting rules for LULUCF activities at UNFCCC meetings of Parties in Durban (COP17, CMP7) in December 2011, the European Commission published a proposed Decision [COM\(2012\) 93 final](#) on accounting rules and action plans on emissions and removals from LULUCF, accompanied by a Communication [COM\(2012\) 94 final](#) and Impact Assessment [SWD\(2012\) 41 final](#) on 12 March 2012 (see also section [Monitoring and Limiting Greenhouse Gases](#)). Amongst others it suggests a mandatory accounting for net emissions and removals from forest management by using 'reference levels', i.e. accounting towards projections of 'business as usual emissions' based on current policy settings, in line with the decision at international level.

Related legislation and policy

As was already mentioned in the introduction to this section, the Community has limited competence in forestry policy. However, it contributes to the safeguard of the multifunctional role of forest through a variety of instruments in different sectoral policies. The following legislation and policy can be considered particularly relevant for forest policies in the European Union:

- Rural Development Regulation (EC) No [1698/2005](#).
- Birds Directive ([2009/147/EC](#)).
- Habitats Directive ([92/43/EEC](#)).
- Renewable Energy Directive ([2009/28/EC](#)).
- [International Tropical Timber Agreement](#).
- Convention on the Conservation of European Wildlife and Natural Habitats ([CITES](#)).
- Directive on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community ([2000/29/EC](#)).
- Directive on the marketing of forest reproductive material ([1999/105/EC](#)).

These instruments are described in more detail in the relevant sections which deal with them. However, some of the most obvious interactions are shortly outlined below.

The Rural Development Regulation (EC) No 1698/2005 is the core instrument in implementing forest-relevant objectives and activities stressed out by the European Forestry Strategy and the EU Forest Action Plan (see section [on European Agricultural Fund for Rural Development](#)). For the period 2007–2013, it guarantees support under the following three main categories:

- Improve the competitiveness of agriculture and forestry (Axis 1): *inter alia* restoring forestry production potential, development and improvement of infrastructure or marketing of forest products.
- Improve the environment and countryside by supporting land management (Axis 2): *inter alia* afforestation of agricultural and non-agricultural land, environmental protection in connection with forestry and other various forestry measures regarding the conservation and restoration of biodiversity and other forest functions.
- Improve the quality of life in rural areas and encourage diversification (Axis 3): *inter alia* protection and conservation of rural heritage or diversification of activities.

The second category is in particular relevant for guaranteeing financial support to the management of the Natura 2000 network, key for the conservation of biodiversity throughout the European Union. Resulting from the designation of Special Areas of Conservation (SACs) under the Habitats Directive and Special Protection Areas (SPAs) under the Birds Directive according to Article 3 of the Habitats Directive, the network was estimated to cover 13 per cent of the EU-27 forest surface if taking into account sites included under the Habitats Directive. A total of 70 forest habitat types are listed in Annex I of the Habitats Directive as habitats of Community interest. In the recent Communication on the future of the EU Common Agriculture Policy ([COM\(2010\)672](#)), new possibilities have been opened for additional payments for adhering to Natura 2000 requirements, including forest habitats.

However, concrete changes and specifics will only become visible when legislative proposals will be launched in the second half of 2011.

The efforts of the EU Forest Action Plan to encourage the use of forest biomass is also closely linked to relevant measures in the Renewable Energy Directive to increase the share of energy from renewable sources by 20 per cent in the Community's gross final consumption of energy by 2020. More than half of the European Union's renewable energy already originates from biomass, 80 per cent of which is wood biomass³⁹. The Directive sets out a range of sustainability criteria for biofuels and bioliquids, but fails to equally address biomass. Instead, the Commission released a report and impact assessment on the requirements for a sustainability scheme for energy uses of biomass, other than bioliquids and biofuels ([SEC\(2010\)65](#)) in March 2010, concluding that no binding criteria are necessary (see section on [Promotion of the use of energy from renewable sources](#)). Within the context of a rising global demand for woody biomass for bioenergy use competing with demands from other sectors, the Commission also launched its new strategy on “A Bioeconomy for Europe”. Closely linked to the EU’s Roadmap to a Resource Efficient Europe published in September 2011, the strategy and related action plan aim at moving towards a more innovative, resource efficient and competitive society that reconciles issues such as food security with the sustainable use of renewable resources, while ensuring environmental protection (see section on [Overview of EU policy: Resource use](#)).

Given the increasing international trade in forest products and the potential impact on people's livelihood and on the environment outside and inside the European Union, the Community's commitment to relevant international conventions and cooperation also becomes increasingly important. This includes initiatives such as the International Tropical Timber Agreement as well as support for the implementation of The Convention on the Conservation of European Wildlife and Natural Habitats (CITES), which currently lists 27 tree species. Two Directives play an important role in addressing more specifically issues relevant for the forestry sector. These refer to the marketing of forest reproductive material, covered by Directive 1999/105/EC, and to plant health, addressed by Directive 2000/29/EC. The latter includes among others phytosanitary measures to prevent the introduction and spread of organisms harmful to plants and plant products, and so interacts with other activities of the Community to reduce the impact of invasive alien species (see [Overview of EU Policy-Biodiversity](#)) on the European Union's flora and fauna, including forest habitats and species.

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