

ENGO POSITION PAPER: OPTIONS FOR AN INTERNATIONAL INSTRUMENT ON SUSTAINABLE FOREST MANAGEMENT

Prepared for



Forest Caucus

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EXECUTIVE SUMMARY

The Canadian Environmental Network (RCEN) was asked by Natural Resources Canada's Canadian Forest Service (NRCan-CFS) to select five delegates to participate in a national teleconference consultation on options for an international instrument on sustainable forest management at the global level. In addition to the consultation, the RCEN was asked to coordinate the development of an ENGO Position Paper that includes the elements, mechanisms, and ENGO recommendations for the options identified. The primary ENGO recommendations coming out of the consultation are the following:

Recommendations to the Government of Canada

1. Support meaningful and substantive ENGO sector involvement in evolving international forest policy discussions, particularly in Canada's continuing discussions on a legally binding instrument, such as was done prior to the UNFCCC 11th Conference of the Parties (COP 11) in Montreal in 2005.
2. Ensure consistency between Canada's positions in international forest policy discussions and both of the following:
 - a. its domestic forest policy commitments, particularly its commitment to ecosystem-based management and the recognition of aboriginal rights in the National Forest Strategy; and
 - b. its existing international forest policy-related obligations, particularly its obligation to implement the Convention on Biological Diversity.
3. Avoid unnecessary duplication and overlap with existing international institutions and instruments.
4. Pursue measurable and enforceable standards that are rooted within ecosystem-based management principles.
5. Support the development of a legally binding instrument through the existing mechanisms of the Convention on Biological Diversity (CBD), including the policy deliberations of the Program of Work on Forest Biodiversity.

INTRODUCTION

This paper has been prepared pursuant to a meeting held via conference call between representatives of Natural Resources Canada and several Canadian ENGOs in advance of the seventh session of the United Nations Forum on Forests (UNFF), to be held in New York from 16–27 April 2007 (see Annex for list of participants). The topic of discussion was on Canada’s involvement in international forest policy and the intention to pursue a legally binding instrument (LBI) on forests.

The meeting was productive, allowed for an open exchange of views on the issue, and provided a rough outline of the government’s position and upcoming strategy. The second half of the meeting was conducted only between members of the Canadian Environmental Network (RCEN) for the purposes of information sharing and consensus-building regarding an ENGO position on the issue.

This paper reflects the views expressed by ENGOs during this consultation and provides government with input on the ENGO community’s views on the strong leadership role we wish to see Canada play within international forest policy—both in what this policy should seek to address and how it should be pursued.

The ENGO community appreciates the fact that government has given us the opportunity to directly voice our concerns regarding this issue, and for being provided with the support to do so. However, due to time constraints, we were unable to consult with many of the member organisations that compose the RCEN. Therefore, this paper primarily draws upon previous efforts to poll our constituency on the matter. We suggest that future consultation efforts be initiated approximately six months prior to the input being requested in order to ensure the full participation of the ENGO community and to enable a more accurate reflection of the current range of views within our groups. More specifically pertaining to the issue of the Legally Binding Instrument (LBI), we are unable to comment on this initiative without having a detailed look at the proposed content of such an instrument.

We share government’s concern that not enough is being done at the international level to prevent deforestation and forest degradation, and that there is not enough being done to accommodate the concerns of forest-dependent communities. However, we do not believe that this is for a lack of international agreements and institutions that are intended to address these issues. In particular, we do not see the added value of creating another forest-related instrument, as proposed by the creation of the LBI on forests. It is our strong position that Canada should use its influential position within existing international agreements, such as the Convention on Biological Diversity (CBD), to empower these agreements so that they can fulfil their mandates to protect forest habitats and the equitable sharing of benefits derived from sustainable forest management.

The ENGO community remains a vocal supporter of effective and enforceable international environmental law. However, we believe that any future efforts should build upon previous accomplishments, and maintain or raise the bar regarding support for the ecological integrity of the world’s forests. This paper makes reference to a number of progressive initiatives, such as the National Forest Strategy (NFS), which we believe represent current “best practices” and are supported by a high level of consensus from a broad base of stakeholders. We call upon Canada to reflect carefully upon this work and to uphold these principles internationally.

Canadian ENGOs acknowledge that Canada has taken a leadership role in progressive international developments, such as the Montreal Process for Criteria and Indicators, and the International Model Forest Network, and in its strong support of the CBD. Furthermore, Canada currently has the largest amount of forest certified by Forest Stewardship Council certification standards. We encourage the government of Canada to further support and build upon these achievements. We hope to play a role in reaching our common forest objectives.

CONSULTATION

Before commenting on specific aspects of international forest policy, we wish to reiterate our continuing concern regarding the adequacy of consultation efforts. Due to the large number of groups that compose the RCEN and the complex nature of issues being discussed, we require sufficient time and resources in order to secure the full participation and support of the ENGO community. In this regard, we express support and preference for the types of consultation efforts in which Canada has engaged ENGOs within other processes.

Specifically, we recommend the adoption of an approach similar to that which was taken for achieving ENGO input prior to the 2005 UN Framework Convention on Climate Change Conference of the Parties (UNFCCC COP11), where funding was made available for ENGO representatives from across Canada to meet in Montreal at the RCEN Annual Conference on the Environment more than two months in advance of the COP. At this meeting, the White Paper on Energy and Climate Change, prepared in advance by RCEN members, was discussed and further developed. This eventually became the Green Paper on Energy and Climate Change, subsequently released during the COP. We wish to highlight that given adequate notice and resources, we have the ability to undertake a similar effort within the Forest Caucus of the RCEN. Such a meeting could provide regular input into the many forest-related processes and strengthen Canada's voice within international forest policy.

It has been widely acknowledged that the role of ENGOs, and major groups in general, needs to be augmented within the International Arrangement on Forests (IAF) as key drivers of public opinion with the ability to mobilise large numbers of people through a vast network of grassroots organisations. Supporting an annual ENGO forest meeting may serve as a strong signal that other countries may follow, and eventually bolster the involvement of civil society within the IAF itself.

INTERNATIONAL FOREST POLICY: A PRINCIPLED APPROACH

Before discussing what would be the most appropriate and effective modality to use in the pursuit of international forest policy objectives, it is necessary to be clear as to what those objectives should be. The principles behind the conservation and sustainable use of forests have long been discussed within the ENGO community, refined over time and in light of emerging research findings. Numerous multi-stakeholder processes have also resulted in consensus documents that articulate a common vision for forests.¹ Our intention here is to highlight key principles to guide Canada in international forest policy deliberations.

The National Forest Strategy 2003-2008

One of these key documents is the National Forest Strategy (NFS), a product of several decades of work, and the culmination of the greatest effort to seek consensus among a diverse group of stakeholders regarding a desired future for Canada's forests. We believe the principles upon which it is based are applicable in the international context, and that Canada has an obligation to respect and uphold its domestic commitment to NFS principles in its international policy initiatives.

The National Forest Strategy, a broadly based public initiative, identifies and charts the direction that Canadians, as stewards of the forest, need to move toward in order to deal with evolving social, cultural, institutional, environmental, and economic factors in our journey toward sustainable forest management. As Canadians, we have reason to be proud that Canada was the first nation to form a national forest strategy, thus establishing a clear and widely based commitment to the pursuit of the sustainable forest. (NFS, 2003)

Principles

The NFS addresses a broad range of issues that encapsulate key principles of environmental, social, and economic sustainability. Below we highlight three that are of particular importance to our constituency: ecosystem-based management; sustainable forest communities, and rights and participation of aboriginal peoples.

Ecosystem-based Management

Ecosystem-based management maintains forest health, structure, functions, composition, and biodiversity. Some of the key features of this approach include the use of integrated land use planning (which considers the impact of other sectors), maintaining natural forested ecosystems (including the conservation of old-growth forests and threatened forest ecosystems), completing a system of representative protected areas, and maintaining carbon reservoirs and managing the forest to be a net carbon sink over the long term.

¹ These include: The National Forest Strategy; The Forest Accord; *Our Forests, Our Future*: Report of the World Commission on Forests and Sustainable Development; the NGO Statement to the World Forest Congress in Quebec City, 2003; and the ENGO statement regarding the Papua New Guinea/Costa Rica submission on the inclusion of deforestation as a category of the Clean Development Mechanism within the Kyoto Protocol (see www.cen-rce.org/eng/caucuses/forest/docs/ENGO%20Deforestation%20Statement_March%2031%202006.pdf).

A common misconception regarding ecosystem-based management is that it focuses entirely on preserving ecosystems and neglects the social and economic concerns of forest-dependent people. However, this is not the case. Fundamental to this approach is the recognition that all social and economic benefits that the forest can provide rests on the ecological integrity of the forest, and that human well-being is a subset of ecosystem health and function. It also recognises that unless underlying causes of deforestation and forest degradation that are linked to social and economic problems remain unaddressed, forest ecosystems will remain in peril.

Sustainable Forest Communities

Forest policy should aim to improve the sustainability (social, environmental, and economic) of forest-based communities by fostering participation in forest management decision making, improving access to and sharing of resources and benefits, and supporting community resilience and adaptive capacity.

Rights and Participation of Aboriginal Peoples

Although this particular aspect of the NFS will require adaptation for its application within the broader international policy setting, the core principle is very much applicable: that aboriginal and treaty rights should be accommodated in the sustainable use of the forest, and recognise the historical and legal positions of Aboriginal Peoples and their fundamental connection to ecosystems.

Three Possible Strategies to Achieve These Principles

We will now examine three possible strategies that Canada could take to pursue the objectives described above, and discuss the merits and potential pitfalls of each. First, we will discuss the “status quo” option of continuing support for the UNFF in its current form. Second, we will look at Canada’s proposal for a legally binding instrument (LBI). Finally, we will look at the option of pursuing the objectives by enhancing support for currently existing agreements.

The overarching preference of the ENGO community is for effective outcomes, as opposed to continuing processes with a track record of limited accomplishments. We are concerned about the proliferation of conflicting and redundant instruments, agreements, and processes, some of which Canada is failing to meet.

United Nations Forum on Forests (UNFF)

ENGOS share the Canadian government’s frustration that the Intergovernmental Panel on Forests (IPF), Intergovernmental Forum on Forests (IFF), and now the UNFF processes have not yielded greater results, and that political manoeuvring has trumped attempts to make this a substantive forum capable of implementing the IPF/IFF Proposals for Action.

The UNFF also falls behind many other forest-related processes in consideration of the level of participation it affords to civil society. While there have been small positive developments at the ad hoc experts group meeting on a non-legally binding instrument (NLBI) and the Bali Country-led Initiative (at which major groups were allowed to make brief interventions during plenary), and Canada has included an NGO representative on some UNFF delegations, on the whole it appears that most major players within civil society have abandoned this process in favour of fora in which they are given a greater voice.

The most useful role that UNFF could possibly play would be to coordinate the activities of the many forest-related instruments (most of which are members of the Collaborative Partnership on Forests) to avoid conflict and redundancy, and to harmonise policies to ensure the highest bar is upheld for forests. However, UNFF has never been given that mandate nor the necessary resources to achieve that goal, and thus international forest policy remains as fragmented as ever. The UNFF Secretariat could also become an integral part of the Millennium Development Goal review process in order to demonstrate its relevance and ability to work with other UN bodies.

We share the government's doubts regarding the utility of developing additional non-legally binding statements concerning forests, considering the fate of existing statements that emerged from the 1992 UNCED summit, such as the Forest Principles and Agenda 21. Having followed the development of the current NLBI, it appears unlikely that this will attract new funding or be able to effectively drive the implementation of the proposed multi-year programme of work (MYPOW).

ENGOs are concerned that UNFF is out of step with more progressive international agreements and that it is largely focused on the extractive forest sector, with support in most cases for intensive approaches to forestry. These include an emphasis on plantations, often large and exotic, potentially moving towards the use of genetically engineered trees. This overly generous and agricultural definition of what constitutes a forest has resulted in a falsely optimistic view of the state of deforestation and forest degradation.

Canada's "Coalition of the LBI Willing"

While we are supportive of an agreement with "teeth" that could achieve a high level of compliance in meeting the objectives surrounding forest protection and sustainable use, we have yet to see an actual draft of Canada's proposed LBI, or be invited to participate in its development, and are thus unable to discuss its specific content and whether or not it would support the principles presented above.

One significant concern with a "coalition of the willing" approach is its potential for effectiveness. Such a narrow coalition may well fail to have the scope to comprehensively address forests. Additionally, there are concerns about efficiency. A new instrument will likely require new institutional support to ensure financing, implementation, and compliance.

However, based on the paper circulated prior to the RCEN-NRCAN conference call ("Canada's Support for a Legally Binding Instrument for Forests") and the presentation that followed, we are wary that it might be a continuation of previous submissions that we feel were geared primarily towards enabling trade and securing Canada's position within the trade regime. For example, it states that Canada is "highly dependent on global trade and [has] a large domestic industry, and we need to be involved in "setting the rules," instead of responding to rules others set (e.g., the European Union). Protecting, promoting, and enhancing our interests regarding the forest sector is reasonable and expected." Fundamental to the ENGO position is the recognition that environmental and social well-being *must* take precedence over enabling trade.

Further, the paper states that one of the objectives is to “defend allegations against Canada’s forest sector by setting and meeting international standards for [sustainable forest management] SFM.” Finally, the comment that such a LBI would not require “changing forestry practices above what [Canada is] already doing” suggests satisfaction with the status quo, which ENGOs are unable to support.

We also question the merits of this strategic approach. We acknowledge that by going outside of the UNFF in its pursuit of a LBI, Canada may accelerate the attainment of such an agreement. However, this may also serve to further fragment existing efforts and political will behind forests, and may only serve to attract member states that were already high performers in this sector. What is required is the consolidation of existing gains made within other fora.

Enhancing Support for Existing Agreements

As an alternative to the creation of an additional instrument, the ENGO community believes that existing international agreements pertaining to forests must be backed by the necessary resources and political will to be fully implemented. The creation of an additional instrument without implementing those that Canada has already committed itself to could set a dangerous precedent, and create a disconnect between commitment and implementation that would undermine a LBI, or any other agreement that is developed.

In this regard, we wish to draw attention to a chapter in a recent report to the House of Commons by the Commissioner of the Environment and Sustainable Development, “The Canadian Biodiversity Strategy—A Follow-Up Audit,” the third such report conducted since Canada signed on to the CBD in 1996. The report found that implementation remains “unsatisfactory” and “stalled on several fronts,” and that Canada lacks a coherent plan. It also found that commitments to increase capacity remain unfulfilled and that there is a need for a comprehensive report on the state of Canada’s biodiversity (OAGC, 2005).

The state of implementation of forest-related agreements also remains poor internationally, with very few countries producing their required country reports and biodiversity inventories, and a general lack of resources for implementation of their national plans. The work that has been accomplished to date has largely been due to Global Environment Facility (GEF) funding, yet donor support for the recent GEF replenishment has fallen substantially since the creation of this fund. In a statement issued at the World Forest Congress in Quebec City in September 2003, ENGOs called upon governments to implement these commitments.

Interestingly, a report examining the status of implementation of forest-related CBD requirements (Muraille and Ozinga, 2002) found that there exists a profound misunderstanding among *both* civil society and government actors about the scope of the CBD: that it is solely concerned with conservation. The truth is that **conservation of biodiversity is but one of the CBD’s three objectives, the other two being the sustainable use of biodiversity, and the fair and equitable sharing of the benefits.**

Enabling the CBD to Fulfil Its Forest Mandate

The CBD COPs have become major annual events bringing nearly 4,000 people together, including governments, inter-governmental and non-governmental organisations. The agreement itself boasts the membership of 188 countries, including nine of the top ten countries in both forest cover and forest trade. Forests is one of the top issues discussed within the CBD. It is supported by a specific expanded Programme of Work on Forest Biological Diversity. Many of the 225 side events held during COP-8 in Curitiba, Brazil in March 2006, presented research directly relevant to forests.

This represents an incredible opportunity to build upon existing momentum and resources. Countries that might not have the capacity to send delegates to a separate, additional LBI meeting may be willing to participate in a forest-specific agreement under the CBD because their participation in the COP is already funded. The international system is already suffering from an excess of multilateral environmental agreement meetings.

We have a deep understanding of the CBD and its forest-related provisions, and we believe that its approach is consistent with the principles that we have outlined above and that are contained in the documents supported not only by ENGOs, but by a broad base of stakeholders. Some of the core values of the CBD, such as the ecosystem approach, and access and benefit sharing, are embedded directly in the National Forest Strategy. Several of the objectives make specific reference to CBD obligations (see NFS Objective 3.0, 3.3, 8.1, 8.5). In its LBI paper, government cautions that “failure to ensure SFM globally will undermine national initiatives, such as Canada’s National Forest Strategy.” However, we believe that in a similar fashion, failure to uphold international agreements that embody NFS principles also undermines their domestic implementation.

We encourage the government of Canada to seriously consider leading the consolidation of international forest policy under the CBD. The upcoming 12th meeting of the CBD’s Subsidiary Body on Scientific, Technical, and Technological Advice (July 2-6 2007, Paris, France) presents the perfect opportunity to initiate discussions in support of this.

In Response to Concerns Regarding the CBD

The Canadian Government has argued that the CBD approach to forests is primarily about the protection of biodiversity and that a forest LBI is needed in order to more fully address the other functions of forests. A close examination of the content of the CBD, particularly the Forest Programme of Work, reveals that it also gives a great deal of consideration to social and economic aspects of forests, such as poverty reduction, recognition of indigenous peoples, and equitable sharing of benefits derived from forests.

It was also suggested that the CBD would be unable to address illegal logging. However, this is one of the key objectives of the expanded programme of work on forests (Objective 4: Promote forest law enforcement and address related trade). So there is no reason why the CBD would not be able to deal with this issue. What is required is the empowerment of this aspect of the programme of work through adequate capacity-building in the area of law enforcement and the implementation of national and international law.

The government argues in its LBI paper that the CBD is not the appropriate instrument because it is governed by environment ministers who are not necessarily responsible for forests. However, creating a separate convention on forests would only serve to exacerbate this ministerial chasm. We believe that bringing forests squarely under the CBD would require, as well as provide, the opportunity for these different ministries to synchronise their work in this sector.

We also hear the government's argument that a LBI is required in order to provide forests with the necessary political standing to attract funding and put ministries responsible for forests on an equal footing with those responsible for sectors such as agriculture and energy (which are often responsible for forest loss). However, we believe that this would be best achieved by building upon the existing participation, momentum, and strength of the CBD.

The truth of the matter is that the CBD already has, and will continue to have, a significant role in international forest policy. Any road forward will be difficult. ENGOs believe that the best path on which to focus efforts is the one being developed by the CBD.

Other International Forest-Related Agreements

The CBD is but one of many forest-related agreements and international organisations. Others of relevance to forests include:

- UN Convention to Combat Desertification
- UN Framework Convention on Climate Change
- International Tropical Timber Agreement, 2006
- Convention on the International Trade in Endangered Species
- UN Food and Agriculture Organization, Committee on Forestry

Preliminary indications are that Canada will again attempt to have “forest management” addressed under the Kyoto protocol to UNFCCC. This again raises the question of why it would be desirable to pursue an additional legally binding instrument to address matters such as deforestation that could be addressed by existing instruments.

Other Priorities Within International Policy

Canada's international presence and influence is much greater than our population size and economic might would suggest, and the ENGO community would like to see government use this power to invoke necessary changes within other international fora that could benefit forests and forest-dependent peoples.

For example, we would like to see Canada use its position within the Global Environment Facility (GEF) to secure funds earmarked for forest-related work, and to work together with other donors during the next replenishment cycle to bring funding levels back to what they once were.

Regarding trade, we urge Canada to use its position within the WTO and the Trade and Environment Committee to ensure that, as a matter of principle, environmental and social well-being are given priority. For example, ensuring that protective measures surrounding the prevention of the spread of invasive species are not trumped by interests promoting unencumbered trade.

We would also encourage Canada to support the efforts by indigenous peoples to gain international recognition of their rights and use of traditional territories, consistent with Objective 3 of the National Forest Strategy.

Strengthening and Supporting ENGO Initiatives

During the time that the IPF/IFF/UNFF discussions have been occurring, ENGOs have made a great deal of progress in achieving many of the same objectives that these governmental forums have intended to address. Three of these are discussed below.

Alternatively, Canada could achieve an enhanced reputation for its forest sector by trumpeting and supporting major collaborative developments in domestic forest policy, such as the achievements of Forest Stewardship Council certifications, the recent Great Bear Rainforest Accord, the developing Boreal Forest Conservation Framework, and the on-going implementation of the Species at Risk Act.

Forest certification

Certification has been effective in raising consumer awareness regarding the source of their forest products and in limiting the market access of products derived from illegal sources. Canada can be proud that it has achieved Forest Stewardship Council certification for nearly 20 million hectares, a quarter of the world total (Abusow, 2006) certified under this system. The process of developing the four regional standards within Canada has been beneficial to building understanding among forest stakeholders. We would like to see Canada fund communications and marketing efforts that support FSC-certified forest products.

International Analog Forestry Network (IAFN)

Analog forestry is a complex and holistic form of agroforestry that seeks to maintain a functioning tree-dominated ecosystem while providing marketable products that can sustain rural communities, both socially and economically.² Canada has supported the analog forestry approach and the IAFN through both CIDA and IDRC, most recently at an analog forestry course in February 2007 in Costa Rica, jointly hosted by Falls Brook Centre in New Brunswick³ and the Central Tropical Agriculture and Forestry University and Research Centre (CATIE) in Costa Rica.⁴ A certification system (Forest Garden Products) has been developed to market products derived from analog forestry, which is now recognised by the EU.

Community-Based Forestry Management (CBFM)

A number of organisations have been developed worldwide that are currently working on promoting the CBFM approach. The RCEN forest caucus is working on organising an international community forestry side event in September 2007 in conjunction with the International Congress Global Vision

² Adapted from the full definition, which can be found at <http://www.rcfa-cfan.org/english/profile.12.html>

³ The Falls Brook Centre's mission: "Through local, national, and international community development and resource stewardship work, we encourage and support initiatives that are working towards a society that respects ecosystems, honours diverse cultures, and provides an economy in balance with communities and nature." See <http://www.fallsbrookcentre.ca/>.

⁴ Please see the following website for an overview of the analog forestry course presented February 7-17, 2007 in Costa Rica: <http://www.fallsbrookcentre.ca/analogforestry.htm>.

of Forestry in the 21st Century at the University of Toronto. Pending funding, the groups we are hoping to bring together include the following:

- Global Caucus on Community Based Forest Management
- Global Alliance for Community Forestry
- Federation of Community Forestry Users, Nepal (FECOFUN)
- International Alliance of Indigenous and Tribal Peoples of the Tropical Forests
- Community Forestry International
- British Columbia Community Forest Association

This event will provide an opportunity for experts and those working directly in this field to share knowledge and present results related to community forestry tenure and governance. The intent for this event is to develop a strategic plan of action for community forestry. We would like to see Canada support this event to further the CBFM approach worldwide.

Further, community capacity building initiatives, such as those undertaken by the Falls Brook Centre, One Sky, and others have served to directly address the root causes of deforestation in forest-dependent communities.

CONCLUSION

We thank Natural Resources Canada for seeking and supporting our input and for conveying to us the reasons behind the pursuit of a LBI. We hope to work together to overcome the misconception among both government and civil society that the CBD is limited to protecting only species biodiversity, but that it includes social and economic health and diversity.

Although we do not support the pursuit of a LBI, if this is the direction that Canada is going to take, we would like to be afforded the opportunity for substantive input into its development.

We think it is important to recognise that there is a great deal of common ground between Canadian ENGOs and the Government of Canada concerning international forest policy objectives, as demonstrated through numerous partnerships. We look forward to continuing work with government in pursuing forest objectives that we hold in common.

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ANNEX:

PARTICIPANTS IN THE RCEN/NRCAN CONSULTATION

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