

Experiences with new forest and environmental laws in European countries with economies in transition

proceedings of the 4th international symposium,
Jaunmokas, Latvia, August 2002

Working Paper**Author(s):**

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Publication date:

2003

Permanent link:

<https://doi.org/10.3929/ethz-a-004556630>

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Originally published in:

Forstwissenschaftliche Beiträge der Professur Forstpolitik und Forstökonomie 29

Forstwissenschaftliche Beiträge 29

Professur Forstpolitik und Forstökonomie

Forest Science Contributions

Chair Forest Policy and Forest Economics

***Experiences with New Forest
and Environmental Laws
in European Countries
with Economies in Transition***

Editors:

Dennis Le Master, Peter Herbst, Franz Schmithüsen

*Proceedings of the 4th International Symposium
Jaunmokas, Latvia, August 2002*

*Organized by the
IUFRO Research Group 6.13.00*

Zurich 2003



RECOMMENDED CATALOGUE ENTRY:

Le Master, D.; Herbst, P.; Schmithüsen, F., Eds., 2003: Experiences with New Forest and Environmental Laws in European Countries with Economies in Transition. Proceedings of the 4th International Symposium; Jaunmokas, Latvia; August 2002; Organized by the IUFRO Research Group 6.13.00. Forstwissenschaftliche Beiträge der Professur Forstpolitik und Forstökonomie, Nr. 29; ETH, Zürich 2003, 187 pp.

ABSTRACT:

The general papers and country reports published in these proceedings deal with the dynamic development of recently adopted forest legislation as a basis for sustainable natural resources development under rapidly changing economic, social and political conditions in European countries with economies in transition. The full text of forest laws and policy documents as presently applicable in Estonia, Latvia and Lithuania is included.

KEYWORDS:

Forest Law; Environmental Law; Countries in Transition; Sustainable Forestry; Nature Conservation.

ISSN 1420-1143

ISBN 3-907648-03-X

Available from: Professur Forstpolitik und Forstökonomie
 Departement Forstwissenschaften

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<http://www.fowi.ethz.ch/ppo>

Price: CHF 30.00 / € 20.00

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PREFACE

The 4th International Symposium on "Experiences with new forest and environmental laws in European countries with economies in transition" was held in Jaunmokas Castle (Latvia), 8 - 10 August, 2002. Altogether, thirty-four participants representing sixteen countries participated in the 2002 Symposium.

The meeting was sponsored by the Latvian Ministry of Agriculture, the Latvian State Stock Company "Latvijas valsts meži" and the Latvian State Forest Research Institute "Silava". Support was also provided by the Chair Forest Policy and Forest Economics, Swiss Federal Institute of Technology Zurich (ETH Zürich).

Following the meetings, 1998 and 1999 in Ossiach (Austria) and 2001 in Jundola (Bulgaria), the objective of the symposium was again to promote the exchange of information amongst researchers and practitioners on forest and relevant environmental law developments. It provided a forum for the exchange of experiences concerning the formulation, implementation and administration of newly adopted forest and forest related laws; created an opportunity for participants from various countries, to get familiar with the new legal situation in Central and Eastern European countries, and to exchange experiences on implementation.

The symposium started with the formal welcome speech by Janis Birgelis (Ministry of Agriculture, Latvia). The key note address on institutional requirements in market economies was presented by Prof. Dennis LeMaster (Purdue University, USA). Country sessions followed and we were happy to welcome Belorussia for the first time. Presentations covered a comparative studies in the Baltic countries, and recent developments and experiences in Bulgaria, the Czech Republic, Estonia, Latvia, Lithuania, Slovakia, Ukraine, Romania and Yugoslavia. A questionnaire prepared by Janis Donis (Silava) was distributed amongst the participants during the preparation of the meeting and the results were compiled and summarized by the FAO Development Law Service, Legal Office, in Rome. Considerable time was dedicated to discussions on important topics in working groups.

The 2002 Symposium was a success. I wish to express my thanks to all that have contributed to make it an interesting, useful and enjoyable event. Particular thanks are due to our colleagues Ilze Silamikele (Ministry of Agriculture), Ligita Pundina (Latvijas valsts meži), Janis Donis (Silava) and their respective teams.

The editors thank Roger Dürrenmatt, assistant at the chair forest policy and forest economics of the Swiss Federal Institute of Technology in Zurich, for helping in preparing the proceedings. We also thank our colleagues Paavo Kaimre (Estonia), Ligita Pundina (Latvia) and Donatis Dudutis (Lithuania) for making available the current text of forest laws and policy documents from their countries.

Peter Herbst,
Leader IUFRO Research Group 6.13.00

TABLE OF CONTENTS

GENERAL PAPERS

INSTITUTIONAL FRAMEWORK NECESSARY FOR FOREST MANAGEMENT IN A MARKET ECONOMY Dennis C. Le Master	S. 1
GENERAL COMMENTS ON FOREST LEGISLATION IN EUROPEAN COUNTRIES WITH ECONOMIES IN TRANSITION Gustav Fredriksson	S. 11
INNOVATIVE USE OF FOREST POLICY INSTRUMENTS IN COUNTRIES WITH ECONOMIES IN TRANSITION: EXPERIENCE OF THE BALTIC STATES Marius Lazdinis, K. Tõnisson, I. Silamikele, and A. Carver	S. 16
FOREST OWNERSHIP IN FINLAND Marija Hilska-Aaltonen	S. 31
SUMMARY OF REPLIES TO COUNTRY QUESTIONAIRES	S. 35
 <i>COUNTRY REPORTS</i>	
STATUS AND DEVELOPMENT OF THE BULGARIAN FORESTRY AND FOREST LEGISLATION AFTER 1997 Nickola Stoyanov	S. 43
LEGAL STATUS OF STATE FORESTS IN THE CZECH REPUBLIC Martin Chytrý	S. 56
LEGISLATIVE LIMITATIONS OF FOREST OWNERS IN THE CZECH REPUBLIC AND POSSIBILITIES FOR FINANCIAL COMPENSATION Martin Flora	S. 61
RECHTLICHE BESCHRÄNKUNGEN DER WALDEIGENTÜMER IN DER TSCHECHISCHEN REPUBLIK UND MÖGLICHKEITEN DER FINANZIELLEN ENTSCHÄDIGUNG Martin Flora	S. 64
SEARCHING FOR A BALANCE BETWEEN DIFFERENT FOREST FUNCTIONS IN ESTONIA Paavo Kaimre	S. 67

MAJOR RESTRICTIONS IMPOSED BY LAW ON FOREST MANAGEMENT AND UTILISATION IN LATVIA Liga Mengele	S. 72
RECENT DEVELOPMENTS CONCERNING LEGISLATION ON FORESTS AND ENVIRONMENT PROTECTION IN ROMANIA Gheorghe Parnuta and Carmen Enescu	S. 77
TOWARDS HARMONISATION OF LEGISLATION ADDRESSING ENVIRONMENT PROTECTION, FORESTRY AND OTHER NATURAL RESOURCES IN THE REPUBLIC OF SERBIA Snezana M. Prokic	S. 83
SLOVAK REPUBLIC FORESTRY LEGISLATION AND EU STANDARDS Rastislav Šulek and Jaroslav Šálka	S. 92
RESULTS AND TENDENCIES OF FOREST SECTOR DEVELOPMENT IN UKRAINE 1991-2001 Vitaliy Storozhuk and Mikhail Popkov	S. 98
PREPARATION OF THE NEW FOREST CODE OF UKRAINE Antem Torosov and Volodymyr Romanovsky	S. 104
<i>LAWS AND POLICY DOCUMENTS</i>	
ESTONIA: FOREST ACT 1998 AS CONSOLIDATED JULY 2002	S. 107
LATVIA: FORESTRY LAW 2002	S. 129
LATVIA: STATE FOREST SERVICE LAW 2000	S. 143
LATVIA: LAW ON HUNTING 1995	S. 149
LITHUANIA: LAW ON FORESTS AS AMENDED APRIL 2001	S. 155
LITHUANIA: POLICY OF THE LITHUANIAN FORESTRY AND ITS IMPLEMENTATION STRATEGY 2002	S. 166
<i>ANNEXES</i>	S. 177

INSTITUTIONAL FRAMEWORK NECESSARY FOR FOREST MANAGEMENT IN A MARKET ECONOMY

BY DENNIS C. LE MASTER

ABSTRACT

The institutional framework in which models in forest economics are routinely applied in practice is large and complex. It includes a market economy, a democratic political system, secure property rights and tenure systems, a modest number of public policy instruments providing incentives for landowners, an organizing system of land use beyond market forces, use of participatory processes for stakeholder consultation, integrated and complementary laws and regulations among the sectors of an economy, and harmony between international agreements and national statutes. If unanticipated results occur in the application, it is likely that some aspect of the institutional framework is missing or problematic.

INTRODUCTION

Forest economic models were not developed and are not applied without assumptions that are better recognized and understood than ignored. In most cases, these assumptions collectively provide an institutional framework that can be characterized collectively as a market economy and a democratic political system. A democratic political system is one in which power is ultimately vested in the people and exercised by them directly or indirectly through a system of representation, usually involving periodic elections. A market economy is one in which "decisions about the allocation of resources and production are made on the basis of prices generated by voluntary exchanges between producers, consumers, workers and owners of factors of production" (*MIT Dictionary of Modern Economic*, 1992).

A model of a simple market system is usually presented in economic textbooks as a circular flow within households on one side and business firms on the other. Firms supply consumer goods and services for which they receive revenue, and households supply factors of production for which they receive wages, interest, rent, and profits. The exchange of consumer goods and services is done in markets, as is the exchange of factors of production. To distinguish among markets by type, goods and services are exchanged in *product markets*, while factors of production are exchanged in *factor markets*. Exchange in markets is facilitated by the use of *prices* as control mechanisms and *money* as a medium of exchange.

Households are assumed to *maximize the satisfaction of their wants* through consumption. Firms are assumed to *maximize profits*. Hence, self-interest is the driving force in both sectors. Similarly *private property* is common to both sectors. Households own houses, automobiles, land, and financial securities among other things. They also own their own labor services that they can sell or withhold from factor markets as they

want. Firms also own property, including plants, equipment, and inventories, and they can manage them as they wish in their efforts to maximize profits.

Firms operate within industries. An industry is all the sellers of close substitute products, for example, soft drinks, fruit juices and bottled water. Many firms are assumed in each industry, and none of them can influence the price of the products they sell. In other words, they are “price takers,” taking the prevailing price in the market as the price for their product. No barriers of any kind exist to either the entry of firms into the industry or to their exit. In addition, population growth and technology are fixed, and government does not intervene.

Without qualification, the foregoing assumptions and characteristics are artificial. Yet, this simple circular flow model allows important, if not powerful, insights to the functioning of an economy. Furthermore, its assumptions and conditions can be eliminated one-by-one and the resulting constructs can be used to predict consequences with surprising effectiveness.

The point is that the presence of a market economy, which the circular flow model describes in its ideal or extreme form, as well as a democratic political system, is more or less assumed in forest economic models. Their effective application outside of the presence of these two systems is questionable at least. What follows is a discussion of several other features of the institutional framework of a market economy and a democratic political system.

SECURE PROPERTY RIGHTS AND TENURE SYSTEMS.

Definitions of property rights are reasonably consistent and generally accepted. In the Supreme Court decision in *Ruckelshaus v. Monsanto Co.* (1984), property rights were defined as “the group of rights inhering in the citizen’s relation to the physical thing, as the right to possess, use, and dispose of it.” Barzel (1989) uses a similar definition: “Property rights of individuals over assets consist of the rights, or the powers, to consume, obtain income from, and alienate these assets.” Key to understanding of both definitions is that property rights do not define the relationship between individuals and scarce assets. They define instead the relationships among individuals and scarce assets, including the respective property owners (Pejovich 1997). For example, a property owner has the right to use his asset including the concomitant right to exclude others from its use. No one else can use it unless he or she permits it.

The foregoing suggests more precision than actually exists over time, which is not the case. Creation of property rights is a continuing process in large part because of the cost delineation. Barzel (1989) observes: “The delineation of property rights is subject to individuals’ optimization; delineation consumes resources, and perfect delineation is prohibitively costly. Property rights, then, are never perfectly defined.”

Nevertheless, property rights are basic to the functioning of markets, and one of the most important functions of government is to protect them. For without property rights, no incentive exists for individuals to invest in property ownership. No assurance exists they will reap its rewards. If property rights were abolished, what incentive is there, for

example, for a farmer to plant a crop if his neighbors can reap it and take it for their own use? He has gained nothing. Indeed, he has incurred substantial loss in terms of cost of the materials he used and his labor.

Land tenure rights are directly related to property rights where the asset involved is land. Land tenure is “the manner in which and the period for which rights in land are held” (Harris 1953). Fee simple ownership, long-term leases, and concessions are examples of land tenures. Secure land tenure rights are essential for long-term investments in land management such as in forestry. Such investments will not be forthcoming without them.

Several dimensions attend land tenure. Lukert and Haley (1994) delineated eight which were elaborated upon by Le Master and Owubah (2000): 1) comprehensiveness, 2) duration, 3) transferability, 4) right to economic benefits, 5) exclusiveness, 6) use and size restrictions, 7) operational stipulations and controls, and 8) security.

Comprehensiveness is the number of rights a tenure holder has according to the tenure arrangement. For example, while some forest tenure arrangements allow tenure holders access to both surface and sub-surface resources, some allow use of only one or the other. Generally, the more comprehensive forest tenure rights are the more willing tenure holders are to make investments in forest management.

Duration is defined as the period during which a tenure holder can exercise his or her rights. A longer tenure duration tends to affect investment behavior and innovation positively.

Transferability refers to the freedom of property owners to sell or otherwise exchange their rights. Transferability is a measure of the robustness of the tenure arrangements and has a positive effect on investment.

Right to economic benefits is virtually self explanatory: the right of a tenure holder to the economic benefits associated with his or her asset.

Exclusiveness addresses the extent to which a tenure holder can prevent others from infringing on his or her rights. When a tenure holder can prevent all others from access to the benefits of his or her property, then the rights are exclusive.

Use restrictions affect the right of a tenure holder to put a property to another use. Use restrictions, for example, may prevent the conversion of forest land to agricultural use.

Size restrictions, on the other hand, are often used to respond to a different challenge. Asset size should promote economic efficiency and investment, and it can be either too small or too large for achieving these objectives.

Operational stipulations and controls refer to the requirements that must be met as a condition of holding tenure as well as the control measures that are put in place by government to ensure the tenure conditions are met. An example of the first is that a forest tenure may require its holder to harvest according to sustained yield standards or to protect water quality and critical wildlife habitat. An example of the second is that tenure holders are required to prepare and operate according to management plans submitted and approved by a designated government agency.

Security relates to the confidence tenure holders have in the exercise of their rights, that the tenure arrangement will be protected and enforced by government.

Protecting property rights and land tenures is one of the most important functions of government in a market economy. Secure property rights and land tenures facilitate the functioning of markets because they ensure that property holders reap the economic benefits associated with holding and investing in property.

INCENTIVES FOR FOREST LANDOWNERS.

A key premise for both a market economy and a democratic political system is that people are rational. While it is recognized that not all consumers maximize their satisfaction in their purchases, that not all producers maximize profits, and that, theoretically, moving from individual preferences to a rational majority preference may not be possible under a very reasonable set of conditions, the premise is operationally valid. Studies of public opinion are reinforcing. Page and Shapiro (1992), after analyzing thousands of questions asked in national surveys in the U.S. covering a period of more than 50 years, concluded: "(P)ublic opinion as a collective phenomenon is nonetheless stable (though not immovable), meaningful, and indeed rational in a higher, if somewhat looser sense; it is organized in coherent patterns; it is reasonable, based on the best available information; and it is adaptive to new information or changed circumstances, responding in similar ways to similar stimuli."

It follows that landowners are rational and will behave predictably with what they believe is in their self interest, including incentives of various kind that government may offer. Governments frequently offer incentives to landowners when externalities are perceived to exist to modify their behavior. Externalities are descriptive of situations in which goods or services are produced or consumed, and as a result, others incur costs for which they are not reimbursed – like someone downstream from a manufacturing plant that dumps pollutants into a water course – or receive benefits for which they do not pay – like neighboring farmers to a beekeeper whose bees supply pollination services.

Forest landowners often supply external benefits because, for example, of the habitat their forests provide for wildlife. They impose external costs if and when they use harvesting techniques that adversely impact water quality or scenic quality. Governments frequently provide incentives to forest landowners to augment external benefits and disincentives to lessen external costs. In other words, government can intervene in a market to either increase or decrease the production of forest resources. Common public policy instruments or tools are:

- *Insurance or "cushioning" programs* to reduce the risks associated with forest ownership, risks due to such things as fire, insect infestations, disease epidemic, and wind damage;
- *Resource protection programs* designed to control forest fires, insect infestations, and disease epidemics;

- *Land management planning* to encourage integrated forest land management and use and a long-term perspective;
- *Regulation* to direct forestry activities according to rules established by a constituted authority, which sometimes might include an outright prohibition of a certain activity such as clear-cutting;
- *Taxation or subsidization* programs which provide disincentives or incentives with regard to certain landowner behavior;
- *Trusts for amenity, conservation, or recreation values* which are designed to delineate and exchange property rights thereby eliminating apparent external costs or benefits.

None of the foregoing tools has been found to be wholly effective as an incentive to landowners. Actually, they seem to be most effective when used in combination. In any case, if government has employed a tool and people are not behaving predictably, the operational design of the tool is likely to be flawed.

RATIONAL LAND-USE ALLOCATION DECISIONS.

Johann Heinrich von Thünen, a 19th century German landowner, published a book in three parts (1826, 1850, and 1863) that applied the concept of diminishing productivity with respect to land, on which David Ricardo based his theory of rent. Another feature of von Thünen's book was its treatment of the location of agricultural production in the neighborhood of a city. Commodities requiring to be consumed in fresh condition, and those costly to transport, would be produced nearest the town. In broad rings, other goods were produced at greater and greater distances from the town as their nature and value made them more and more able to bear the time and cost involved in transportation.

Von Thünen's analysis suggested another approach to land use might provide more desirable results than unfettered market forces. Land-use planning considers all interests while attempting "to integrate land use, transportation, public service, environmental protection, hazard mitigation, public finance, historic preservation, and other related functions into a comprehensive plan that accounts for the connection among these areas" (Kaiser et al. 1995).

Land-use planning establishes basic parameters for land use from existing law and agreement of stakeholders in the planning process. It recognizes an organizing theory of land use beyond market forces is necessary and that its implementation will affect property rights and land values. It also asserts that planning can supplement economic rationality and be quite supportive of the market processes.

USE OF PARTICIPATORY PROCESSES FOR STAKEHOLDER CONSULTATION

Power is ultimately vested in the people in a democratic political system. Every adult has a voice in government. The goals of a democratic society are treating each person as

being individually worthwhile and ensuring political power is shared in a morally equal way. These goals cannot be achieved without use of democratic institutions and techniques, those institutions and techniques that are inclusive and egalitarian, as opposed to those exclusive and hierarchical. Systematic use of democratic institutions and techniques insure the existence of a democratic society.

Public participation in decision-making is a democratic institution, and while the term may be of relatively recent origin, the practice has long been applied under different names, for example, the town hall meetings of 18th and 19th Century New England in the U.S. The logic is clear. Involvement by citizens in the decisions that affect them promotes the acceptance and legitimacy of those decisions both for implementing government officials but for the entire political system.

Public participation in decision-making became a feature of U.S. environmental legislation in the late 1960s and 1970s and quickly spread to Europe.

Principle 10 of the 1992 Rio Declaration on Environment and Development reads: "Environmental issues are best handled with participation of all concerned citizens at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities,... States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided."

The Aarhus Convention, more formally known as the "United Nations Economic Commission for Europe Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters" was adopted in 1998

in the Danish city of Aarhus. Among other things, "it establishes that sustainable development can be achieved through the involvement of all stakeholders."

Public participation in decision-making is now quite formalized in Europe and North America and part of the institutional framework that comprises a market economy and a democratic political system institution. Actually, public participation in decision-making is part of forest management in democratic societies world wide, and foresters must come to accept it.

INTEGRATED AND COMPLEMENTARY LAWS, REGULATIONS, AND POLICIES AMONG SECTORS

Effective public policy making and common sense as well, require that related laws and their implementing regulations be complementary. One forestry law should not be at odds with another in their requirements. The same principle applies to the network of laws in different sectors; for example, the laws in the agricultural sector should be compatible with, if not complementary to, the laws in the forestry sector, and they, in turn, should be compatible with, if not complementary to, the laws in the environmental sector. The reason is simple.

Schmithüsen (2000) includes consistency as one of four criteria in evaluating the advancement of legislation, the other three being comprehensiveness, subsidiarity, and applicability. Laws and their implementing regulations and attending administrative policies must be compatible for effective policy making. Experience suggests that compatibility is a problem most frequently not with the laws themselves, but with their implementing regulations. A public policy functional failure, including bureaucratic breakdowns, can be consequence. The same result can occur in excessive procedural requirements. A recent report of the USDA Forest Service (2002), titled "The Process Predicament: How Statutory, Regulatory, and Administrative Factors Affect National Forest Management" concluded: "Statutory, regulatory, and administrative requirements impede the efficient, effective management of the National Forest System." Virtually the same conclusion was reached in similar study by the previous administration (Thomas Task Force 1995). The problem is real.

HARMONY OF INTERNATIONAL AGREEMENTS WITH NATIONAL FOREST LAWS AND ENVIRONMENTAL LEGISLATION

Forests became a priority issue in the international policy and political agendas of the 1990s, and a number of legally and non-legally binding international agreements were made. A large number of legally and non-legally binding international agreements with regard to the environment and economic development were also established during the same time period. Their implementation is a challenge because of the multi-levels at which they occur.

International agreements are negotiated by nation states, which are also the principal agents of implementation through subsequent statutes, administrative rules, and program funding. Even though nation states are signatories, they are diverse in their respective commitments to international agreements as well as their abilities to carry them out. National policies coming out of international agreements are applied regionally and locally. Individual decision-making is affected, and it is at this level that success is determined by whether the policies are workable, socially acceptable, and economically viable. Ultimately, harmony among international agreement; national statute, rule and program funding; and regional and local implementation is essential for success.

The recent increase in international agreements has tended to make the policy network more complex. For one thing, it has added an additional level of public policy decision-making. For another, it has required revisions of existing policies for consistency with the agreements.

Harmonizing international agreements with forest laws and environmental legislation will continue to be a challenge.

ECOLOGICAL ECONOMIC STEWARDSHIP PARADIGM

Almost since Faustmann (1848) first published his model for determining optimal rotation length on the basis of "financial maturity," some foresters and forest owners rejected it

because the model focuses on the value of near-term production and fails to account for asset value. In many forest enterprises, both public and private, where ownership of the land is expected to continue indefinitely into the future, a key objective is to increase and concentrate the asset value of the land and timber. Current harvest levels are set to capture potential mortality before it occurs as well as to take advantage of favorable markets.

What the neoclassical economic paradigm would regard as an unacceptably low return on equity (relative to the cost of capital) should be viewed in a larger context. In Europe, where centuries-old forest enterprises have endured through multiple wars, currency devaluations, and other events that have put most forms of investment at great risk, forests have served as a stable, reliable, tangible asset. In other parts of the world, the recent advent of timber investment management organizations or "TIMOs" has been stimulated by investors seeking a stable appreciating asset that, because its value tends to fluctuate in the opposite direction from most forms of equity investment, reduces the level of risk associated with their overall investment portfolio (Binkley et al. 1996).

The developing field of ecological economics offers an important insight into the relationship between a flow of income and the value of the underlying capital asset, such as a natural system, and whether the latter is accumulating, remaining the same or being depleted. An "ecological economic stewardship paradigm" has been developed, which features at least six points (Farber and Bradley 1999).

- Nature systems are viewed as natural capital, which, combined with economic and social capital, generate welfare.
- Sustaining a flow of income (welfare) requires maintenance of the source of income, which is wealth (capital).
- Measures of economic health require the subtraction from traditional economic income the amount necessary to replace any net loss in the quantity and quality of natural capital.
- A concept of value applied in assessing economic welfare should include the extent to which the properties of ecosystems, including humans, are preserved and enhanced.
- Humans are presumed adaptable to changing economic circumstances.
- Property rights, laws and institutions must provide incentives for achieving sustainability norms.

Sustaining a flow of income requires maintenance of its source :forests like other renewable natural resources are natural capital. Maintaining a sustainable economy requires careful assessment of natural capital. Useful attempts have been made to improve existing national income accounting so flows of economic products from the natural capital supporting these flows can be connected (Costanza et al. 1997).

Repetto et al. (1989) demonstrated that data are adequate even in many developing countries to estimate adjustments for the depletion of some important forms of natural capital and that the adjustments could be large relative to conventional gross measures

of national product and investment. The adjusted net measures suggest that a substantial portion of many countries' economic growth is simply the unsustainable "cashing in" of their natural wealth or capital.

While little discussion about the ecological economic stewardship paradigm has occurred in the literature in forest economics, perhaps it is overdue.

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GENERAL COMMENTS ON FOREST LEGISLATION IN EUROPEAN COUNTRIES WITH ECONOMIES IN TRANSITION

BY GUSTAV FREDRIKSSON

SUMMARY

Since the beginning of the transition period 12 years ago many countries with economies in transition have reviewed the forest legislation two times and are now implementing the second forest law after 1990. There is a clear tendency that in countries where the shift from centrally planned economy to market economy has gone fast the legislation has developed in direction of less detailed regulations. However there are great differences between countries how far the process has gone.

My recommendation is that the main objective with forest legislation should be to give the framework for Sustainable Forest Management, within which sound economic activities in the forest could be based, but at the same time caring for environmental, social and cultural values. For countries in Eastern Europe I can foresee that privatization, approaching to the European Union and a decentralised market economy are strong factors leading to new forest policies and revised forest legislation. My prediction of important forest policy issues for these countries now and in the nearest future is:

Sustainable Forest Management according to pan-European conventions and declarations - balancing economical, ecological and social goals

- Stakeholders active participation in forest policy processes
- Application of EU-directives
- Conservation of forest ecosystems
- Change of ownership structure - private and communal ownership beside the State as forest owner
- Ownership categories' equality in property rights, conditions for forest management and independent economic management
- Role of forestry in a new economic system
- Wood trade and market
- Openness for new alternatives of forest management - less detailed regulations
- Management of forest sector - separation of the authority and the management of state owned forests.

Forest policy development processes during the next few years will strengthen the importance of forest sector and the public's positive relationship to forests and forestry.

INTRODUCTION

"What is easiest to change? Legislation or thinking?" These words by Mr. Janis Birgelis in the welcoming speech of the symposium emphasize that legislation must be considered in a wide perspective of the development in a country. The concept "Economy in Transition" is used for the countries in Eastern Europe which due to political changes during the 1990th are developing in the direction of market economy and getting closer to Central and Western Europe. The drastic political changes in most of the countries concerned started a process of economic, institutional and social changes. Driving forces for changes are new ways of thinking. In societies with rapid changes legislation could be seen as a set of instruments setting rules for the development. But what will be the effect of a new legislation if the change of thinking in the society is lagging behind or too heterogeneous?

LEGISLATION - A PART OF FOREST POLICY

Forest policy is the expression for the will of how the forest resources in a country should be managed, used and developed for the benefit of the society. Forest policy includes long-term goals for the forests and the means that are required to achieve these goals. The political will for the forests is decided by the Parliament and usually formulated as a special forest policy statement. The National Forest Policy is in a wider perspective a part of the National Forest Programme, which according to FAO also should include a long-term strategy and an action plan.

I see forest legislation both as a part of the forest policy and as one of the instrument or means for forest policy implementation. Other essential forest policy instruments are:

- Institutions and authorities for implementation
- Research and education
- Training and forestry extension
- Information and public relation
- Financial means as taxes, subsidies and compensations
- Inventories and forest management planning.

The balance between the use of the different forest policy means is an effect of the general politics in the society and will change when a country is going from a centrally planned economy to a more decentralised and open market economy. Transition from 100 % state ownership to a private forest sector with fully recognized private forest owners would strongly influence on the balance and relative importance of different forest policy instruments.

The forest policy statement must include long term goals for fields like the following:

- Balance between different benefits from forests– wood production, non-wood production, ecological, social, etc.

- Adherence to international conventions and agreements; e.g. on biodiversity, sustainable forest management, etc.
- Ownership structure – state, communal, companies and private
- Long term production level
- Nature conservation
- Role of forestry in rural development
- Relation between forest management and forest industries

The aim of the strategy of how to achieve the forest policy goals is to co-ordinate the use of instruments for forest policy implementation.

LEGISLATION IN COUNTRIES WITH ECONOMIES IN TRANSITION

Forest policy development and revision of legislation are two closely connected processes. However the work of developing new national forest policies are not always co-ordinated with the legislation work.

Some major issues to pay regard to when reviewing legislation are the following:

- Distinction between what is forest legislation and what should be in other laws
- Relation to other legislation; avoidance of duplication between different laws
- Definitions; e.g. forest, forest land, etc.
- Classification (in forest groups or categories) of forests in a way that will balance the relation between the economical, ecological and social part of forestry
- Review of present authorities and institutions involved in the implementation of forest policy and control of the obedience to forest laws
- What should be further elaborated in by-laws and which authority is authorised to do that.

TRANSPARENCY OF THE LEGISLATION PROCESS

In the countries of European Union as well as in the candidate countries there is increasing participation of stakeholders in policy processes. Especially in the development of the second generation of forest policies and laws after 1990 this involvement of the civil society and NGOs has been an evident feature. Openness and communication with stakeholders, i.e. different actors in the forestry sector, not only with forestry people but also with NGOs, etc. is a prerequisite for meeting the demand of transparency required in policy processes in the European Union countries. A public involvement in policy and legislation work will also be one of the means for facilitating the implementation.

OWNERSHIP OF FOREST LAND

The recognition of private property rights and land reforms promoting private ownership of forests are strong driving forces for new forest laws. When different ownership categories occur it is important that legislation ensures equal conditions for all owners in the aspects of

- Owners rights and obligations
- Forest management
- Independence in commercial activities
- Forest authority control.

The legislation must clarify the ownership rights in relation to the forest as a national resource.

The rights of forest owners must be formulated with the aim to give them a legal framework for efficient forest management. The forest legislation sets the restrictions and obligations for the owners. But this does not mean that forest management regimes for all forest owner categories will be all the same. Legislation must give room and freedom for forest owners to have different goals for forestry activities. For example a communal owner should care more about social welfare and citizens need of recreation areas than a private forest owner.

FOREST MANAGEMENT

The implementation of Sustainable Forest Management should be the main object of forest legislation. Forest management rules in the Forest Law should be general but plain and not too detailed. More detailed regulations for forest management could be in by-laws which more explicitly elaborates the requirements set in the Law. The most important forest management rules apply to reforestation, final felling, environmental considerations and forest protection.

When private ownership of forests is more frequent the forest legislation will give the forest owner a wider choice of forest management alternatives within the framework of the forest policy and legislation. This will result in fewer detailed technical regulations on forest management.

INDEPENDENCE IN COMMERCIAL ACTIVITIES

Privatization of forests should not be seen only as transfer of ownership of forests and forest land. The owner will act as manager of an independent economic entity. In most cases he wants to have some economic benefit out of his ownership. The experience of privatization - through restitution or sale - is that it is a reform that intends to liberate the productive forces and change the economic situation of the society. Looking into the forest sector the private owners will do silviculture work and harvesting themselves or in many cases private entrepreneurs will be hired, especially for harvesting. New buyers of wood will appear and co-operate with local or distant private industries.

FOREST AUTHORITY CONTROL OF FOREST LEGISLATION

When private owners with limited knowledge and no experience of forest management will occur it is necessary to have clear rules in forest laws on what is Sustainable Forest Management. On the other hand forest laws and its implementation must create a security for the forest owner so that he/she knows the legal framework for the use of his/her forest. This also refers to compliance with forest law. The forest owner must feel confidence to the controlling authority. There must be an appropriate balance between the control by the authority and encouragement of private initiative.

As forest legislation must give equal conditions to various categories of forest owners the double role of the State as owner of forests and as authority must be questioned. The experience from countries in transition is usually that privatization after some years leads to organization of a separate Forest Authority independent from the State Forest Enterprises. In order to avoid conflicts of interest it is of importance to separate state commercial functions from law enforcement functions.

INNOVATIVE USE OF FOREST POLICY INSTRUMENTS IN COUNTRIES WITH ECONOMIES IN TRANSITION: EXPERIENCE OF THE BALTIC STATES

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ABSTRACT

Policy tools form one of the key parts in forest policy process. Main objective of this paper was to highlight national innovations in application of forest policy tools, and in doing so, to present national decision-makers with a broader variety of instruments available for solving issues of concern in the national forest sectors. This study at a general level of classification found almost no differences between the sets of policy instruments used in Estonia, Latvia, and Lithuania. However, analyzing individual elements comprising each forest policy tool, some national peculiarities were reported. Based on the differences in application of elements of individual policy tools, innovative approaches in individual countries were pointed out.

INTRODUCTION

Change in national political systems also resulted in new opportunities for forest sectors of countries with economies in transition. However, along with the positive improvements, the change has brought new constraints and enlarged complexities of the national forest policy processes. Numerous problems in the forest sectors of countries with economies in transition remain to be solved and previously unknown constraints faced (Lazdinis 2001; Lazdinis, Ostergren, and Dudutis 2002; Lazdinis, Tõnison, and Ostergren 2002; Naka, Hammett, and Stuart 2000; Nijnik and Kooten 2000).

Flexibility to improve and adapt to changing circumstances is one of the main features to be held by the national forest programs (Whiting 2000). Continuous improvement is a core principle of Environmental Management System promoted by the ISO 14001 standard. Adaptive management, originating from northern America, indicates that management should be modified on a continuing basis to ensure that objectives are being met (Helms 1998). Some argued that adaptive management should focus on accelerating learning and adapting through partnerships (Bormann et al. 1999), and it means management-by-experiment (Rauscher 1999). This approach promotes learning-by-doing, where failures and successes should be explored to better learn from them (Bormann et al. 1999).

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Since administrators of national forest resources have limited capacities to learn within the spatially and temporarily constrained framework of national forest policy processes, learning from the other nations provides a cost- and time-effective opportunity. Forest policy process in general consists of (1) analysis of problems, (2) setting up goals and objectives, (3) defining the course of action, (4) policy tools, (5) implementation, and (6) monitoring of results (Merlo and Paveri 1997). The whole process is continuously reviewed and evaluated. In our paper, we will concentrate on one of the main parts of the forest policy process - policy tools. Forest policy instruments used in Estonia, Latvia, and Lithuania will be compared in order to provide innovative examples of possible applications of policy tools to forest sector administrators of these countries as well as of other countries with economies in transition.

Forest policy tools or mix of policy tools have not been widely addressed in forest policy studies (Merlo and Paveri 1997). However, it was indicated that the general set of tools or instruments in the forest sector is not exhaustive, and whatever the problems are, the tools or instruments for implementation of the policies addressing them are relatively the same (Le Master et al. 2002). In this paper we support the argument that the general sets of forest policy instruments applied by the governments may be relatively the same. However, we point out that the scale of classification is a crucial factor in comparisons and assessments of forest policy tools. In our study we break individual policy instruments into elements considered as important in presenting the structure of application of particular policy tool. We show that on the level of individual elements more differences between countries can occur. These differences will be outlined pointing out the innovative approaches chosen by Estonian, Latvian, and Lithuanian forest sector administrators in using forest policy tools.

BACKGROUND AND METHODOLOGY

Classification of forest policy tools

Five main types of instruments for implementing forest policy were distinguished by Mayers and Bass (1998): regulatory, economic/market, informational, institutional, and contracts/agreements. Forest policy tools have been categorized by Le Master (1999) as to whether they facilitate or intervene in the functioning of competitive markets. Based on this approach, tools that make market function more efficiently would be classified as "market facilitation tools". Those that interpose between market forces and modify functioning of the market are called "market intervention tools". Merlo and Paveri (1997) argued that the basic distinction should be made between mandatory and voluntary instruments. Mandatory tools were considered as those, which must be completed "without any possible escape". On the other hand, voluntary tools are more flexible, at least leaving an option to change behavior during implementation of individual policy instrument. Voluntary tools, inside of the group, were divided into financial-economic and market instruments. Measures of information and persuasion in this study were considered as complementary to the above two groups of instruments. Institutions, including administration and services, were treated as a separate instrument affecting all other forest policy implementation tools. This instrument was also distinguished in some

other classifications. Hood (1983) called this tool “organization”, and considered it to include land, buildings, equipment, and individuals. Le Master (1999) provided a north American approach to classification of forest policy tools, comparing it to the system presented by Merlo and Paveri (1997).

In our study, two classification systems of the forest policy tools provided by Merlo and Paveri (1997) and Le Master (1999) were merged into one single list (Table 1). Merging was completed considering local political situation found in the forest sectors of Estonia, Latvia, and Lithuania. There can be no doubt that classification of forest policy instruments into individual families can be done differently or existing classifications could be applied as they are. However, the attempt was made to use the best features of the two above mentioned classification systems and place them into the context of the Baltic states. For the purposes of this study, it is considered crucial that the same classification is applied for all three countries, and not whether one or the other individual instrument is being moved from one group to another.

Table 1: Forest policy instruments used by Merlo and Paveri (1997), Le Master (1999), and in this study.

Merlo and Paveri (1997)	Le Master (1999)	Used in this study
Administrations services		Administration services
Mandatory legally binding		<i>Mandatory legally binding</i>
International conventions		International conventions
Property rights	Property rights	Property rights (ownership type and access to resources)
	<i>Market intervention</i>	
Regulations	Regulation and prohibition	<i>Regulation</i>
Planning/Programming	Land management planning	Planning and programming
		Market intervention
Public purchases and forest management	Public ownership or production of goods and services	Public purchases and forest management (public/private)

<i>Economic-financial</i>		
	Insurance programs	
Compensation	Subsidies	Direct compensation (or subsidies)
Incentives	Subsidies	Incentives and grants to production processes
Taxes	Taxation (policy)	Taxation policy (state, private and corporate forest managers)
Infrastructures		Public infrastructure
Cross compliance		Cross compliance
	Resource protection	Resource protection (protected areas and protection in forest management)
<i>Market-led</i>	Market facilitation	Market facilitation
Prices, marketing boards, contractual arrangements, tariffs		Prices, marketing boards, contractual arrangements, tariffs
Management agreements		Management agreements
Negotiated international agreements		Negotiated international agreements
Auction of incentives		
Marketing of Environmental Goods and Services		Marketing of Environmental Goods and Services
Traditional quality products		
	Research	Research
<i>Persuasion</i>		
Information	Public education – information gathering and dissemination	Information (gathering and dissemination)
Advise and extension	Public education and technical assistance - information gathering and dissemination	Advise and extension (technical assistance)

		Persuasion
		Education (general public and professional)
Non-legally binding international agreements		Non-legally binding international agreements

Four main families of governmental tools used in administration of forest resources were distinguished in this study: (1) mandatory legally binding; (2) market intervention; (3) market facilitation; (4) persuasion. The instrument of “administration services” was treated separately, as complementing and facilitating implementation of all the other individual tools. General classification remained similar to the basic framework provided by Merlo and Paveri (1997) with some additions from Le Master (1999). One of the main differences was that in the classification applied in this study, information (gathering and dissemination), and advice and extension (technical assistance) instruments became part of facilitation tools. This change was done due to the national contexts. In the Baltic states, where private forest sector and private timber processing industries are relatively new phenomenon, access to and dissemination of information play a very important role in facilitating development of these sectors. Applied research and use of scientific knowledge are also related to this phenomenon, as well as advise and extension, by means of which information and knowledge can reach the end-users.

Methodology for comparison and analysis of forest policy tools used in the Baltic states

Three main objectives were brought forth for this comparison. First of all, the intention was to identify differences in general use of forest policy tools between the three countries. The second objective of analysis was to learn whether the individual elements of policy instruments used in the Baltic states are qualitatively the same, and if any patterns in differences can be observed. The third objective was to select policy tools the most innovative in the region and present in this paper as examples to national forest sector decision-makers.

To accomplish the above objectives, information on elements compiling individual forest policy tools was collected, synthesized, and analyzed. Concise descriptions of each element were completed simultaneously for every of the three countries. Then, the descriptions were screened and two types of coding applied.

One coding system was used to learn whether application of individual elements of each instrument in Estonia, Latvia, and Lithuania is similar or different. Since, no definite answer can be provided whether presence of a particular element will have a positive or negative effect on the sector, the absence of an element in some country, if applied in the others, in this analysis was also indicated as a difference in application. Letters “A”, “B”, and “C” were chosen to demonstrate particular situations in each country. The analysis of each element was always started from Estonia (in alphabetical order), and continued to Latvia, and Lithuania being the last to review. If situation in use of a particular element in Latvia was found to be close to that of Estonia, the code of “A”

would be assigned to both countries. If situation would appear to be similar in Lithuania as well, then “A” value would be assigned to all three countries. However, if the situation was found different in Latvia, it was assigned the value “B”. Continuing on analysis to Lithuania, if differences were found both from Estonia and Latvia, this country was assigned value “C”.

In the second analysis, only two-level coding was applied. This time, presence or absence of a particular element of individual policy tools in each country was indicated. Two values “X” and “O” were chosen, where “X” means presence of an element, and “O” – absence.

Information resulting from the above two coding exercises was summarized separately for each forest policy instrument applied in the country. Intent of the summarizing was to learn which of the governmental tools are used differently among forest sectors of the three Baltic states. Three classes (“D”, “SI”, and “S”) were distinguished: “Different” – when use varies between countries; “Similar” – when patterns can be observed, however, still there are several differences; and the “Same” – use is the same in all countries. This generalization was based on the information received from the two previous analyses, using the judgment of the authors. The class “D” was assigned in cases where variations occurred between all countries at one point or another in majority of the elements (both/only in use and/or presence of tools) of particular instruments. Class “SI” was stated when variation was smaller, but still present. Individual instrument was assigned value “S” when besides some exceptional cases there were no variations both in application and choice of particular forest policy tool. An example of application of the above methodology for analysis of mandatory legally binding instruments is provided in Table 2.

Table 2: Application of mandatory legally binding forest policy tools in Estonia, Latvia, and Lithuania*

				Differences			Presence			Variation
				E	L	L	E	L	L	
<i>Mandatory legally binding</i>	1									
International conventions		1		A	A	A	X	X	X	S
Property rights (ownership type and access to resources)		2								
ownership type			1	A	A	A	X	X	X	SI
			2	A	A	B	X	X	O	
			3	A	A	B	X	X	X	
access to resources			4	A	A	A	X	X	X	S
			5	A	A	A	X	X	X	

Regulation		3								SI
			1	A	B	C	X	X	X	
			2	A	A	A	X	X	X	
Planning and programming		4								D
			1	A	B	C	X	O	O	
			2	A	A	B	O	O	X	
			3	A	A	A	X	X	X	

*Grey color indicates main similarities

Results of analyses for each of the group of policy instruments distinguished in the classification system are provided in the following section.

RESULTS

Mandatory legally binding instruments

No variation in application of international conventions between the three countries was found. The instrument of property rights was divided into two parts: ownership type and access to resources. Use of the elements of the second part of this instrument can also be considered as the same. The type of ownership slightly varies among the three countries. Application of regulation on general level in the Baltic states is very similar. However, some variety can be observed in use of policies directly dealing with the forest sector. Planning and programming can be considered as used differently in the three nations.

Generally it may be concluded, that this group of policy instruments is used very similarly in the countries of interest. Poor use of planning and programming in Latvia is the only exception. However, this instrument to a certain extent was applied also in this country. Most of the matches in types of application can be found between Estonia and Latvia, with Lithuania, from this perspective, being slightly different than the other two countries.

Market intervention instruments

This group of instruments is much larger than the previous one. The contents of some policy tools or otherwise, the range of elements, which were considered as necessary to describe the use of particular governmental instrument in three countries is also greater. For example, nine various types of taxes are paid by the state forestry organizations in the Baltic states. Nine types of incentives and grants to production processes were also distinguished. Only one instrument – public infrastructure - can be considered as applied in the same way in all three countries. However, even this governmental tool is slightly differently used in Lithuania, than in the remaining two nations. The elements of public

purchases and forest management instrument were divided into three groups: public purchases, public forest management, and private forest management. Application of the last group is relatively similar, but public purchases and public forest management are clearly different in the three states. Several similarities in public management occur between Estonia and Latvia. Direct compensation as a tool, to a limited extent, is used in all three countries. Estonia is the most advanced in applying this type of market intervention instrument.

Probably the largest variety within the use of a single policy instrument among the three countries can be found in application of incentives and grants to production processes. This instrument is used in all three countries. However, Estonia and Latvia have a slightly higher variety of elements in use as compared to Lithuania. More than half of the elements of this instrument in Estonia and Lithuania are applied generally in a same way. Elements contained under the taxation policy instrument were divided into three groups: state enterprise taxes; taxes on activities of private forest owners; and taxes on corporate owners. Several elements of taxation policy are also specific for individual countries or sometimes the same element is applied in different ways. However, the variety is not as large as within the incentives and grants. The largest difference occurs due to the fact that corporate (industrial) forest ownership is not practiced in Lithuania. Besides above, it also seems that the state forestry organizations in Lithuania are paying more different types of taxes as compared to those in Estonia and Latvia. This instrument is more extensively used on private forest owners of Estonia and Latvia, as compared to Lithuania. Overall differences in use of the elements of this type of instrument are not very large. The majority of common application patterns were found in Estonia and Latvia.

Application of resource protection in all three countries is relatively similar. Main elements describing the ways this instrument is used in the three countries were grouped into issues related to (1) administration of protected areas and (2) protection in forest management. Elements contained in both of these groups in all three countries generally are used in a similar manner. Elements applied in forest sectors of each country seem to be very close. However, the type of application varies among the states.

Generally, it was observed that market intervention instruments are more commonly used in Estonia and Latvia as compared to Lithuania. However, this difference is largely caused by the above stated lack of corporate forest ownership in this country, which simultaneously results in smaller variety of taxes applied in this country. Once again, in application of this group of instruments, Estonia and Latvia seem to be closer together as compared to Lithuania. However, as previously pointed out, the structure of incentives and grants used in the forest sector is similar in Estonia and Lithuania, and not so much with Latvia.

Market facilitation instruments

This group of the instruments is the second largest in this classification, containing seven types of instruments available for the use by countries. An interesting feature of this group is that elements contained in four of the instruments (price, marketing boards,

contractual agreements, tariffs; management agreements; negotiated international agreements; marketing of environmental goods and services) are generally the same and are used in a very similar manner. However, elements of two other instruments are different (information; and advice and extension), and application of only one instrument was considered as similar (research).

Generally, the use of this group of instruments seems to be similar in all three countries. The largest variety of elements containing individual instruments is applied in Lithuania. This is mainly due to the more extensive use of informational instrument in this country, as compared to the remaining two. Once again, the majority of matching patterns of use of particular elements among the three countries is shared between Estonia and Latvia.

Persuasion and administration instruments

This group contains the only instrument – education –, which has been divided into elements related to education of general public and professional education. From the general perspective, application of this instrument in all three countries seems to be the same. Almost all elements, with minor exceptions, compiling two sub-groups of this instrument are applied in the three countries. The general types of application seem to be also very close.

An instrument of administrative services is applied in all countries, but the type of application varies.

Generalization of results

Several findings could be reported from the assessment of forest policy tools used in Estonia, Latvia, and Lithuania. First of all, it must be pointed out that the sets of forest policy instruments applied by the governments of these countries are relatively the same. At the level of individual elements within a particular policy tool some variation was present. The differences mainly occurred not in the numerical value of elements applied, which for all countries was relatively similar, but rather in the ways one or the other country uses that particular element. In the Table 3, policy instruments with great varieties in use of elements as well as the instruments, which had the same application in all three countries, are provided.

Table 3: Instruments with great and no variety in application of elements as used in the forest sectors of Estonia, Latvia, and Lithuania

Application different	Application the same
Planning and programming	International conventions
Public purchases and management of public forest	Property rights
Direct compensation	Public infrastructure

Incentives and grants	Prices marketing boards, contractual agreements, tariffs
Taxation of private forest owners	Management agreements
Information gathering and dissemination	Negotiated international agreements
Advise and extension	Marketing of Environmental Goods and Services
Administration services	Education
	Non-legally binding international agreements

In the next section of this paper, policy instruments with different applications between countries will be reviewed in order to demonstrate innovative use of these tools in individual states.

INNOVATIVE USE OF FOREST POLICY INSTRUMENTS IN ESTONIA, LATVIA, AND LITHUANIA

Innovative use of policy instruments in this study is understood as application of conventional policy instruments in a non-conventional manner in the context of three countries. E.g. the application of taxation policy in Latvia is clearly serving more purposes than just collection of taxes for the state budget. Besides the direct use of tax collection, taxation policy is effectively influencing the behavior of forest owners by providing incentives to facilitate legal compliance. The similar qualitative judgment was applied to all of the above listed instruments to determine their innovative use in the region. The below review outlines individual elements of innovative governmental tools used in Estonia, Latvia, and Lithuania.

Planning and programming

Estonia is the only of the Baltic states, which has recently re-adopted a long-term forestry development program, including priority activities, necessary funding and implementing agencies. Latvia has a Forestry Development Programme, which was adopted in 1991 and by now may be considered completely outdated. Latvia's Forest and Timber Processing Development Programme was adopted in 1995. Lithuania has an outdated Forestry and Forest Industry Development Program. Lithuania also has a State Program for Sanitary Forest Protection. Since specialized forestry funds in Estonia, Latvia, and Lithuania do not exist any more, all three countries have national budget programs for financing forestry related activities.

Public purchases and forest management

In Estonia, government purchases private lands with high conservation value in cases when such lands have been privatized. Such theoretical possibility exists in protected areas of Latvia. No forest land purchases by the state are practiced in Lithuania.

Management of the state forests in Estonia and Latvia is trusted to the single state forest management companies. In Lithuania, there are 42 entities directly responsible for managing state forests.

Forests of protected areas of Estonia are managed by the state forest management organization in coordination with administrations of individual protected areas. Both in Latvia and Lithuania forests of national parks are managed by administrations of individual protected areas. Very small tracts of forests in all three countries are under military and local municipalities. In Lithuania, both of these entities are not active forest managers, subcontracting forest management to state forestry organizations. In Latvia, Riga city council as a forest manager is a relatively large and active stakeholder in the forest sector. Both in Estonia and Latvia, unlike in Lithuania, churches can also own and manage forests.

In the private forest sector of Estonia and Latvia, main stakeholders are private individuals and companies; in Lithuania – only private individuals – citizens of the Republic of Lithuania.

Direct compensation (or subsidies)

No direct compensation or subsidies are available to the private forest owners in Latvia. During the ongoing restitution process, both in Estonia and Lithuania, high conservation value forests are not subject to restitution and are being compensated in-kind or monetarily to eligible claimants. In Estonia, protection of identified woodland key biotopes is compensated by the state.

Incentives and grants to production processes

The fact that roundwood export and import taxes equal to 0% both in Estonia and Lithuania can be pointed out as one of the incentives facilitating dynamics of roundwood markets. There is no forest land tax to private forest owners in Lithuania. Forest owners have property/land tax discount in forest areas with management limitation (protected areas) in Latvia and Estonia. In Latvia, forest owners also do not pay property/land tax in reforested or afforested areas in the first two age classes of individual tree species. Latvia also has another unique incentive related to reforestation. Income tax from timber sales of private forest owners—physical persons (chargeable income amount) to the state budget can be reduced by 25% if artificial afforestation is planned or 5% - if natural. Forest must be regenerated within a 3-year period. If this rule is disobeyed, the owner pays full amount of tax. In Estonia, profit tax for private forest management companies is 0%.

Very little support to private forest owners in Estonia and Lithuania is supplied in the form of forest road maintenance. Extremely limited grants to private owners in Estonia are available for land improvement/road construction. In Lithuania, forest roads through private forests in cases when roads are also used by the state forest enterprises are maintained by the state.

Forest management plans for private forest holdings in Estonia are produced free of charge by Estonian Forest Survey Center. Meanwhile in Lithuania, The Forest Inventory and Management Institute completes free of charge regional level forest inventory and management planning. Only in the case of intended final cutting private forest owners must prepare a forest management plan on their own expense.

Sanitary forest protection and protection of forests against fires is another service provided by the state free of charge to private forest owners in Estonia, Latvia, and Lithuania. However, in Estonia and Lithuania prevention measures against forest fires is the responsibility of the owner.

Taxation of private forest owners

Private forest owners in Lithuania have the smallest tax burden of all three Baltic states – only 10% from timber sales. The income tax from timber sales to the state budget is 26% in Estonia. This tax is slightly smaller in Latvia (25%), however, the chargeable amount of income can be reduced by 25% if artificial afforestation is planned or 5% - if natural. Private forest owners in Estonia and Latvia also pay respectively land and property/land tax. This tax is not applied in Lithuania.

Information (gathering and dissemination)

There are significant differences in collecting forest-related information in the three countries. Ministry of Environment on public tenders arranges forest inventory and management planning in Estonia. State Forest Service collects and annually disseminates information about forest resources (species, age distribution, cutting amount, reforestation) in Latvia. The state institution - Forest Inventory and Management Institute, is responsible for regional level forest inventory and management planning in Lithuania. This organization also every five years publishes a report titled State Inventory of Forests, which is available free of charge. Similar reports are not published in Estonia and Latvia.

“MEC Naujienos” is another element of this forest policy implementation instrument unique to Lithuania. This publication is an informational bulletin monthly distributed to the State Forest Enterprises. Subscription for private individuals is also available. The bulletin provides information on timber trade (regional price comparisons, analysis of trends and forecasting).

The same organization, which publishes the above bulletin is also responsible for compiling the Lithuanian Statistical Yearbook of Forestry – an annual report available free of charge. Centre of Forest Protection and Silviculture in Estonia also publishes an annual yearbook on forests, distributed free of charge on Internet and on paperback, which provides information on consumption and condition of forest resources, hunting, etc. Ministry of Agriculture in Latvia, free of charge provides a more concise annual report on Latvia's Forest sector.

Statistical Offices of Estonia and Latvia provide quarterly and annual statistics on forest logging, wood processing and wood export and import. The same institution in Lithuania is less concerned with forestry and only summarizes basic economic, employment, and trade information related to the forest sector.

State forest management organizations both in Estonia and Latvia provide annual reports about resources under their management and main economic indicators. State Forest Enterprises in Lithuania do not produce any reports available to the public. General Forest Enterprise produces occasional publications on state forest sector, which are made available to the public. Annual publications - State Forestry Indicators – are distributed internally.

Advice and extension (or technical assistance)

This instrument can be divided into elements addressing extension services for private forest owners and technical assistance. In Estonia, regional environmental departments and Centre of Forest Protection and Silviculture to private forest owners provide free advice concerning legal aspects of forest management and silviculture. State Forest Service in Latvia is in charge of free advising concerning legal aspects of forest management and silviculture. State Forest Enterprises, up to 2002, provided advice concerning legal aspects of forest management and silviculture to private forest owners in Lithuania. Since spring 2002, these activities are responsibility of Regional Forestry Control Divisions at State Environmental Protection Inspection.

Technical assistance as well as advice services to private forest owners in Estonia may be purchased from the State Forest Management Centre, private forestry companies as well as from owners' cooperatives; in Latvia - from private forestry companies as well as from owners' cooperative society; Lithuania - State Forest Enterprises and private forestry consulting companies (including cooperatives). In Estonia, also forestry schools organize commercial courses for private forest owners. Both in Estonia and Lithuania, associations of private forest owners sometimes organize free training courses to their members, but most of the time participation fee is charged.

Administration services

This instrument is used in all three countries in different ways. First of all it must be noticed that the forest sector both in Estonia and Lithuania is under the responsibility of Ministry of Environment; in Latvia – Ministry of Agriculture. Despite above, all three countries in the ministries have internal departments dealing with coordination of forest policy formation and implementation processes. Management of state forests in Estonia and Latvia, as previously stated, is trusted to the single state forest management organizations. Lithuania has 42 independent State Forest Enterprises responsible for management of the state forests. Functioning of these units is coordinated by the General Forest Enterprise. State supervision and control functions both in Estonia and Lithuania are integrated together with environmental inspections. Along with Environmental Inspectorate, some facilitation functions of forest operations in all types of ownership in Estonia are carried out by County Environmental Departments. State Forest Service in Latvia is an independent organization charged with functions of state supervision of and control over implementation of forest policy in forests of all types of ownership. In Latvia the control of management in protected areas is the responsibility of Environmental State Inspectorate and Regional Environmental Boards.

CONCLUSIONS

Almost no differences between the sets of policy instruments used in Estonia, Latvia, and Lithuania were found at a general level of classification. However, analyzing individual elements comprising each forest policy tool, some national peculiarities were reported. If viewed from the perspective of classification applied in this study, it was found that market intervention instruments are more commonly used in Estonia and Latvia, as compared to Lithuania. Market facilitation, on the opposite, is more used in Lithuania. However, these findings cannot be conclusive since the above differences were very small. Another general finding was that forest policy instruments in Estonia and Latvia are applied in more similar ways than in Lithuania. The instrument of incentives and grants makes an exception. Analysis of elements compiling individual forest policy tools completed in this study, allows an assumption that more differences on a finer scale of evaluation could be found. Based on the differences in application of elements of individual policy tools, innovative approaches in individual countries were pointed out. We believe that this presentation of variety in application of forest policy tools in three countries may provide a learning experience to forest sector administrators in other countries with economies in transition.

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FOREST OWNERSHIP IN FINLAND

BY MARJA HILSKA-AALTONEN

Private citizens own most of Finland's forests. Private forest owners number more than 630 000. Finnish forestry is commonly termed family forestry: small-scale forestry run by ordinary families. Private persons, whose role is important, own about 60 per cent of all Finnish forests as they supply more than 80 per cent of the industry's raw material in Finland. Private forest holdings are usually quite small, on average 35 hectares. Finnish forest owners have easy access to expert advice relating to the management of their forests. There are 206 Forest Management Associations, which provide forest owners with advice for example on forest management, forest taxation and biodiversity conservation. The Association's task, stipulated by law, is to promote private forestry by securing economic, ecological and social sustainability of forests. The expertise, including forest biodiversity aspects, of the Forest Management Associations is guaranteed by their trained personnel.

About one quarter of the land area in Finland is owned by the State, mostly in the northern and eastern parts of the country. Due to their geographical location and poorer soils, the State forests grow less on average than private forests. State-owned forests are managed by Metsähallitus, which in 1994 was reformed into a state enterprise. Metsähallitus utilises, manages and protects state-owned land and water areas.

In the 1990's the outcome of the international co-operation within the global forestry processes has been adapted to Finland's circumstances in the new forest policy, legislation and management guidelines. The implementation of the new forest policy has required a lot of information, education and extension services to the forest professionals, forest owners and the public. However, putting new acts and decrees into practice has been a rather smooth process. Finland will take an active part in the international fora on forest policy including environmental dimensions also in the future.

The forest and nature conservation laws were revised in 1997 to be complementary to each other. Forestry and environmental authorities as well as social and economic interest groups and other NGOs participated widely in the preparatory work. The laws implement international agreements on sustainable development and biodiversity. Forest legislation now focuses on promoting sustainable forestry, including the economic, social and ecological aspects. The Forest Act applies to all forest owners. Its purpose is to guarantee economically, ecologically, socially and culturally sustainable management of forests. The key element of the Forest Act, with regard to safeguarding biodiversity, is defining certain habitats of special importance and giving guidelines as to how these habitats may be managed. Wood production and maintenance of biodiversity have equal importance in the Forest Act. The purpose of the new Forest Act is to secure the production of timber, maintain the biological diversity of the forest nature and to take into account the multiple use of forests. Regeneration of forests after cutting has been

described by law for more than a hundred years, and maladjusted felling must not be carried out in a growing forest.

The forest owner has to make an official declaration of intent to the Regional Forest Centre prior to all cuttings. This declaration is a tool for supervision, also with regard to securing biodiversity.

As it is difficult for the landowners themselves to identify habitats that might be covered by the Forest Act, the Forestry Centres have been carrying out a survey on potential important habitats. The Act lists seven habitat groups where rare and endangered species may occur. Sites covered by the Act include, for example, small water bodies and the forest stands adjacent to them, small swamps, patches of herb-rich forest, small mineral land islets surrounded by mires in a natural state and are clearly distinguishable from their surroundings, the management and utilisation measures applied shall be carried out in a manner that preserves the valuable habitats. If the maintenance of forest biodiversity results in financial losses, the private forest owner can receive partial or total compensation from the State funds (environmental aid). As a whole the implementation of the new acts is going on rather smoothly.

In addition to the new obligation to safeguard biodiversity, the new Forest Act also introduces a new instrument for enhancing sustainable forest management, the Regional Forest Programmes. The Forestry Centres (13) are responsible for drawing up these programmes in co-operation with all parties representing forestry in the region and with other relevant parties. The regional target programme includes the general targets set for promoting the sustainable forest management, the targets set for the measures and their financing and the overall targets set for the development of sustainable forestry including biological diversity in the region. The programmes contain an overall description of forests and forestry and of the needs and objectives for development. In addition they contain needs for wood production, description of forestry enterprises and recommendations for promoting employment opportunities created by forestry.

An assessment of the economic, ecological and social impacts of the implementation of the proposals is also included in every programme. All the 13 regional forestry programmes were the bases during the formulation of the National Forest Programme. The regional forestry programmes will be revised at regular intervals. The first revision in 2001 included the development of the national criteria and indicators for the monitoring methods at regional level.

The Act on the Financing of Sustainable forest management guarantees state subsidies for such management activities in private forests, which would not be profitable for the landowner (e.g. biodiversity management). The absolute priority is on tending of young stands, that means stands which not yet have reached the age of a first thinning but where cleaning is needed. State financing is also available for forest regeneration in specific cases, afforestation of agricultural land, prescribed burning, harvesting of energy wood, forest fertilisation in some specific cases, improvement ditching and forest road construction. The State financing is some EUR 60 million per annum.

Private forest owners can be provided with financial support for the maintenance of biological diversity in their forests. The state can give environmental aid, a total of about four million euro per year. The forest owner can be provided with partial or total financial support for the economical losses caused by maintaining biological diversity especially in the habitats of special importance. However, the forest owner must bear financial losses classified as insignificant. The level of insignificant losses has been defined as 4 % of the wood production.

As mentioned above, the management of especially valuable habitats may receive governmental funding, if the forest operation is more expensive than normally. The state can finance planning and implementation of forest ecosystem management projects on privately owned land:

- restoration of important habitats which extend over more than one forest holding
- surveying of important habitats
- remedial forest works in context with landscape management
- restoration of a forest ditching area in a habitat of important natural value
- other significant projects of regional importance (multiple forest use, cultural value, recreational value etc.)

Acts and decrees set the minimum quality requirements for silviculture. For private forests, there are forest management recommendations, which help the forest owner in the management and utilisation of his forest. The forest owners also usually have forest management plans (roughly 70 % of the private forest area) and they get extension services through Forest Management Associations and regional Forest Centres.

The silvicultural recommendations describe, for instance, which tree species ought to be grown on a specific site, the appropriate time for thinning a tree stand and how much timber can be removed. Forest and environment authorities and various organisations in co-operation create the environmental recommendations for forestry. The goal of these recommendations is a silvicultural practice which optimises the living conditions for organisms in managed forests and minimises the negative environmental impacts caused by forestry.

In the state forests the development of Landscape Ecological Planning (LEP) in Finland started as a cooperative project between Metsähallitus and the Finnish Environment Institute (FEI) in 1994. LEP's are implemented by the forestry operations of Metsähallitus.

The long-term objective of Landscape Ecological Planning is to assure the survival of the area's native species as viable populations. Among other things, this requires the conservation of existing valuable habitats and ensuring that new ones can evolve. In this way the planning contributes to the continued existence of valuable habitats as defined in the Forest Act and Nature Conservation Act. Planning can also be used to focus nature management activities including restorational operations on the sites that are the most crucial in ecological terms. The planning also involves the effort to assure the conditions for the spread of various species. In this effort, the valuable habitats and

ecological links in managed forests complement and enhance already existing nature conservation areas. Together these form an ecological network, which intends to preserve biodiversity.

Another central goal of planning is to ensure that the conditions exist for multiple forest uses and for nature-based sources of livelihood. The procedure thus involves inventories of game habitats, scenic values and cultural, educational and research sites. In Northern Finland, the demands of reindeer husbandry play an important role. The weight given in planning to recreational use depends on the characteristic features of the area and on the recreational needs of the region.

The final aim is to include 6.4 mill. ha of land in Landscape Ecological Planning. All areas administered by Metsähallitus are covered by LEP, except the northernmost lands beyond the tree growth limit in Lapland. Altogether more than 100 individual plans have been drawn up.

However, taking into account the forest ownership structure of Finland, the great dominance of family forest owners, the LEP cannot be the decisive forest policy tool to guarantee the ecological sustainability in the commercial forests. Economic incentives and extension aimed to forest owners are also needed and used in the Finnish forest policy during this decade.

INTERNATIONAL SYMPOSIUM ON EXPERIENCES WITH NEW FOREST AND ENVIRONMENTAL LAWS IN EUROPEAN COUNTRIES WITH ECONOMIES IN TRANSITION

SUMMARY OF REPLIES TO COUNTRY QUESTIONNAIRES

A questionnaire was sent to the invited countries asking 12 questions on significant issues of forestry law and administration. Responses were received from Belarus, Bulgaria, Czech Republic, Estonia, Finland, Germany, Hungary, Japan, Latvia, Poland, Romania, Slovakia, Sweden, Serbia, Ukraine. The following compilation summarizes the replies received from the participants of the symposium.

The questions were prepared by a team of specialists at the Ministry of Agriculture of Latvia. Pre-treatment of the received questionnaires was carried out by Janis Donis, LSFRI "Silava". The summary of the replies has been done by Lidija Knuth during her stay with the Development Law Service, Legal Office, FAO. The results have been presented and commented at the Symposium by Janis Donis.

1. a) Is the current forest and environment related legislation equally applicable to both private and state forests?

In all countries, including both the *European countries with economies in transition* and the *Western European* countries, the forestry and environmental legislation is equally applicable to both private and state forests. An exception is the *Republic of Belarus*, simply because there are only state owned forests.

1. b) Which ministry (ministries) is (are) responsible for the respective legislation?

Only *Poland* and *Estonia* have a single ministry, that for environment, which is responsible for both forestry and environmental legislation; in *Estonia* the Ministry of Agriculture has a role in administering subsidies. Two countries, *Ukraine* and *Belarus*, have a State Committee for forestry legislation while the Ministry of Ecology in *Ukraine* and of Natural Resources and Environmental Protection in *Belarus* are responsible for environmental legislation. In the other countries two full ministries are responsible, as follows:

Sweden: Ministry of Industry, Employment and Communications / Ministry of Environment

Japan: Ministry of Agriculture, Forestry, and Fishery / Ministry of Environment

Finland: Ministry of Agriculture and Forestry / Ministry of Environment

Latvia, Slovakia: Ministry of Agriculture / Ministry of Environment

Serbia: Ministry of Agriculture, Forestry and Water Management / Ministry for the Protection of the Natural Resources and Environment

Germany: Ministry of Nutrition and Agriculture / Ministry of Environmental and Nature Protection

Bulgaria, Romania: Ministry of Waters and Environment Protection / Ministry of Agriculture, Food and Forests

Hungary: Ministry of Agriculture and Regional Development / Ministry of Environment

2. What is the compensation mechanism for forest owners regarding restrictions on property rights and forest management?

Compensation for private forestland declared as protected or natural reserves is provided in most of the *Eastern European* and all of the *Western European* countries. Some *Eastern European* countries declared that there is a gap between theory and practice because of the financial constraints. *Poland* and *Latvia* provide a property tax reduction instead of direct compensation. *Latvia* gives the possibility of exchanging a privately owned protected area for state land. Compensation for other restrictions on property rights is very rare. In *Germany*, compensation is only paid for economically unbearable restrictions; in *Sweden* a civil agreement between the forest owners and the Regional Forestry Board can provide compensation.

3. In what way has the economical and ecological factor balance to be evaluated (criteria) if the rights of forest use of owners are restricted?

In *Ukraine* there are no explicit rules of evaluation nor any compensations for permanent forest users; these may be developed in the course of the change in ownership structure within the next years.

In *Sweden* ecological criteria dominate if the owner receives an economic compensation. Otherwise the factors have to be carefully balanced according to the legislative restrictions possible without compensation.

In *Japan, Finland* and *Poland* no explicit criteria have been established.

In *Serbia, Romania* and the *Czech Republic* owners are compensated for limitations of the use of their forest as a result of state regulations.

In *Latvia* ecological factors take precedence.

In *Belarus* this depends on the category of the forest. There are first category (mainly for conservation – ecological factors prevail) and second category (mainly commercial – economic factors prevail) forests.

In *Bulgaria* the rights of forest owners can be restricted subject to several different laws. Again, the level of possible restrictions depends on the category of the forest.

4. *In what way are the international requirements/commitments regarding nature protection fulfilled in case of incompatibility with the national requirements?*

In *almost all the countries*, the requirements fully comply with the international ones, so that the question of incompatibility does not usually arise. Where there is incompatibility the state either enacts new amendments or the international agreements govern as a matter of national law.

5. *How does the State realize its ownership rights in the management of state-owned forests (private and public functions)?*

In the *Czech Republic* the state manages the state forest through special state entities; in *Ukraine* the State Committee of Forestry is responsible for overall normative and control functions, while control is also exercised by the Ministry of Ecology and local offices. Ownership functions are divided between local governments, which issue forest authorizations, and forest enterprises, which operate under state bodies (mainly the State Committee of Forestry) on the basis of long-term use rights; the social control is performed by public inspectors.

In *Slovakia* one large state forest enterprise (Lesy SR) manages all state-owned forests and the forests of unidentified private forest owners. In *Finland* the national socio-economic requirements are included in annual management objectives. In *Estonia* the organization of the State Forest Management Centre (SFMC) is close to a business organization, but at the same time the SFMC finances activities and provides services which are of public use and transfers yearly a certain amount of revenues to the state budget. In *Serbia* a public enterprise (Srbijasume) was established, in order to better manage the interests of the forest, as well as in *Latvia*.

6. a) *Which institution is managing state-owned forests?*

b) *To whom are these authorities and institutions subordinated?*

There are usually either companies or boards. In six countries the state forest is managed by companies, in *seven countries* by boards and in *two countries* (*Estonia* and *Poland*) the institutions are hard to categorize.

The following are the countries with *enterprises*:

Czech Republic: The enterprise "Forests of the Czech Republic", with a Chief Executive Officer, is subordinated to the Ministry of Agriculture. The activities of the enterprise, as well as the CEO, are under control of a six member advisory board.

Hungary: It must be distinguished between the forest management and the forest authority. The forest management of state owned share companies is controlled by the Hungarian Privatization and State Holding Company. The department of Forestry of the Ministry of Agriculture and Regional Development has the control over the State Forest Service.

Latvia: The State Joint-Stock Company “Latvijas Valsts meži” (LVM) is governing and managing the state forest property. Its fixed capital stock is owned by state. The LVM has a central administrative office and 10 regional structures – 8 for forestry, the Jaunmokas castle which provide tourism and business center services, and the forest tree nursery business “Sēklas un stādi” (“Seeds and Plants”) producing tree seeds and planting stock in compliance with European quality requirements. The company functions are under the coordination of Ministry of Agriculture. State owned Forests in State reserves and national parks are managed by administrations of those territories and are under the supervision of the Ministry of Environmental Protection and Regional Development.

In *Serbia* a public enterprise (Srbijasume) was established.

Slovakia: State-owned forests are managed by the state forest enterprise “Lesy SR” – that is divided into 26 forest plants, located around the whole area of Slovakia. The control of the forestry practice of the state forest enterprise is performed through a system of state administration bodies; the central authority of forestry state administration is the Forestry Section of the Ministry of Agriculture and the local authorities of forestry state administration are integrated within local governments’ offices (there are forestry state administration departments within 79 district councils and 8 county councils)

Sweden: The state owns 4.8 mill. hectares of forest land, corresponding to 20 % of the Swedish forest land area. The management is divided between 23 different management bodies. 70 % of state forests are managed by the state owned company Sveaskog AB. Other major managing institutions of state owned forests are National Property Board (20 %), Swedish Environmental Protection Agency (8%) and National Fortifications Authority (2%). Remaining state forest managing organizations are responsible for smaller areas of state forests for special purposes. Sveaskog AB has a board in which the Government is represented, but as a company it is not strictly subordinated to a Ministry. The National Property Board and National Fortifications Authority are subordinated to the Ministry of Finance. The Swedish Environmental Protection Agency is subordinated to the Ministry of Environment.

The following countries have boards or other administrative units:

Belarus: The administration of the forest conservation, protection and regeneration is in the hands of the President of the Republic, Government, Forestry Committee, Local municipalities.

Bulgaria: The National Forestry Board, which is subordinated to the Ministry of Agriculture and Forests, has to manage the state forest fund. Besides these basic bodies in the structure of the National Forestry Board (NFB), there are several other administrations: Forest Seed Stations; Forest Protection Stations; Experimental Stations; Directions of Nature Parks; Game Breeding Stations; Poplar Breeding Station; Information System for Forests; Editorial office of the magazine “Gora”.

Germany: The state forests are managed by the (federal) state forest agencies. The structure of the administrative bodies depends on the size of the federal states: In larger states, there are three levels (the governmental department / Ministry, the middle department for the individual regions, and the lower agencies for the administrative districts). In the smaller federal states there are only two levels, no middle departments.

Finland: The Ministries of Agriculture and Forestry, and Environment administrate and control the Metsähallitus (= Finnish Forest and Park Service).

Japan: the national forests are managed by a Forestry Agency, which is a governmental organization under supervision of the Ministry of Agriculture, Forestry, and Fishery. Forestry Agency has its own independent accounting system, in which they basically operate their activities by self supportive system.

Romania: The state forests are managed by the National Forest Administration – NFA (Regia Nationala a Padurilor), which is subordinated to the Ministry of Agriculture, Food and Forests.

Ukraine: The State Committee of Forestry (SCF) is directly subordinated to the Cabinet of Ministers. The normative acts of the SFC are obligatory for all other central and local bodies of the state executive power as well as for enterprises, organizations and individuals.

The Estonian and Polish institutions are as follows:

Estonia: The SFMC is organized like a business with a management board, but it is subordinated to the Ministry of Environment. The SFMC carries out all the management operations in the state forest required by the law. The SFMC also provides recreational services, both commercial and free of charge (more from) as well as the management of a network of tree nurseries.

Poland: There is a state forest enterprise under the Minister of Environment, but it does not have legal personality. It administers the state forest. There are three types of organizational units, depending on the level of management: the General Directorate of the State Forests, regional directorates of the State Forests and forest districts.

7. Who pays the state forest asset management?

In *most of the countries*, the public enterprises are able to finance themselves from their own revenues. Then there is a *second group of countries* like *Slovakia* and *Bulgaria*, in which the forest asset management is partly financed by its own revenues and additionally from the government. In *Germany* the forest asset management is financed by taxes.

8. Procedure of expropriation of forest land?

This question was answered only by *Latvia* and *Ukraine*. In *Ukraine*, neither the Forest Code of 1994, nor the Land Code of 2001 provides for alienation of state forest land. It is planned to be included in a new Forest Code.

In *Latvia* alienation of state forest land is possible by order of the cabinet of Ministers in order to privatize land under residential buildings and pertaining facilities, to adjust forest boundaries or to change to another land use. Other alienations require a decision of the parliament.

9. Restrictions in legislation regarding forest property fractionation / fragmentation?

In *Ukraine*, *Slovakia*, *Estonia*, *Latvia* and *Japan* this kind of restriction does not exist. In *Finland* forestry centers and forest management associations only give guidance and recommendations. The existing regulations on fractionation have the sense to make sustainable forest management possible and to avoid unwanted fragmentation. Here are some examples of the existing regulation in the different countries: In the *Czech Republic* subdivision is only possible as long as the forest land is of an appropriate shape or size and an appropriate forest management is possible. *Bulgaria* puts a limit of 0, 1 ha on a parcel.

10. Requirements for forest regeneration, felling, and nature protection

Clear cutting generally requires a permission of the forest agencies, with restrictions regarding the extent of the clear cut area that differ from country to country. In *some countries* clear cutting of a special kind of trees (for example, pine in *Estonia*) is prohibited or strictly limited. The provisions on forest harvesting and afforestation are quite detailed regarding time and size. For instance in *Romania* and the *Czech Republic* a clear cut area must be afforested within two years, in *Latvia* not later than in three years. In *Latvia* according to the law only certified forest reproductive material suitable to the particular region can be used, in *Slovakia* the rule is less strict, natural regeneration is just preferred. Nature protection is ensured in all the forestry codes of the countries.

11. What are the support measures for forest regeneration, forest establishment, forest tending, inventory and management planning?

Belarus: Forest management is carried out on state forests according to 10-year forest management projects and operational and strategic plans.

Bulgaria: Support for private forests is very limited. The forest legislation provides nevertheless some free services. Also the state forests do not receive financial help from the state budget.

Czech Republic: Financial rules and procedures are yearly announced as an attachment to the state budget. The subsidies that are usually given are on:

- a) forest regeneration
- b) established plantation
- c) forest tending
- d) forest management plan processing

A forest stand survey is made for each forest holding, independently on the ownership.

Estonia: There are no systematic programs of direct financial support.

Germany: Certain measures may be supported to a certain extent

Hungary: There is a full-scale national subsidy system for both private and state forests. The State Forest Service acts as a full scale paying agency (administration, control, remittance).

Japan: The Government and the municipal governments offer a variety of subsidies for plantation tending, tinning and other practices.

Latvia: Support measures are connected with the EU funds and the State's initiative is quite low.

Poland: According to the law, private forest owners may receive grants from the state, to cover (also partially) various expenses.

Romania: Forest regeneration, tending of tree seeds, plantations and stands are mainly performed from NFA funds. Prevention and control of forest diseases are carried out by NFA. The Ministry of Agriculture, Food and Forests gives annually the necessary funds to create protection forest shelterbelts and to prevent and control drought and desertification.

Serbia: The funds for the reproduction of forest are taken out from the State Budget.

The funds for the restoration of degraded forests are taken out in the form of compensation from the firms whose activities are endangering the forest. Inventory and the management planning are financed from the activities of the utilizer of the forest.

Slovakia: There are no real support measures, everything is stated in a forest management plan that has the force of law for forest owners and users

Sweden: There are no support measures, except for forest management aiming at improving wood production. In particular, there are subsidies for the regeneration of eight selected tree species. The Regional Forestry Boards have limited resources for advice on general forest management in private forests.

Ukraine: Budget resources for support of permanent users in the forest operations are allocated for the following lines:

- a) forest management and hunting
- b) creation of forest belts and protection of forest stands
- c) maintenance of natural reserves

A state program "Forest of Ukraine" has been adopted in 2002. It provides budget allocations for the main activities related to forest management until 2015. There are several support measures for forest regeneration, forest establishment, forest tending, inventory and management planning. The State Forest Regulation Service conducts inventory and planning of management.

12. How is forest management regulated in protected forests?

In *Sweden* the management of protected forests is regulated by a management plan for the concerned area. All kind of activities that may damage environmental values in biotope protection areas are prohibited.

Japan has 17 different categories of protected forest. The regulation for harvesting method differs from category to category (e.g. harvesting activities are strictly prohibited in some protected forests).

In *Ukraine* the regulations on fellings are quite detailed. Felling is only permitted in special cases like for regeneration of stands which loose their natural characteristics or for the reconstruction of low-valued young-growth stands.

In *Estonia* the conservation management activities are restricted and ruled by the conservation management plan. The management depends on the category of protection.

The five national parks in *Serbia* are ruled by the National Park Act (1995). The first objective of management is the preservation of biodiversity. There are different protection regimes of I, II and III degree on which the management of forests depends.

The protected areas in *Latvia* are managed by protected area administrations. The law on specially protected nature areas regulates the forest management and determines the different protection categories. There are special regulations for nature reserves and natural parks.

The Maintenance plan for protected areas of the Ministry of Environment is important for the planning process in *Hungary*. The Nature Protection Authority controls the management plans.

Bulgaria divides protected territories into two categories; protected territories like natural parks managed by the Ministry of Environment and Water, and protected territories like nature parks, which are managed by the Ministry of Agriculture and Forestry.

As in all the countries, there are special regulations for the management of different categories of forests in *Belarus*, *Germany*, *Poland* and *Romania*, but no details were supplied.

STATUS AND DEVELOPMENT OF BULGARIAN FORESTRY AND FOREST LEGISLATION AFTER 1997

BY NICKOLA STOYANOV⁵

INTRODUCTION

The forests in Bulgaria have great importance for the country and are part of European and the World's richness. There are many rare and endemic species, which are determined by the variety of geographical situations – Bulgaria is situated between three zones on the border between Europe and Central Asia. The status and development of Bulgarian forestry and forest legislation in the recent years (after the beginning of forestry reform) are important characteristic for evaluating the transition to market economy.

STATUS OF FORESTRY

In Bulgaria, forest ecosystems are the most valuable and most representative component in all forms of nature conservation, accounting in total for some 34 % of the area of the country. In fact, the total area of forests is 3 914 355 ha (as of 31.12.2000, according to data from the National Statistical Institute). The afforested area is 3 398 307 ha or over 86 % of the total forest area. Forests cover 30 % of the country's territory. Broadleaved species are dominant, accounting for 67 % of the forest area and for 56 % of stand volume. Among Balkan countries Bulgaria has the 4th place according to area of forest and other wooded lands after Turkey, Romania and Greece.

The principal aims of the forest management in Bulgaria are safeguarding the persistence of forests in perpetuity and increasing their resources. A large part of Bulgarian forests (26.6 %) implement protective and recreational functions and another part are forests in protected areas (7.5 %) (Fig.1). On the forest territory 3 National Parks, 9 Natural Parks and 46 reserves have been established.

The forestry sector (without processing industry) has 0.5 % share in the gross national product (GNP). The forests are the main means of livelihood for the rural population in the mountain part of the country and a raw material basis for the development of wood processing and pulp and paper industries. Private forests have a rather low share and their meaning is important mostly for the owners themselves.

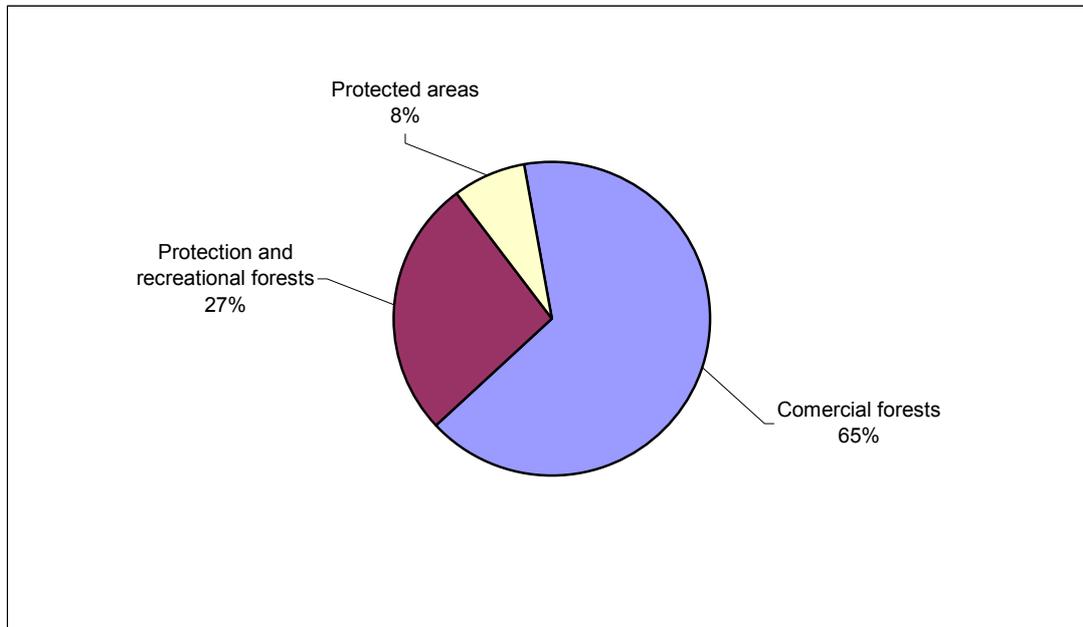
DEVELOPMENT OF FOREST LEGISLATION

The last years have seen a rapid evolution leading to a revision of forest laws in all parts of Europe. The process of adapting legislation to new political, economic and social developments has gained considerable importance (Schmithüsen 2000: 4). Countries

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with new and amended laws range from Albania and Finland to Sweden and Ukraine. Major changes occur in the Central and Eastern European Countries, which are in the process of promulgating a totally modified legal network of forest, natural conservation and environmental protection regulations. Bulgaria is no exception in this process.

Fig.1: Distribution of forest area in 2000 according to function of forests [ha].



The transition from centralized planned economics to a market economics (from 1989) in our country leads to substantial changes in all sphere of life, including forestry. In 1997 - eight years after the beginning of political and economic changes - the Bulgarian Parliament accepted the new Laws for the Forests. They are:

- Law for the Restoration of the Property of Forests and Forest Lands of the Forest Fund (LRPFFLFF)
- Law for the Forests (LF).

Regulations for implementing these Laws were accepted in the beginning of 1998. In the period 1998 to 2001 the whole documentation concerning the implementation of the Law for the Forests (more than 30 regulations, orders, ordinances, instructions etc.) has been completed. With the adoption of the two main forest laws a structural reform has been started in the Bulgarian forestry sector.

The main priorities for the forest sector which have been accepted by the Government for the period 1997 – 2001 are:

- Accelerated restoration of private forest property;
- Management and lumbering in state and private forests trough balancing economic and ecologic factors for sustainable development:
 - Priority of natural regeneration of mature forests and thinning;

- Conservation of genetic resources and biodiversity;
- Permanent fight against pests and diseases in the forests;
- Effective protection of forests from fires, illegal felling etc.;
- Strict observing of international agreements and conventions for conservation of biodiversity and protected territories;
- Conceding of logging and other business activities to contractors;
- Separating state control from business functions in the forest sector;
- Privatization of enterprises, acknowledgement of different objectives and activities in the forest sector;
- Harmonization of prices for wood and other forest products in accordance with international prices, according to market principles;
- Elaboration and implementation of new legislative documents.

Work connected with the development and implementation of forest legislation during this period focuses on the following main directions: 1) restoration of property on the forests and forest lands; 2) realizing a new management and economy structure of forestry; 3) adjustment of the Bulgarian forest legislation in accordance with European standards; 4) elaboration of new forest regulations.

Restoration the property on the forests and forest lands

As of 03.01.2002 there were restored 574 434 ha – 92 % from the recognized restoration areas or 15 % from the forest fund of the country. The distribution of forest lands according to ownership is as follows (Fig.2):

• State forests	3339920.9 ha	85.32 %
• Non state forests, including	574434.1 ha	14.68 %;
• Physical persons	320987.5 ha	8.20 %
• Communities, religious	226566.8 ha	5.79 %
• Schools, community centers	4305.5 ha	0.11 %
• Cooperatives, trade companies	320.5 ha	0.01 %
• Other juridical persons	4392.3 ha	0.11 %
Total	3914355 ha	100 %

As far as it is seen, in Bulgaria the public property on the forests is 91.8%, and the state possess 81.7% of forests and forestlands (Fig. 2). Therefore, the state is the biggest forest owner, that can to take care of forests, organize effective management of forests, receive the income and mobilize means for supporting and developing this property.

The biggest part of non-state forests is possession of physical persons (55.9%), followed by the communities (39.4%) (Fig. 3).

Fig.2: Distribution of forests and forestlands in Bulgaria by type of property in %.

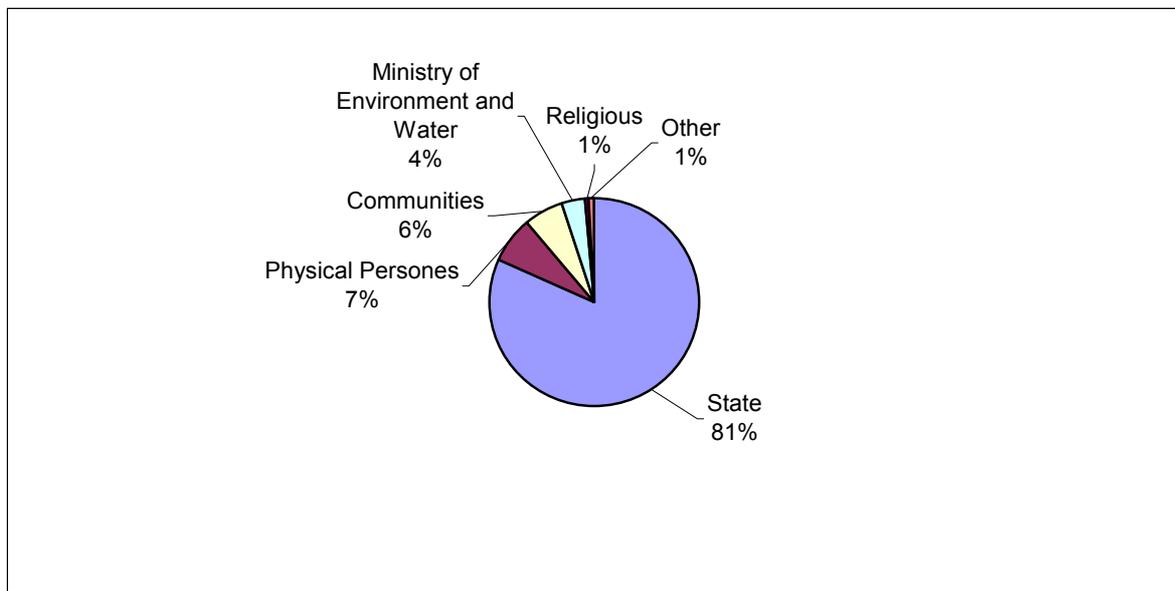
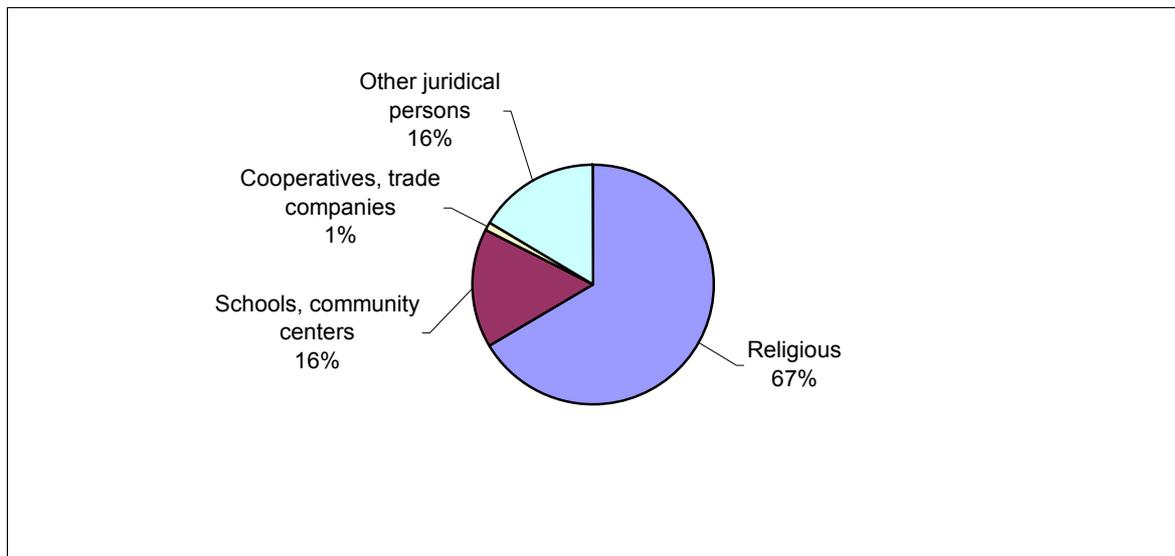


Fig.3: The distribution of non-state forests by kind of owners.



Arising from the different forms of property in Bulgaria the following issues, concerning management and utilization of the non state forests need to be addressed:

- Development of mechanisms for protection of interests of forest owners, including creation of legislative and normative guarantees for implementing balanced strategies that are accepted from the whole society for the development of forestry.
- Management of the small sized forest possessions. In this respect there is need to find suitable forms and incentives for cooperation among owners for joint management and planning of their forests.

- Motivation of forest owners for protection and for sustainable management of their forests. It is necessary to popularize modern multifunctional forms of resources utilization with the aim to ensure sustainable and natural friendly management for the interest of different owners and for the whole society.

The main problems which concern restoration of property of forests and forest lands and future management of these forests by private owners are:

- The terms for restoration of forest and forest lands were very short. This lead to mistakes in the process of restoration and to a loss of confidence in the authorities that realize the restoration.
- The legislation (the new laws and their regulations, instructions, orders) is very complicated and leads to omissions.
- The new forest owners don't know the forest legislation and their obligations and rights as forest owners.
- The forest owners have a need to receive actual information about the main forestry work.
- They expect to satisfy mainly their own needs for fuel wood and small quantities of building materials. Most of them have little or no interest for proper forest management.
- A large proportion of forest owners are up to 60 years old and their forest parcels are very small. In spite of this they are not inclined to work together and to create cooperation's for better management of their forests.
- The new forest legislation has no provisions assuring some financial help to private forest owners from the state.
- For obtaining permission for implementing forest work the new forest owners must obtain a large number of documents from the state forestry service , which implies a very complicated procedure.
- The new forest legislation misses a stimulus for cooperation and for creating different forms of joint operations among forest owners.

Additional difficulties for forest owners and for the state arise from mistakes in the process of property restoration due to non finished restoration procedures, numerous juridical disputes, problems with definition the property on forests and forest lands of the communities as a result of infringement of LRPFFLFF etc.

Realizing the new management and economic structure of forestry

The main accent of the structural reform for the period 1997 – 2001 was the separation of functions of uniform forestry enterprises into two distinct ones – commercial and control activities.

Since 13.02.1997 the National Forest Board (NFB) at the Ministry of Agriculture and Forests (MAF) fulfils the management of forests. The administrative organs and units of NFB are 16 Regional Management Units of Forests, 176 State forestry unites, 9 Natural

Parks, 37 State Game Breeding Stations, 2 Forest Seed Control Stations, 3 Forest Protection Stations, 2 Forest Experimental Stations, a State Poplar Unit etc.

The organs and units of NFB fulfil state functions of control. The main responsibilities and tasks of NFB are: organization of the forest fund, regeneration of forests in the forest fund, utilization of forests and forest lands in the forest fund, protection of forests and forest lands, financing the activities in the state forest fund.

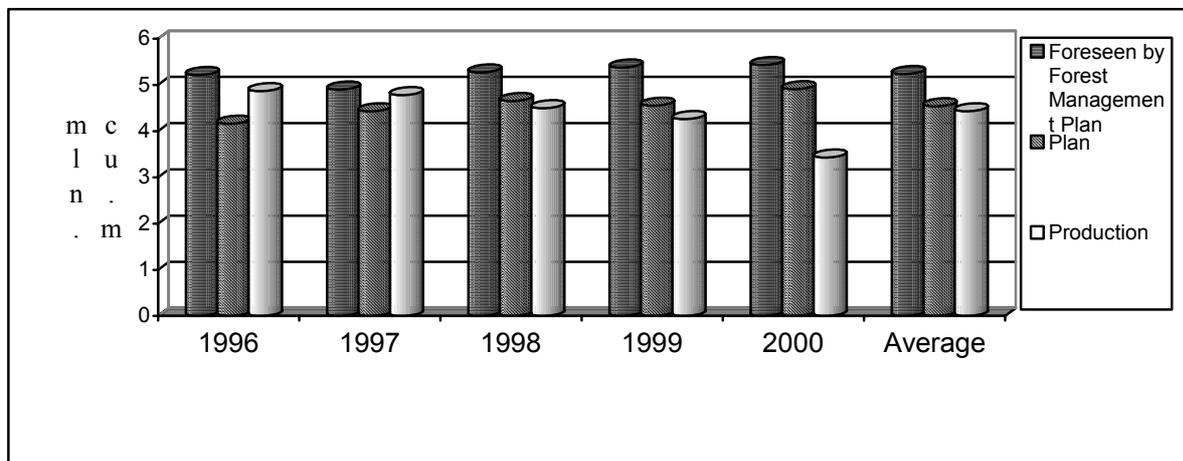
Management activities (commercial functions) initially were entrusted to 63 One-man Joint-stock Companies with 100 % state capital. Later "forest" Joint-stock Companies increased up to 82 and all of them came subject to privatization procedures. Until now 54 companies have been privatized.

The wood utilization is accomplished by auctions, bidding and negotiations, according to special instructions. Silviculture activities are entrusted by the same principles and procedures as wood utilization. In this process, besides the created Joint-stock Companies, many new established private companies participate.

In the following some tendencies concerning forestry operations carried out during the last years are shown.

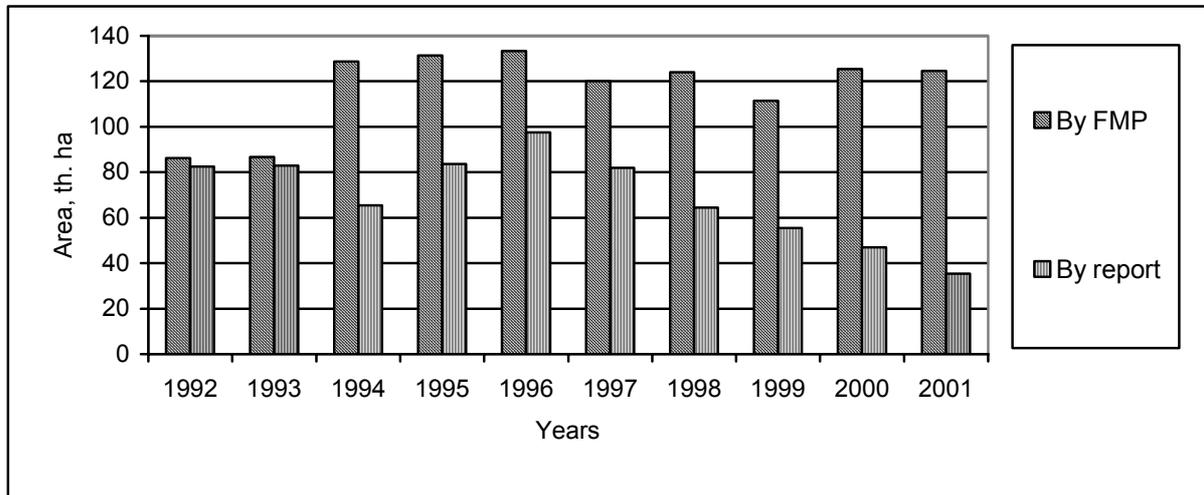
The tendency in the average annual harvesting of wood in the period 1996-2000 is into decreasing (Fig. 4).

Fig. 4: Average annual harvesting of wood, millions of cubic meters



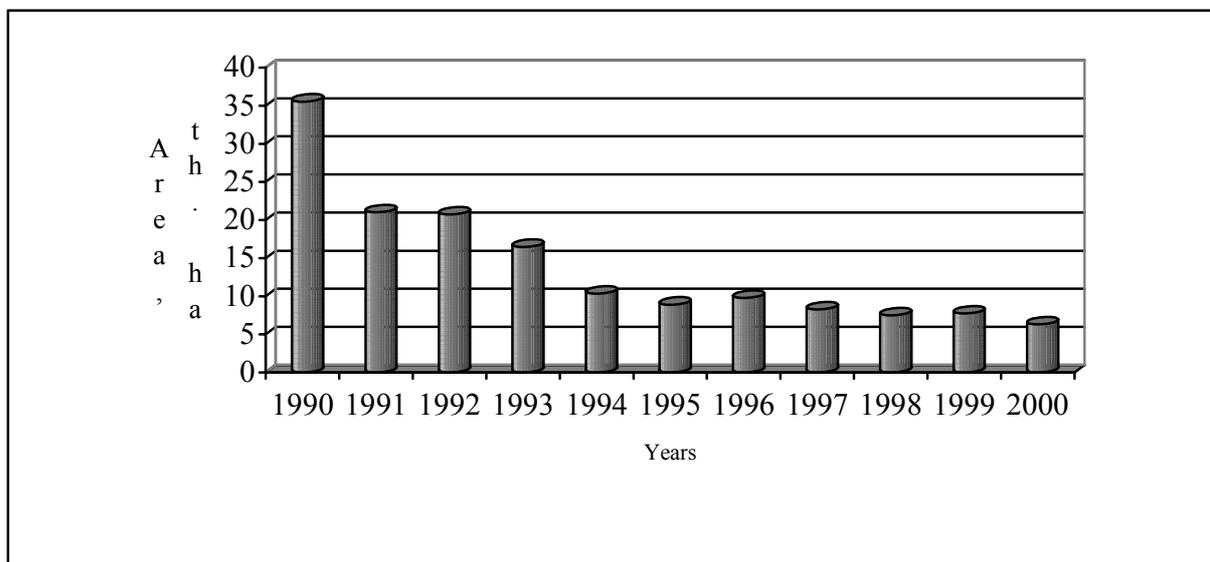
The change in the volume of area of thinning is sizeable - from 73% in 1996 to 28% in 2001 (Fig.5).

Fig.5: Area of thinning, thousands of hectares



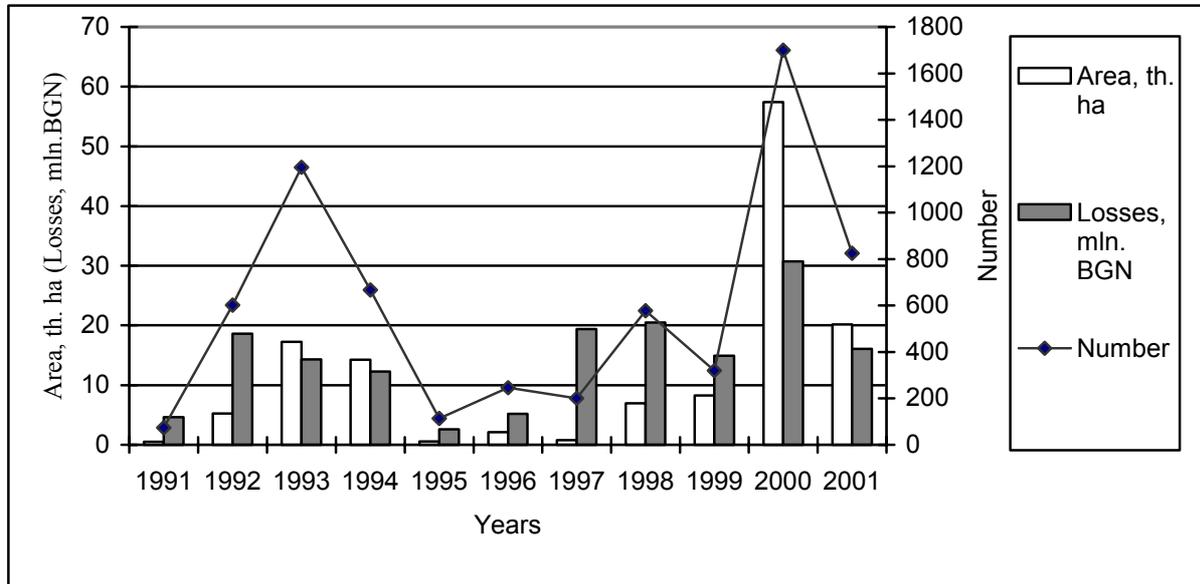
The afforestation decreased sharply in the last years. It amounts only to 40 % of what is foreseen in forest management planning (Fig. 6).

Fig.6: Area of afforestation in thousands of hectares during the period 1990 – 2000.



Forest fires have been a big problem during the last 10-years (Fig. 7).

Fig.7: Area, number and losses from forest fires.



Revenues and expenditures in the field of forestry have developed as follows (Fig. 8):

Fig.8: Revenues and expenditures in mln. BGN.

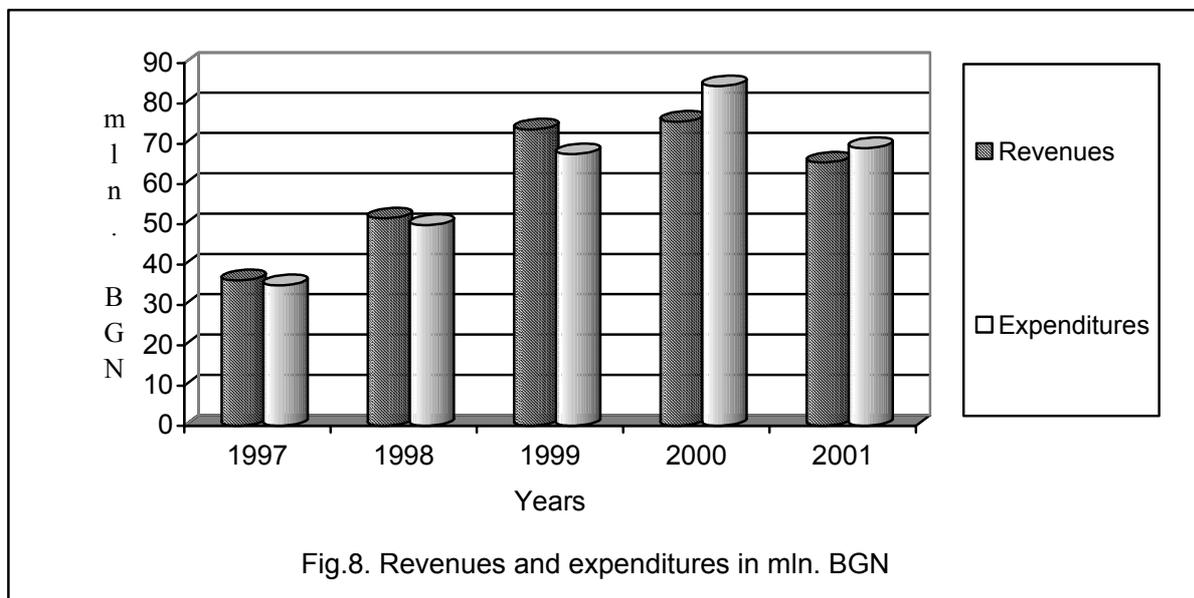


Fig.8. Revenues and expenditures in mln. BGN

Forests and forest lands are assets of general importance that require special protection and are utilised under the conditions and in the manner regulated by the Law for the

Forests, Regulations for the Implementation of the Law for the Forests and other legislative documents required by the Law for the Forests. These activities are subject to forest management plans approved by the National Forest Board. Private owners manage their forests according to the regulations prescribed in the Law for the Forests and in compliance with plans. Management of commercial forests is based on successive regeneration felling for even-aged and selective felling for uneven-aged forests. Management practices in non-exploitable and protective forests are either limited or forbidden.

An analysis of the status of Bulgarian Forestry permits to conclude that during the last 5 years there some negative tendencies may be observed – such as changes for the worse of the qualitative characteristics of forests, loss of biodiversity, breach of the management requirements, and disregard of the social functions of forests.

These tendencies result from objective and subjective factors: global climate change (mostly drying), breach of orders and laws as result of poverty, no expedient reforms in the forestry sector, misadministration in implementing political objectives etc.

Adjusting Bulgarian forest legislation in order to correspond to European standards

In order to coordinate the laws and the normative acts in the field of forestry with European legislation and Directives of the European Community special commissions at the Ministry of Agriculture and Forests and at the National Forestry Board have been created. All documents are surveyed before adoption by the members of these commissions. Forest legislation documents are thus elaborated in accordance with the requirements of European legislation.

Bulgaria has signed and ratified a number of international conventions, treaties and agreements, concerning biodiversity in the country. They are of paramount importance because Art. 4 of the Constitution of Bulgaria 1991 states: “the international contracts, ratified on the strength of the constitution, published and in force in the Republic of Bulgaria, become part and parcel of home legislation which contradict them”.

Natural parks have been created, as units under direct management of NFB in order to preserve the present diversity of species and ecosystems on the territory of the forest fund and in compliance with requirements of international conventions signed by Bulgarian Parliament. The developments during the last several years’ concerning national frame documents and laws in the field of the biodiversity and protected territories thus correspond to international conventions and directives and are a good basis for their management.

Elaboration of new forest related legislation

The main legislative acts regarding forest management, protection of the forest environment and provision of non-wood services are the following:

- Law for the Protection of Nature – 1967;
- Law on Environmental Protection – 1991;

- Law for the restoration of the Property on the Forests and Forest Lands in the Forest Fund – 1997;
- Law for the Forests – 1997;
- Law on Protected Territories – 1998;
- Law for Medicinal Plants – 2000;
- Law on Hunting and Game Protection – 2000.

Other laws relevant for forests and forestry are:

- Law for the Waters - 1999;
- Law for Limitation of Harmful Impact of Waste on the Environment - 1997;
- Law for the Purity of Atmosphere Air - 1996;
- Law for Fishing and Aquacultures – 2001, etc.

After 1998 process of elaborating National Forestry Program has been started, which aims was to correspond to the requirements of the Pan European process and to its standards and indicators for sustainable development of forestry. This process has not yet been finished.

The following main documents have been accepted by the Bulgarian Government, the Ministry of Agriculture and the National Forest Board:

- Government program for necessary measures to counteract conditions and trends towards drying up;
- Strategy for protection and regeneration of nature wetland forests on the Bulgarian Danube's islands;
- Managerial principles for accomplishing silviculture activities and management of Bulgaria's forests.

In the last ten years in Bulgaria many laws concerning specifics provisions for forest and environmental management were accepted. Because different Ministries and different specialists elaborated these laws and because the Parliament is very busy some of these laws lead to conflicts. Beside, the new forest and environmental laws, regulations, rules, orders, instructions, ordinances and other legislative documents are numerous and very complex. This is cause for numerous difficulties in implementation.

The legislative base, although largely in harmonization with European standards, shows some offsets at the implementation level in practice and this imposes further improvements and changes. In fact, the main laws and other legislative documents in the field of forest underwent numerous changes and complements during the period 1998 - 2002.

From the beginning the implementation of the new legislative documents was subject to discussions and contradictory views. The most serious critique pointed to the model of utilization of wood from the state forests, as well as to the model of entrusting silviculture activities to contractors without forest units.

The experience from implementation of adopted legislative base in practice gave the possibility to make more substantial analysis and to suggest new texts for its improvement.

STATUS OF FOREST LEGISLATION AFTER 2001

For improving the status of forestry and forest legislation the Government started to work after the election from June 2001 (respectively administrations of the Ministry of Agriculture and Forests and the National Forestry Board) and undertook some activities in a short, middle and long term plan perspective. There are proposed projects for an amendment of the Law for the forests, for the Law for Hunting and Game Protections, and for an amendment of part of the regulations, instructions and orders connected with wood utilization of. There are also concepts to be developed for the protection of forests from fires and a plan for protecting and rehabilitating natural wetland and forests. In the beginning of 2002 began the work on the development of a National Strategy for Long Term Development of Bulgarian Forestry with the help of World Bank and of new law for creating a National Forest Company.

The new Government (since 2001) develop its own new program. The main policy tasks for forestry in this program are:

- Elaboration of a comprehensive strategy for the development of forestry;
- Harmonization of Bulgarian laws with European legislation;
- Development of activities concerning afforestation, management, protection and conservation of forests and forestlands;
- Creation and implementation of mechanisms for stimulation of forest contractor's activities;
- Effective management of forest resources and development of market structures;
- Preparation for implementing the requirements of EU and observing international agreements;
- Sustainable development of rural regions – improvement of living and labour conditions for forest workers and people living in rural regions;
- Sustainable and management close to nature of forest resources, hunting, fauna and protected nature territories.

For 2002 main priorities of NFB and MAF are:

- Adoption in Parliament the proposed changes in the Law for the Forests and in the Law for Hunting and Game Protection (the changes in the Law for Hunting and Game Protection are already accepted).
- Two times increase of the afforestation areas as compared with 2001 – from 5 000 to 10 000 ha; increase of thinning areas from 23 500 to 40 000 ha.
- Realization of the plan for own revenues (about 72 mln. BGN) from utilization of forests by working with specialized companies and forestry units; effective control for observing the provisions of the Law for the Forests.

- Effective fire protection by legislative and administrative activities and by technical and financial means assuring protection activities.
- Elaboration of a National Strategy for Long Term Development of Bulgarian Forestry with the help of World Bank.
- Preparation for restructuring the management of the state forests by forming a National Forest Company.
- Utilization of international programs and projects (PHARE, SAPARD, PCF (Prototype carbon fond), GEF) for successful protection from fires and actions to combat fires, as well as for financing regeneration of forests.
- Assistance to non state forest owners by specially developed legislative documents, professional consultation, education and financial assistance (Program SAPARD).

The actions of the middle term plan (for 2003) include:

- Starting the project of the World Bank (30 Million \$ US credit and 8 Million \$ US grants).
- Preparing and accepting the Law for Creating a National Forest Company.
- Restructuring the National Forest Board into the National Forest Company.
- Structural changes and financial stability of non state forest sector.

These activities will guarantee sustainable development and management of Bulgarian Forestry, which is very important for the future of our country. It is also an aim and task resulting from our obligations connected with accession to the European Union.

CONCLUSION

During the last 12 years forestry in Bulgaria passed through a number of structural and economic changes in transition from planned to market economy. The new legislation is a good instrument for supporting change in forestry. There were many problems and difficulties, which have not been solved completely till now.

Political instability and the fact that the formulation of forest policy isn't completed are two fundamental problems in the forest sector. Instead of concentrating on ecological aspects of forest management and striving for a balance of ecological, economic and social functions, the sector's key actors are mainly concerned with political decisions related to national level forest administration. However, for a country in transition, where there is not yet a stable and secure forestry decision-making environment, it is not possible to address the specifics of economic, social and ecological issues. Indeed, most of the political and financial efforts appear to be concentrated at the policy formation stage with relatively fewer resources invested in implementation. It is inevitable that Bulgaria addresses the primary political issues in the forest sector and decides which are the most appropriate models for the management of state and non-state forests.

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LEGAL STATUS OF STATE FORESTS IN THE CZECH REPUBLIC

BY MARTIN CHYTRÝ⁶

INTRODUCTION

There were several changes in property rights in the Czech Republic during the 20th century.

1. The first land reform after the First World War
2. So so-called Benet's Decrees about property expropriation of German citizens and nation quislings after the Second World War
3. Total property expropriation by Communist regime in the year 1948
4. Democratic reform and its development after the year 1989.

The Czech Republic has enacted a reversion of properties that were expropriated in periods of iliberality, i.e. from 25th February 1948 to 1st January 1990. This property reversion was called „The Restitution Process“. All the obligees were both citizens of the Czech and Slovak Federal Republic and municipalities, whose land properties, buildings and constructions had become the state property.

Table 1: Ownership Development in the Czech Republic.

Forests	1945*	1950	1990	1995	2001
	Percentage of Woodlands				
State	18,3	70,1	95,8	73,9	61,5
Municipalities	14,9	16,6	-	11,0	14,6
Church	6,1	-	-	-	-
Forest Corporates	1,7	3,2	-	-	0,9
State Universities	-	-	-	-	0,3
Benefaction	0,9	-	-	-	-
Private	58,1	10,1	0,1	15,1	22,7
Agriculture Corporates	-	-	4,1	-	-

⁶ Ministry of Agriculture

Currently, there are 61,5 % of the forest area in state ownership. However there has not been solved each restitution case yet. Former Church properties are estimated at about 170 thousand ha and it transfers amounts to approximately 6,5 % of the total woodland area of the Czech Republic.

FOREST MANAGEMENT IN STATE FORESTS

There are several state enterprises to maintain state forests in the Czech Republic. They manage them in accordance with their social functions. Every enterprise with rights to maintain a state forest is in state ownership at 100%.

Table 2: State enterprises and main functions of their forests.

State Enterprise	Forest Area	Main Forest Function
Forests of the Czech Republic, s.e.	1 329	Economic forests
Military Forests and Farms of the Czech Republic, s.e.	127	Army forests
Krkonose Mountains National Park	29	Forests in a national park
Sumava Mountains National Park	48	Forests in a national park
National Park Podyji	5	Forests in a national park
National Park Czech Switzerland	8	Forests in a national park
Office of the President	6	
Total	1 619	-----

In addition to the restitution process a transformation of former state forest enterprises has been made. Woodland areas including forest stands, which were not subject to the restitution process, were taken out of the restitution and left in state ownership. Tangible and intangible property with an economic activity was a part of the privatisation by government decision everytime. A real separation in maintaining state forest ownership has been done using both transformation and privatisation progress. The state forest ownership was so delimited towards a state enterprise, while forest business activities were included in the privatisation. Currently, private enterprises make most of forest activities as they are engaged in contract works for a state forest administrator.

FORESTS OF THE CZECH REPUBLIC, S.E.

All business activities of the chief state forest trustee must square with a common act about state enterprises (The Act No. 77/1997, About State Enterprises). Promoter of the enterprise "Forest of the Czech Republic, S.E." is the Ministry of Agriculture. At its head is a Chief executive officer. He is appointed and recalled by the minister of agriculture.

Activities of this enterprise as well as activities of its chief executive officer are under control of a six member advisory board. It must inform the promoter about all found facts.

There is a two level structure in the enterprise "Forests of the Czech Republic, S.E." Headquarters and 17 Regional Inspectorates form the first level. Headquarters ensure a uniform forest and economic management in maintained forests. Regional Inspectorates are separated workplaces of the headquarters and do on-site inspections, supervision and methodology activities within bodies of the second level in regions. Forest Districts and Regional Plants maintain woodlands in the state ownership and range from 10 to 20 thousand hectares (in average 16 000 ha). Forest Districts make contracts dealing with other business bodies for all forest works. All cut trees are sold on the stump. Vice versa, Regional Plants do all forest works by their own labourers.

At the same time, the state enterprise is a trustee (administrator) of small watercourses in forests, no matter what kind of ownership is there. Administrations of Streams maintain nearly 20 thousand kilometres of small watercourses and torrents. The Seed Enterprises processes and conserves forest species seeds. It is the only enterprise of this kind in the Czech Republic and each forest owner uses its services. APOL is an agency, dealing with ecological projects and negotiating possibilities of supports for these projects from supra-national funds.

FOREST OF THE CZECH REPUBLIC, S.E. - ORGANISATIONAL STRUCTURE

Headquarters		Regional Inspectorates (17)		
Forest Districts (LS)	Regional Plant (LZ)	Seed Enterprises (SZ)	Administration of Streams (OST)	Reforestation Agency (APOL)
85	5	1	6	1

The enterprise Forests of the Czech Republic, S.E., which keeps the right of maintenance in the state owned forests, controls its own finance. It covers all expenses related to its activities in forest management from its own financial funds (income). Economy of a state enterprise has always been positive, and a stockholders' equity is frequently increased from its after tax gain. A state enterprise does not pay another fund to its owner (state) with an exception of the common tax duty.

The area of maintained forests is decreasing in accordance with the restitution process. Therefore there is also a decrease in total logging output. Development of total returns

and profit shows a different trend. There is economic pressure of the environment towards an increase of forest management effectiveness.

Table 3: Developments Forests of the Czech Republic, S.E.

Year	1996	1997	1998	1999	2000	2001
Forest area (1 000 ha)	1 500	1 473	1 461	1 462	1 432	1 405
Logging (1000 m3)	7 594	7 197	7 017	6 903	6 843	6 933
Production Return (mil. Kč)	4 913	4 680	5 124	5 074	5 228	5 301
Added Value (mil. Kč)	1 223	1 244	1 539	1 411	1 745	1 899
	111	124	401	579	604	595
Employee number	5 471	4 392	4 041	3 935	3 748	3 588
Employees per 1 000 forest area	2,09	1,86	1,83	1,80	1,79	1,78

STATE FOREST PRIVATISATION

A privatisation of the state forest holdings has never been done and it is not going to be done. Nevertheless, the state has a right to sell and buy woodlands in accordance with common trade principles.

In the year 2000, Forests of the Czech Republic, S.E. (state representative) posted a programme for a consolidation of areas. Its objective is a forest land reallocation. All state woodlands maintained by the enterprise have been divided into three groups:

1. Areas, where state woodlands will be offered for negotiation (selling or exchange of areas). It includes areas with scattered woodlands owned by different owners, which are less important from a social point of view and do not mean any economic effect for the enterprise.
2. Areas with an importance to obtain (buy) private woodlands at the state ownership. It means areas with large continual woodlands in major state ownership or woodlands of special importance from a social-interest point of view.
3. Areas inappropriate for any ownership change. It means areas with non-clear owners' relations where it is hard to find a final solution, for example former Church properties and restitution disputes. After the final solution, the area will be included into one of upper categories and all applicable files will be updated.

A special law refers to scattered woodlands, which are offered for sale. It refers to lands up to a maximum of ten hectares, where the distance from a state owned forest complex is testified to be further away. As a state owned forest complex is considered a continuing forest in state ownership with an area larger than 10 hectares. As a scattered area is not considered land divided by a road, river, end of katastral territory etc.

Table 4: Criteria used for state land selling

Maximal area of sold land	Distance from a state forest complex
< 0,5 ha	100 m
0,51 – 1,0 ha	500 m
1,1 – 5,0 ha	1 000 m
5,1 – 10,0 ha	3 000 m

Woodlands in the state ownership may be sold for prices assessed according to the principle of market value, i.e. for a price common in the area.

Currently, only a Czech corporate body or a Czech physical person may buy land according to the prevailing legislation. A foreigner may not obtain fixed property by purchase. However, this restriction is only temporary. Assessment of this exception is part of Czech negotiations within EC access talks.

LEGAL DIFFERENCES BETWEEN STATE AND INDEPENDENT FORESTS

There are the same legal rules in forestry management and environment for both physical persons and corporate bodies in the Czech Republic. Binding indicators for forest management are the only exception. The current Forest Act provides for three binding indicators:

- a) maximal harvest amount (harvesting)
- b) minimal improvement species composition (regeneration)
- c) minimum area of tending activities in stands under 40 years of age (stand tending)

Table 5: Binding Indicators in Forest Management

Holding	State	Municipalities			Private		
		to 3	3 - 50	from 50	to 3	3 - 50	from 50
Area in ha		to 3	3 - 50	from 50	to 3	3 - 50	from 50
Harvesting	yes	¹⁾	¹⁾	yes	¹⁾	¹⁾	yes
Regeneration	yes	no	¹⁾	yes	no	¹⁾	yes
Stand Tending	yes	yes	yes	yes	no	no	no

¹⁾ The binding indicators become obligatory for the forest owner if he follows a Forest Management Guideline made by a relevant state forest administration body as agreed by an official protocol. In all other cases the binding indicators are not obligatory with an exception if felling is to exceed 3 m³ per hectare per calendar year. Then, the forest owner must apply at the state administration body to get permission for it.

LEGISLATIVE LIMITATIONS OF FOREST OWNERS IN THE CZECH REPUBLIC AND POSSIBILITIES FOR FINANCIAL COMPENSATION

BY MARTIN FLORA

After the social changes in 1989 the Czech Republic has adopted the standard human right protection, typical for the West European countries. In the Charter of Fundamental Rights and Basic Freedoms, Article 11, of 1991, the right to own property is considered one of the fundamental rights. Expropriation or some other mandatory limitation upon property rights is permitted in the public interest, on the basis of law, and for compensation. In line with the Central European tradition the same document reads that the ownership entails obligations. Property rights may not be exercised so as to harm human health, nature or the environment beyond the limits laid down by law.

The legal regulations binding forest owners apply to both types of limitation and in a number of cases we can hardly differentiate when the owner is entitled to claim compensation and when not. In addition to the limitations following directly from legal regulations the forest owner can also be limited by certain decisions of individual state administration authorities - in such cases the harm is compensated.

The highest number of limitations of forest owners' rights is contained in the Forest Act. The limitations can be broken down to direct limitations in favor of third persons and to the limitations of forest management. The first group of limitations comprises particularly free access of the general public into the forest and the right of everybody to collect forest fruits and dry brush lying on the ground. The forest owner will not be remunerated for limitations of this kind. The forest owner shall also make forest transport accessible for other owners; this limitation is compensated.

Limitations of forest management are mainly related to tree harvesting, forest regeneration, reproduction and tending. The Forest Act prohibits to carry out main felling (major harvest) in stands younger than 80 years, to reduce stand density below 0,7, and to create clear-cut areas greater than 1 ha (2 ha in specified localities) and wider than double the height of the harvested stand. Forest owners who do not manage in line with approved planning documents may carry out harvesting, exceeding the minimum fixed scope, only and exclusively upon approval of the state authority. The forest owner is also limited by the obligation to re-forestate the clear-cut areas within 2 years after harvest, namely with tree species suitable for the relevant site, and to provide a stand on it within seven years. In case of artificial forest generation the rules for transfer of reproduction material have to be adhered to and met. For the whole period of stand existence the owners shall adopt adequate measures for forest protection. For limitations of this kind the forest owner is not entitled (in the majority of cases) to compensation, on the contrary, breach of the regulation is subject to penalization; breach of the limitations on forest harvesting can be even considered a crime.

Owners of forests over 50 ha are obliged to manage in line with forest plans where the maximum total scope of harvesting and the minimum share of the so called melioration and reinforcing tree species are fixed. The area of tending interventions in stands up to 40 years of age is also fixed in state and municipality forests. The so called economic forest guidelines (not-mandatory) are specified for smaller forest owners. Should the forest owner decide to utilize the economic forest guideline, then the maximum total scope of harvesting and the minimum share of the so called melioration and reinforcing tree species (in case of stand regeneration) are mandatory for owners with forest areas over 3 ha. The limitations following from the forest plans and guidelines are compensated partially.

Further limitations of forest management apply to owners of areas declared protection and special purpose forests. Protection forests are those on extraordinary unfavourable sites (debris flows, steep slopes, peat soils), high-elevation forests under the boundary of the tree vegetation (protecting the forests below), forests on exposed ridges, and forests in dwarf pine altitudinal vegetation zones. The state authority decides on the incorporation of relevant areas as protection forests. Special purpose forests are areas as follows: forests in zones of hygienic protection of water sources and of sources of natural curative and table mineral waters; forests in the territory of national parks and nature reserves; forests where the public interest in the improvement and protection of the environment or other substantiated interests in fulfilment of the non-wood-producing forest functions is superior to the wood producing role e.g. forests around health resorts, urban and suburban forests, forests serving for forest research and teaching, forests necessary for preservation of bio-diversity, etc.. The forests in zones of hygienic protection of water sources, sources of natural curative and table mineral waters, and forests in the territory of national parks and nature reserves are directly included in the category of special purpose forests by the law, otherwise incorporation into this category is decided by the state authority. If in some case there are evident reasons for incorporation of a certain forest into both categories, then the category of protection forest is preferred. Owners of protection and special purpose forests are obliged to manage the forests so that the purpose for which the forests in question were incorporated into the said category may be achieved. Owners of these forests are compensated for the harm (upon their request) and also for the increased costs arising them due to different methods of management.

Because the forest is designated a irreplaceable component of the environment by the Forest Act, certain limitations follow for the owners from the regulations relating to the protection of the environment, particularly from the Act on Protection of Nature and Landscape (Act No. 114/1992 Coll.). The Act protects generally forests designated as a significant landscape component from damage. Further limitations follow for the owners of forests included into the so called territorial systems of environmental stability and particularly for owners of forests included in so called specially protected territories, e.g. national parks and national reserves. The Act on Protection of Nature and Landscape does not regulate explicitly the issue of compensation due to limitations of forest owners' rights. This is why the opinions of whether the compensation is possible or not differ

materially. Should the Act on Protection of Nature and Landscape fail to be modified, the final answer will be granted by court resolutions only.

If the forest owner is entitled to compensation for limitation of his ownership rights arising from the Forest Act, then the level of the compensation is determined in line with the realization legal regulations of the Act in question. If the limitation of ownership right results in harm to the forest owner, the harm is compensated. It is calculated pursuant to the Regulation No. 55/1999 Coll. relating to the method of calculations of the level of harm or damage caused to the forests. If the limitation of ownership right consists in the forest owner's duty to adopt some "extra" measures compared with the basic standard of duties (this relates particularly to protection and special purpose forests), then the compensation is granted at the level of increased costs which accrue to the forest owner. The Regulation No. 80/1996 Coll. on the rules for granting a subsidy for planting of melioration and reinforcing tree species and for granting compensation for increased costs has to be adhered to and met. In some cases such as adoption of measures preventing avalanches and land slides, measures for the safety of persons and protection of property, measures for removal of the consequences of disasters, forest owners are entitled to compensation of the increased costs following directly from obligations under the Forest Act.

RECHTLICHE BESCHRÄNKUNGEN DER WALDEIGENTÜMER IN DER TSCHECHISCHEN REPUBLIK UND MÖGLICHKEITEN DER FINANZIELLEN ENTSCHÄDIGUNG

BY MARTIN FLORA

Nach den gesellschaftlichen Änderungen im Jahre 1989 hat die Tschechische Republik den für die Staaten Westeuropas typischen Standard der Schutz der Menschenrechte übernommen. In der sogenannten „Liste grundlegender Menschenrechte und Freiheiten“ (1992) hat sie das Eigentumsrecht als eines der Grundrechte bezeichnet und damit ausdrücklich festgelegt, daß Enteignung oder zwangläufige Beschränkung des Eigentumsrechtes nur im öffentlichem Interesse, nach Gesetz und gegen einen Ausgleich möglich ist. Zugleich ist aber, wie für das Recht im Mitteleuropa typisch, im gleichen Dokument festgesetzt, daß das Recht auf Eigentum verpflichtet und dass Ausübung die menschliche Gesundheit, die Natur und die Umwelt nicht in gesetzeswidrigen Ausmaß schädigen darf. Beschränkungen, die aus dieser sogenannten Sozialbindung des Eigentums folgen, werden grundsätzlich nicht ausgeglichen.

Die für Waldeigentümer wichtigen Rechtsvorschriften benutzen beide Arten der gesetzlichen Beschränkung, wobei oft nur sehr schwer zu erkennen ist, ob dem Waldeigentümer eine Entschädigung bzw. Ausgleich zusteht oder nicht. Daneben kann der Waldeigentümer auch durch bestimmte individuelle Entscheidungen der Verwaltungsorgane beschränkt werden - in solchen Fällen hat er das Recht auf Entschädigung des ihm entstehenden Nachteils.

Die meisten Beschränkungen der Eigentumsrechte sind im geltenden Forstgesetz enthalten. Diese Beschränkungen können in direkte Beschränkungen zu Gunsten von Dritten und in Beschränkungen der Waldbewirtschaftung gegliedert werden. Zur ersten Gruppe gehören vor allem der freie Zugang der Öffentlichkeit in den Wald und das Recht, Nebenfrüchte (Pilze, Blaubeeren usw.) und trockenes Reisholz zu sammeln. Für solche Beschränkung im Rahmen der Sozialbindung des Eigentums steht dem Waldeigentümer kein Ausgleich zu. Der Waldeigentümer muß auch die Nutzung seiner Grundstücke für Zwecke der Bringung ermöglichen; diese Beschränkung wird ausgeglichen.

Beschränkungen der Waldbewirtschaftung finden sich bei der Waldnutzung und Wiederbewaldung. Es ist gesetzlich vor allem verboten, die Nutzung in Waldbeständen jünger als 80 Jahre durchzuführen, den Bestockungsgrad unter 0,7 zu verringern sowie die Kahlhiebe mit einer Fläche über 1 Hektar (unter besonderen Bedingungen 2 Hektar) und mit einer Breite über zwei Baumhöhen durchzuführen. Der Waldeigentümer, der sein Wald nicht nach amtlich genehmigten Planungsdokumenten bewirtschaftet, kann eine Holznutzung über 3 m³ pro Hektar und Jahr nur aufgrund amtlicher Zustimmung durchzuführen. Der Waldeigentümer ist weiter durch die Wiederbewaldungspflicht beschränkt, wobei die Regeln für Übertragung forstlichen Vermehrungsgutes

eingehalten werden müssen. Während der gesamten Umtriebszeit ist der Waldeigentümer weiter verpflichtet, den Forstschutz durchzuführen und im Zusammenwirkung mit sogenannten fachlichen Waldwirtschaftler die Bewirtschaftung zu sichern. Ein Ausgleich für diese Beschränkungen entfällt zumeist; bei Verletzung dieser Regeln kann der Waldeigentümer sogar durch Geldbuße bestraft werden (bei grober Verletzung der Beschränkungen der Waldnutzung als Straftat).

Waldeigentümer über 50 Hektar haben außerdem nach zehnjährigen forstwirtschaftlichen Pläne zu wirtschaften. In dieser Pläne sind verbindlich die maximale gesamte Höhe der Nutzung, der Mindestanteil der stabilisierenden und meliorierenden Baumarten bei Wiederbewaldung und (nur im Staatswald und Gemeindewald) das Mindestausmaß and Pflegemaßnahmen in Beständen unter 40 Jahre festgesetzt. Für Eigentümer kleinerer Waldflächen sind sogenannte forstwirtschaftlichen Konzepte maßgebend. Entscheidet sich der Waldeigentümer solche Konzepts zu übernehmen, so sind für ihn die maximale gesamte Höhe der Nutzung und bei Eigentümern über 3 Hektar auch der Mindestanteil der stabilisierenden und meliorierenden Baumarten bei der Wiederaufforstung verbindlich. Beschränkungen, die aus forstwirtschaftlichen Plänen und Konzepten folgen, sind teilweise auszugleichen.

Weitere Beschränkungen der Waldbewirtschaftung gelten für Eigentümer von Schutzwäldern und von Wäldern mit besonderer Widmung. Schutzwälder sind Wälder auf besonders ungünstigen Standorten (Geröllhalden, schroffe Hänge, Torfmoore usw.), und Wälder in Hochlagen. Die Erklärung zum Schutzwald erfolgt durch das Staatsorgan. Als Wälder mit besonderer Widmung gelten Schutzzonen der Wasserquellen, Wälder in Nationalparks und Naturreservaten sowie allgemein Wälder auf allen Standorten, wo öffentliche Interessen des Umweltschutzes oder andere öffentlichen Interesse der Holzproduktion übergeordnet sind (z.B. Kurortwälder, Wälder bei Städten, der forstlichen Forschung und Bildung dienende Wälder, Wälder, die für die biologische Vielfalt wichtig sind usw.). Wälder in Wasserschutzgebieten und Wälder in den Nationalparke und Naturreservaten sind direkt zu Wäldern mit besonderer Widmung kraft Gesetz erklärt; in anderen Fällen entscheidet über die Erklärung des Waldes als Schutzwald das Staatsorgan. Sind auf bestimmten Standorte Gründe für die Ausweisung des Waldes in beiden Kategorien gegeben, so hat die Kategorie „Schutzwald“ Vorrang. Schutzwälder und Wälder mit besonderer Widmung müssen so bewirtschaftet werden, dass der Zweck der Erklärung gewährleistet ist. Den Eigentümern solcher Wälder wird auf Antrag eine Entschädigung entstandener Nachteile und Ausgleich erhöhter Kosten geleistet.

Weil Wald im geltenden Forstgesetz als unersetzliche Komponente der Umwelt bezeichnet wird, folgen bestimmte Beschränkungen der Waldeigentümer auch aus den Rechtsvorschriften im Bereich Naturschutz und Landschaftspflege, vor allem aus dem Gesetz über Natur- und Landschaftsschutz. Dieses Gesetz schützt allgemein Wald als sogenanntes wichtiges Landschaftselement gegen Beschädigung. Weitere Beschränkungen ergeben sich für Eigentümer von Waldflächen, die in Systeme der ökologischen Stabilität der Landschaft und vor allem in Schutzgebiete (z.B. Nationalpark, Naturreservat) eingeordnet worden sind. Diese Wälder werden zugleich sehr oft zu Schutzwäldern oder zu Wäldern mit besonderer Widmung erklärt. Das Gesetz über Natur- und Landschaftsschutz löst die Frage de Ausgleichs für

Beschränkungen der Eigentümer ausdrücklich nicht. Aus diesem Grund sind die Meinungen, ob ein Ausgleich möglich ist oder nicht, sehr unterschiedlich. Kommt es nicht zu einer Änderung des Gesetzes, so muss die endgültige Antwort durch gerichtliche Entscheidungen und Urteile erfolgen.

Steht dem Waldeigentümer Entschädigung für die im Forstgesetz verankerten Beschränkungen zu, so ist deren Höhe nach den Verordnungen zum Forstgesetz zu berechnen. Soweit Beschränkungen des Eigentumsrechtes zum Nachteil des Eigentümers im Vermögensbereicherfolgen, ist dieser nach Verordnung Nr. 55/1999 GBl., über Art der Berechnung des Nachteils und von Schäden, die im Wald verursacht worden sind, zu berechnen und ersetzen. Soweit sich die Beschränkungen des Eigentumsrechtes aus der Verpflichtung des Waldeigentümers ergeben, bestimmte Maßnahmen, die über dem „Grundstandard der Verpflichtungen“ liegen, zu treffen, (dies gilt vor allem für Schutzwälder und für Wälder mit besonderer Widmung), so ist dem Eigentümer eine Abgeltung im Umfang der erhöhten Kosten zu gewähren. Maßgebend ist die Verordnung Nr. č. 80/1996 GBl., über Subventionen für die Erreichung des Mindestanteils stabilisierender und meliorierender Baumarten bei Wiederbewaldung und über die Gewährung von erhöhten Kosten.

SEARCHING FOR THE BALANCE BETWEEN DIFFERENT FOREST FUNCTIONS IN ESTONIA

BY PAAVO KAIMRE⁷

ABSTRACT

When formulating forest policy, it is essential to consider different functions which forestry and forests provide for society. The importance of forest functions is changing together with the development of society. The article gives an overview about forest functions valued in Estonia and deals with the essential instruments of forest policy in order to achieve a balance between several functions. Legislation is considered as the most important means, but in recent years financial instruments have also been introduced and implemented. Although the means of forest policy are varied, the implementing should be directed both towards general forestry objectives as well as towards political or economic goals.

TARGETS OF FOREST OWNERS

In recent years, several studies about the goals and targets of forest management have been carried out in Estonia. An overview of survey results undertaken in 1996 and 2001 is presented below. The results reveal that for forest owners the most important goals are timber production and timber sale. But the use of natural products and recreational functions are also important.

In the middle of 1990ies, when the Estonian Forestry Development Plan was worked out and Estonian Forest Policy formulated, a survey was carried out among forest owners. The goals of forest management were asked, i.e. which goals were considered as most important to them? The results in percent of all answering households were as follows:

- Timber for household 95 %
- landscape 82 %
- possession as a value 74 %
- economic security 73 %
- recreation 66 %
- nature protection 52 %
- source of income 52 %
- investment 47 %
- hunting 30 %

Source: Indufor OY, 1996

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In 2001 another inquiry was carried out by the Centre of Forest Protection and Regeneration in order to study the aims and ways of forest management considered important by private forest owners. The following results show the percentage of respondents that considered in one way or another forest usage as important. Altogether 1088 private forest owners were questioned.

Forest functions	%
• timber	82
• protection of environment	69
• protection of human being	66
• nature protection	65
• non-wood products	55
• recreation	52
• hunting	28
• defence functions	24
• science and training	21

Source: Centre of Forest Protection and Silviculture, 2002

According to the results of this study, in the opinion of Estonian forest owners the use of timber prevails amongst forest functions. However, the awareness of the multi-functionality of forests seems to be rather high among Estonian people. The following example of another empirical study confirms this fact. In 2001 a survey was made in Põlva county to study people's opinion about the importance of forest functions (Oisalu, 2001). People were asked to give credits from 0 to 5 (0 = no importance, 5 = very important). The results show that for this sample (101 respondents) the most important use were different nature products like berries, mushrooms etc.

Forest function	Average credit
• Nature products (berries etc.)	3,17
• Leisure	3,13
• Landscape	3,07
• Timber	2,99
• Employment	2,22
• Science	1,81
• Defence	1,87

Source: Oisalu 2001

In Nordic countries, where private property on forests prevails and forest owners play an important role on the timber market, the behaviour of non-industrial private forest owners has been studied profoundly. According to Lönnstedt (1997) the main goal has been preservation and development of the property.

The author's conclusion is that different goals have to be considered when formulating the national forest policy and designing legislation as a forest policy tool. It can be seen that there is a variety of goals and most of them are not in conflict with each other. There are conflicts, but these could be solved so that the desired functions do not eliminate each other.

LEGISLATION AS A TOOL FOR ACHIEVING MULTIFUNCTIONAL FORESTRY

The most important juridical documents connected with forest management and nature protection in Estonia are the:

- Forest Act;
- Law on Right to Use Natural Resources;
- Law on Protected Natural Objects.

The Estonian Forest Act regulates the management of forest as a renewable natural resource to ensure a human environment, which satisfies the population and provides resources necessary for economic activities without unduly damaging the natural environment. In the Forest Act different functions are indicated but no preferences are emphasised.

H. Hepner (2002) considers that the Forest Act is orientated towards forest management and use. But at the same time, forest protection is treated more thoroughly in the Act as compared with the legislation of neighbouring countries (Finland, Sweden). One tenth of the Act deals with the questions concerning forest protection and 4% involves nature protection.

In the Estonian Forest Act forest categories and the ways of forest uses are classified into in different categories as follows:

Forest stands may belong to one of three categories:

- Protected forest
- Protection forest
- Commercial forest

The aims of protected forests are:

- Nature conservation
- Environmental protection
- Research and education

Protection forests almost follow the same functions, only one goal is added:

- Nature conservation
- Environmental protection
- Sanitary protection
- Research and education

In commercial forests the owner of a forest may choose the way of forest use. For example an owner might prefer nature conservation instead of timber production.

COMPENSATION FOR MAINTAINING KEY HABITATS

A key habitat is an area, which needs protection in a commercial forest and where there is great probability of the occurrence of endangered, vulnerable or rare species. Such areas include the vicinity of small bodies of water and springs, small marshes, burnt woodlands and bog islands, species-rich forest glades, overgrown former gardens, forest skirts, terraces and parts of virgin forests.

The protection of a key habitat in a forest, which belongs to a person in private law or to a local government, shall be performed on the basis of a contract between the Minister of Environment and owner of the forest. In a state forest, the manager of state forest shall organise the protection of a key habitat in accordance with the precept of the Minister of Environment.

At the end of 2000 the average size of key habitat was 2,15 ha. The average annual payment for a contract was 1246 EEK (80 EUR) per ha. There were contracts with no charge and contracts with a payment of 338 EUR per ha. For the year 2002 altogether 2,7 million kroons were budgeted for making contracts for the protecting of key habitats.

Compensating the protection of key habitats in Estonia is quite a unique financial instrument which is implemented in forestry. Another financial instrument should also be mentioned – exempting protection forest from land tax. But in general, the opinion prevails that forestry has to be profitable and has to finance its activities. Hence, the use of subsidies in forestry is marginal and limited to regeneration and tending of young stands.

HARMONISING LEGISLATION

The difficulties in making congruent the legislations addressing forestry, nature protection and planning were mentioned as the most essential problem to be solved in formulating the Forestry Development Programme 1999. Insufficient linkages between different areas, especially between forestry and nature protection is perceived while working out the legislation. Although some cooperative work has been done the results are not satisfactory for both sides.

Besides the Forest Act, several other normative acts are developed, but these acts are not being harnessed due to several reasons. The cases of breaking the forest law have started to harm the image of forestry in general.

As expressed by Aun (2001), the most important reason for breaking the law is weak control over environment-related activities. The Environmental Inspectorate which is responsible for the control is overloaded with work and lacks unfortunately the necessary financial means. A lot of time is spent for the measurement of final results, not for the prevention of damaging activities. It has to be emphasised that one of the main goals of the environmental law is to avoid damages not to compensate them.

CONCLUSIONS

Different forest functions have to be considered when designing forest and environmental legislation. Fortunately this has been taken into account while working out the forest policy in Estonia. Both quantitative and qualitative studies have been carried out to clarify the aims and targets. Also different interest groups are engaged in formulating and implementing forest policy. But these interest groups have to be interested and motivated in presenting their ideas and making inputs, and at the same time they have to be prepared for cooperation to consider the ideas and inputs of other interest groups.

The Estonian experience shows that to formulate one and only one framework act is insufficient. It is essential to draw up legal application acts in parallel, and to control and monitor these acts. In case that forest owners or managers do not follow the act, this can harm the image of the whole forest sector.

The use of financial instruments is not widely spread in the management of Estonian forests. These instruments are implemented in order to protect forests as objects of nature.

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MAJOR RESTRICTIONS IMPOSED BY LAW ON FOREST MANAGEMENT AND UTILISATION IN LATVIA

BY LIGA MENGELE

INTRODUCTION

The principal aim of the legislative and regulatory acts governing forest management and utilisation is to balance out the economic interests of the forest owner/holder with ecological and social interests of the general public.

To achieve a balance between private and public interests in forest management, the law, along with other norms and regulations, imposes definite restrictions. The science of law defines restrictions as “a limitation, often imposed in a deed or lease respecting the use to which the property may be put. (..) In context of property law, the term describes a contract between grantor and grantee which restricts grantees use and occupancy of land; generally, the purpose behind restrictive covenants is to maintain or enhance value of lands adjacent to one another by controlling nature and use of surrounding lands”. (Black’s Law Dictionary sixth edition, St Paul Minn, 1990, page 1315)

According to Article 1082 of the Civil law, restrictions of the rights of using the property can be determined by:

1. Law;
2. Verdict;
3. private will:
 - a) in a testament;
 - b) in a contract.

The restrictions may be as follows:

1. owner gives up some of the use rights to a third party;
2. owner is denied some of the use rights of the property;
3. owner allows third persons partly use of the property.

According to Article 1128 of the Civil law: “The forest owner has unrestricted use rights of his/her holdings. Note: that the restrictions of use rights are determined by the legal acts on forest management and utilisation rather than Civil Law”. It implies that the forest owner is entitled to act freely in relation to his/her property, provided no restrictions are imposed by other acts of law. Article 1128 of the Civil Law is the general rule, applicable to the restrictions of use rights in forest management and utilisation.

Article 4 part 3 of the Forest Law states: "The person's economic independence may be restricted in the cases provided by the given law and other acts of law". The Forest Law provides for a variety of restrictions.

RESTRICTIONS ON THE INDIVIDUALS' RIGHT OF ACCESS AND FREE MOVEMENT IN FORESTS

Individuals have the right of free access and movement in state-owned and local government forests. The local government has the right to restrict the individuals' right of access and free movement in the forest to meet the interests of fire safety, as well as protect specially protected forest areas and forest flora and fauna (Forest Law, Article 5, Part 1, 3).

Restrictions on the individual's right of access and free movement in other ownership forests may be imposed by the forest owner/holder. In the event of restricting the individuals' right of access and free movement in the forest, the owner/holder shall mark out the restricted-access forest area by visible warning signs (Forest Law Article 5, part 2; 4). The law does not specify the warning signs or how they should look like. The essential thing is that this information is visible and everybody can read and understand it. Also, it implies the legitimacy of fencing in the holdings.

If there are no restrictions on the individuals' right of access and free movement in the forest imposed by local government or by a forest owner/holder, the persons may, at their own discretion, harvest such forest non-wood products as wild berries, fruit, nuts, mushrooms and herbs.

RESTRICTIONS ON TREE FELLING

Restrictions on tree felling are the most serious ones since they limit the forest owner/holder's right to benefit from his/her property, and may entail serious financial losses for the owner.

Forest owners/holders can fell trees only following the procedure as provided by the Forest Law and other regulatory acts. According to the law trees can be felled by way of final felling, thinning, sanitary felling, reconstruction felling, and other types of felling intended to establish and maintain forest infrastructure, shape the forest landscape or transform forest land into other land uses.

A restriction of the right to final-felling implies that logging can be done only when the stand has reached the final felling age or the final felling diameter.

Final felling is the type of felling that is most immediately related to the owner's economic interests. The result is big money with comparatively small effort to get it. A temptation to earn fast money is especially dangerous for the public interests in the countries with economies in transition. It is because the forest owner/holder has acquired the forest property only recently and does not as yet feel himself as an owner. He/she does not see the long-term aims in managing the property, nor does he/she care

about sustainable forest management in favour of future generations. In such a situation the restrictions on final felling act as an instrument against inconsiderate actions of the forest owner/holder to save the forest.

Forest Law Article 9, part 2 specifies important restrictions of the right to final felling: "Final felling shall be forbidden:

1. Provided the forest owner/holder has failed to regenerate, by the deadline set and in due quality, at least 80% of the total forest area to be regenerated in his/her holdings in the territory of the given forest district.
2. Provided a forest stand of the area 1.0 ha and larger, found within a single forest management unit next to the site under final felling, is not recognised as regenerated and has not reached the age of three years at least.
3. In nature reserves and the reserve zones of national parks, in a 300 meter wide protection belt along the coast of the Baltic Sea and the Riga Gulf, in specially protected forest areas (microreserves)."

The 80% regeneration principle worked into the Forest Law is only fair– you cannot derive income from forest, unless you have invested in forest regeneration. It is fair in relation to both the forest and the general public. But this principle takes effect only partly, depending on the legal awareness and law-abidance of each individual forest owner. The owners, whose legal awareness is high, comply with this restriction – forest regeneration first before continuing with tree felling. The owners whose legal awareness is low have learned how to circumvent the law. As the principle of mandatory restocking of clearings before new areas can be felled applies only to individual holdings in the given forest district, they formally split the property legally (selling, inheritance, etc.), establishing a new holding. The result is that vast forest areas are cleared away, which is done completely legally.

Usually the restrictions on felling trees are stronger in nature reserves, in the reserve zones of national parks, within a 300 meter protection belt along the coast of the Baltic Sea and the Riga Gulf, or in specially protected forest areas (microreserves). The restrictions may differ depending on the protection category. In many cases there is a ban on final felling, in some cases –no management intervention at all.

Restrictions on tree felling in protected forests are intended to meet the public interests in protecting nature and the environment. At the same time the forest owner/holder is not interested in having his/her rights restricted even for the benefit of the public whose member he/she is, as it contradicts his/her interests in getting an economic return from the property. Still, the state has to respect and protect the rights of every of its subjects, i. e.:

1. The right of the public to live in a healthy and comfortable environment (Constitution, Article 115);
2. The forest owner's right to get income from his property (Forest Law, Article 2, part 1).

To satisfy the above provisions it is necessary to balance out the interests of both the general public and the owner. It can be done by economic means like tax privileges, compensations, exchange of holdings, etc. The forest owner/holder is free of the obligation to pay the real estate tax, if his/her forest is in nature conservation area where any management is banned. The Nature Conservation Area Law contains general provisions - the right to get tax reduction and compensation if it is not possible to utilise the forest and if this entails losses to the owner/holder (Article 29, part 1). General provisions included in the Nature Conservation Area Law are democratic and fair to forest owners, but they can only be applied in practise in case that the state has sufficient financial resources available. Definite criteria must be worked out to evaluate the land under exchange. It is no easy task, because from the viewpoint of nature conservation, lands of low economic value can be highly valuable nature conservation sites and vice versa.

In cases where the restrictions are established by law the state must be interested in compensating the forest owner/holder for the loss of profit to motivate him/her to keep the site on the holding and actually protect it. Otherwise the forest owner/holder will be interested in destroying the biological values (protected plants, animals, birds, etc.) to get rid of them since they reduce the profit that can be derived from the holding. The owner's reasoning appears to be very straightforward: if there are no protected animals or other nature values, there are no restrictions and no obstacles in managing and utilising the property. If the state underestimates the problem of compensating the forest owner/holder for the profit unearned due to the observance of environmental constraints, it shows no proper care for the quality of nature protection.

RESTRICTIONS ON FOREST REGENERATION AND ESTABLISHMENT

Forest Law Article 21 states: "The forest owner/holder shall:

1. Regenerate the forest stand not later than during a three-year period after the felling (including the year of felling) or the impact of any other factor, resulting in the stand's basal area falling below the critical basal area. For individual forest site types, the Cabinet of Ministers may determine differing deadlines for forest regeneration.
2. Ensure the tending of the regenerated forest stand."

If the forest owner/holder wants to establish a forest on non-forest lands, his/her intention is to transform the given land into forest. Before trees can be legally planted, the owner has to go through the administrative procedure established by Regulation 385 of the Cabinet of Ministers "The Conditions for the Agricultural Land Transformation and the Order of Issuing Land Transformation Permits" (August 28, 2001).

RESTRICTIONS ON FOREST LAND TRANSFORMATION INTO OTHER LAND USES

If the landowner/holder owns a forest and would like to use the land for purposes other than forestry, he is free to do it. But before the transformation is possible, the owner has to get a permit from the State Forest Service and compensate the state for the loss of natural forest environment.

CONCLUSION

At the same time restrictions imposed by law have to be proportionate with the owners' interests in managing their properties, because important are both interests – state's interest in nature protection and owners interest in getting benefit from his/her property. There has to be a balance between several interests connected with forest management and utilisation.

RECENT DEVELOPMENTS CONCERNING LEGISLATION ON FORESTS AND ENVIRONMENT PROTECTION IN ROMANIA

BY GHEORGHE PARNUTA⁸ AND CARMEN ENESCU⁹

ABSTRACT

This paper presents recent developments in legislation which is important for forestry and environment protection in Romania. They refer to the final form of the law for restoring ownership rights over agricultural and forest lands and its enforcement; to the law on forest shelterbelts; to regulations on the increase of forest areas and lands with other forest vegetation; to the law on the legal circulation of lands with forest destination; to new aspects approved by the law regulating forest regime and management of the national forest area; and to regulations concerning road construction in order to improve access to forest areas. Significant developments also occur with regard to the approval of selling-buying contracts on the long term (3-10 years) for the wood mass to be signed by the National Forest Administration; regulations on financing of pedological and agrochemical studies; and financing of a national system of soil-terrain monitoring for agriculture, as well as for soil-forest vegetation for forestry.

Recent developments related to environment protection concern regulations on the modification and completion of the law on environment protection 137/1995; the law on the environment fund; the law on atmosphere protection; and regulations on the combat, reduction and integrated control of environment pollution, as Romania has been the first European country to ratify the Kyoto Protocol implementing the Frame Convention on Climate Change.

REALISATION, TRANSLATION OF FOREST POLITICAL IDEAS INTO ACTION IN LAST YEARS

The final form of the Law on the process of giving back forest and agricultural lands [1] has been approved in July 2002, together with the Rules and regulations on the set-up procedure, the attributions and functioning of the commissions establishing the private ownership right on lands, on the process of granting property titles, as well as on the on-field process of giving the lands to the owners [2].

The resettling of the ownership is regularly performed on the former locations, if those are free with some exceptions:

- lands returned to their former owners, based on Law 18 / 1991 (Law on land fund), not modified;
- lands with forest constructions, buildings or roads, or where such constructions are being built at the present,
- lands with long term experimental forest cultures;

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- forest seed orchards of special importance, mother-plantations for cuttings, stands for seeds from valuable species;
- scientific reserves, forests – nature monuments;
- forests with protection functions for soils and waters;
- land completely or partially cleared – cut after 1st of January 1990;
- forest lands which are managed by research bodies and are public state property.

Table 1: The application stage of the Law on the restitution of forest lands, until July 2002.

Categories of owners	Forest land surface (ha)	
	Validated by county commissions	Restored (on- field process of lands)
Natural persons	230,584	33,643
Former association groups	535,401	288,170
Religious and teaching institution	34,213	13,063
Administrative –territorial units (communes, cities, towns)	697,617	551,987
TOTAL	1,497,815	886,863

According to the law compensations are given to the owners who, due to reasons clearly stated in the law, cannot receive the land, neither on their former locations nor in any other area. The giving back of the properties is performed based on legal documents such as ownership papers, land registers, forest management plans not on official statement with witnesses. The management and harvesting of the forest lands given back will be done according to the forestry rules provided by the law. The forests mutually owned would be maintained as indivisible properties as long as the association group exists and can only be transferred through legal inheritance.

The Law on forest shelterbelts protection No.289/2002 [3] stipulates the creation of a national system of forest protection shelterbelts. 100 ha of land have been planted in this system in 2001, and 12000 ha are going to be planted in the following year. The creation of forest shelterbelts is performed according to studies and it is compulsory both for legal and natural persons. Private lands can be taken over for public utility after compensation of their owners according to a court decision.

It is planned to expand the area with forests and other forest vegetation of at least 280 000 hectares. Therefore, by Government Decision (357/2002), 7696 hectares of private or public state agricultural lands have been transferred to the public state forest area and are now under management by the National Forest Administration, for ecological reconstruction and afforestation reasons [4].

An Emergency Ordinance [5] on the financing of the pedological and agrochemical studies and the financing of the national system for monitoring of soil-land in agriculture, as well as of soil-forest vegetation in forestry, allows the integration of these activities with the national system for integrated environment protection which is coordinated by the Ministry of Waters and Environment Protection. These studies are financed from budgetary funds.

Law 66/2002 [6] approved the Government Ordinance (226/2000) on the legal circulation of lands for forestry uses. It is being stipulated that an area of maximum 100 hectares per family can be obtained through legal papers among living persons. Foreign citizens and stateless persons, as well as foreign legal persons cannot acquire forest lands in Romania.

The selling of private forest land in Romania is done with the abidance of the pre-emption right for co-owners or neighbours. The National Forest Administration has the pre-emption right for buying of private forest lands near public state forest areas, as well as for isolated private lands within such areas.

The alienation is strictly forbidden for lands under court litigation during the solving of the cases.

The Law No.75/2002 [7] has been approved, modifying and completing the Government Ordinance (96/1998) on the regulation of forestry rules and norms and the management of the national forest area.

State or private specialized bodies authorized by the central authority responsible for forestry prepare the forest management plans. For forests with a surface of less than 10 hectares, owned by natural persons and with less than 30 hectares owned by religious and teaching entities, summary extracts from forest management plans are done by specialized units. Their content is stipulated in technical management planning norms.

Public forests owned by the communes, cities, as well as the indivisible private ones or the ones owned by other association entities are managed by their owners through their own forestry structures, or at request through the existing state structures, based on contracts between the parties.

The control of forestry rules abidance for the entire national forest area is performed by the central public authority responsible for forestry through the territorial inspection units for forestry and hunting which are its subordinates. The norms on measures needed to make forest areas accessible by building forest roads during the period 2000-2010 (according to the Law 653/2001) have been approved by ministerial order [8].

An Emergency Ordinance (71/2002) approves the signing by the National Forest Administration of buying-selling contracts on long terms (3-10 years) for wood [9]. The economic agents have to perform activities of processing wood into finished products. Contracts may be signed between the National Forests Administration and economic agents which gain this right in public auctions for at least 20.000 cubic meters per year and for a minim period of 3 years and maximum period of 10 years. The wood volume which can be contracted on a long term basis amounts to a maximum of 20 million cubic meters for a maximum period of up to 10 years.

RECENT DEVELOPMENTS IN ENVIRONMENT PROTECTION LEGISLATION

Emergency Ordinance No. 91 / June 2002 [10] modifying and completing the Law on environment protection 137/1995 contains specific terms to be used in environment protection. The changes and completions harmonize the national legislation with the European regulations in environment protection:

Important regulations are:

- Obligation to assess the impact on the environment in the initial stage of projects with a significant impact on the environment.
- Obligation to perform an environment assessment before approving certain plans and programs.
- Approval of the wood volume harvested each year based on an environmental permit issued by the environmental authority after the implementation of the procedure for assessing the impact on the environment. We consider that this regulation is not needed to establish the volume of the wood which to be harvested each year because it is done based on forest management plans. These permits are needed for forest exploitation, in our opinion.
- Obligation of any kind of owners of forests, forest vegetation and meadows, to abide to the rules concerning exploitation of forest, game and fish resources, according to the regeneration potential.
- The clear-cutting of woody vegetation on very steep lands or near high altitude forest vegetation is considered a felony.
- The attributions and responsibilities of the central public authorities in all fields for forest protection and the formation of a responsible environment-oriented behaviour are stated.

The Law on the environment fund (73/2000) is modified and completed by the Emergency Ordinance 93/2001 [11]. Government Decision 1174/2001 approves the rules and regulations for organization and functioning of the structures of the Administration of the environment fund [12].

Law on atmosphere protection no. 655/2001 [13]

Emergency Ordinance no. 36/2002 [14] on the prevention, reduction and integrated control of pollution, establishes measures for issuing integrated environment authorizations for certain industrial activities. This refers to power industries, production and processing of metals, to chemical industry and mineral industry, to the cellulose and paper industries, and to waste management.

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TOWARDS HARMONISATION OF LEGISLATION ADRESSEING ENVIRONMENT PROTECTION, FORESTRY AND OTHER NATURAL RESOURCES IN THE REPUBLIC OF SERBIA

BY SNEZANA M. PROKIC

ABSTRACT

Sustainable management of the natural resources and protection of the environment represent contemporary requirements for securing a harmony between the needs of man and his natural resource base, and for protecting the right of the present and future generations to a healthy environment. In that sense, in the Republic of Serbia a first step has been made towards harmonisation of regulations in the area of natural resources and environment protection, as well as towards the integration of economic and environmental policies. A draft proposal for a Law on the System of Protection of the Environment has been prepared. New system solutions are devised in order to meet EU criteria with respect to preservation and improving the quality of environment as well as the quality of life. Adjustment to these requirements comprises fast and efficient embarking upon measures and activities for the Republic of Serbia to participate in these processes on equal terms. The next step implies setting up new regulations in the area of forestry and other sector policies and overcoming conflicts in the functioning of the system as a whole.

Keywords: Harmonisation of Legislation, Environment Protection, Forestry, Natural Resources, System Solutions.

INTRODUCTION – THE REASONS FOR SETTING UP A NEW LAW

In the area of protection of natural values and the environment a system of legal norms has been built in the Republic of Serbia which is made up of more than 100 regulations. A system thus arranged, with authorisations divided according to sectors in different state institutions, public services and/or public enterprises has not been able to ensure the environmental protection in a harmonious and consistent manner. Economic and other interests dictated the conditions and the way of exploitation of natural resources and values without taking into account the direct or indirect influences upon the environment. The approach that existed until now has had as a consequence discordant plans and decisions at all levels of the Republic due to lack of co-ordination and concerted actions of all subjects that intervene in management, protection and preservation of natural resources.

According to the Constitution, the Republic of Serbia establishes the system of environment protection by setting up a new law which addresses sustainable management of natural values as well as protection and improvement of environment in

order to secure securing healthy living conditions. Fundamental principles of the environment protection policy are:

- integration
- quality
- market neutrality
- information
- programme directions
- prevention
- polluter payments, and
- solidarity.

(Resolution on the Policy of Protection of the Environment – Federal Parliament of the Federal Republic of Yugoslavia, 1993):

As institutional support for an efficient functioning of that system a new Ministry for Protection of Natural Resources and Environment has been founded. The Ministry within the framework of its activity covers management, sustainable utilisation and protection of:

- Natural resources such as air, water, subterranean water, soil, forests, mineral raw materials, natural resources of energy et al.,
- and natural values such as space, geodiversity, biodiversity, wildlife and their habitats, aquatic values and landscapes.

From what is quoted above follows the necessity for:

- integral environment protection as part of the development process, management planning of natural resources and values and decentralisation of performing the appropriate measures;
- a harmony between economic and the environment protection policies as a basis of long-term development policy of the Republic of Serbia;
- unified norms of environment protection at the territory of Serbia;
- unified instruments for implementation of programmes and plans of environment protection;
- establishment of an environment protection system, which acts on all acting parties in economy equally, and which compels them to include the costs of the environment protection in the production and labour costs.

Thus, the final objective is the creation of conditions for adjustment of the structure and dynamics of economic and other activities to the structure and dynamics of the processes in the environment, so that the satisfaction of needs of the present generations does not endanger the right of the future generations to a healthy environment.

THE EU LEGISLATION FRAMEWORK

When considering legislation in any area in respect of harmonisation with the European Union, it is useful to bear in mind the principles of law making in the latter, i.e. the sources and procedures of deriving relevant legal acts.

Sources of Community law

1. *Primary legislation:*

- Treaties establishing the Communities
- General principles of law

2. *The EC's international agreements:*

- Association agreements
- Agreements as preparation for accession to the Community or for the establishment of a customs union
- Agreement on the European Economic Area (EEA)
 - Cooperation agreements
 - Trade agreements

3. *Secondary legislation:*

- (Implementing) regulations
- Directives/ECSC recommendations
- General and individual decisions

4. *General principles of administrative law*

5. *Conventions between the Member States*

When setting up legislation in a country that should be consistent with that of the EU, general it is thus necessary to take a similar approach and/or to adjust the existing general principles and guidelines.

HARMONISATION WITH REGARD TO ENVIRONMENTAL PROTECTION

The European Union aims at unification of the criteria for requirements of conservation and improvement of the quality of the environment. It is of particular importance to note that in Europe economic and environmental objectives are being integrated. The protection of the environment is carried out as a clear and practical framework, which does not constrict the development, but encourages and stimulates it. In this sense, the Republic of Serbia has to arrange institutionally and facilitate the unity of relationships in this area and the permanent co-operation and co-ordination of all the stakeholders and their interests, at all the levels, and at the whole expanse of its territory.

Here only some of the EU directives are quoted, which are important in the areas of protection and utilisation of the natural resources and values.

General Policy on Environment Protection:

1. Council Recommendation 75/436 Euratom, ECSC, EEC-Polluter Pay Principle
2. Council Directive 85/337/EEC-Environmental Impact Assessment
3. Council Directive 90/313/EEC-Access to Environmental Information
4. Council Regulation EEC/880/92-Eco-label Award Scheme
5. Council Regulation EEC/1973/92-Financial Instrument for Environment
6. Council Directive 96/61/EC-Integrated Pollution and Prevention Control

Policy on Nature Protection :

1. Council Directive 70/409/EEC-Conservation of Wild Birds
2. Council Directive 92/43/EEC-Conservation of Natural Habitats and of Wild Fauna and Flora

CONCEPT OF THE NEW DRAFT ENVIRONMENTAL LAW

Adjusting the legal solutions to the EU regulations in the area of the environment protection is a process, which started with the preparation of the new draft Environmental Law and will be continued by preparing further laws and regulations. The principles and main elements of the EU legislation are included in the draft proposal of the Law on the System of Environment Protection which consists of the following parts:

I General Designations

II Sustainable Management of the Natural Values (natural resources and the protected natural values)

1. Planning of the utilisation and protection of natural values
2. Strategic assessment of the influences upon the environment

The strategic assessment of the influences upon the environment has been introduced for the first time in the process of preparing spatial and urbanistic plans, and elaborating programmes in the areas of water management, forestry, agriculture, infrastructure systems, waste management, tourism, traffic and the protection of nature. The responsible unit for preparing a strategic assessment produces a report, which is presented to the public for discussion together with a draft plan for action.

3. Conditions for arranging and protection of the space
4. Utilisation of the natural resources and values
5. Limitation of utilisation of the natural resources and values

The government sets up a plan of limited utilisation, by which the conditions are secured for gradual substitution of the natural resources and materials (gravel, sand, high-quality wood, potable water etc.) by the corresponding secondary raw materials from the process of re-cycling or other natural raw materials.

III Protection of the Environment

1. Programmes and plans

- Planning and management of the protection of the environment is secured by carrying out the National Programme of Environment Protection for a ten-year period, being brought up by the Parliament.
- The National Programme is carried out by the action and sanitation plans being brought up by the Government of the Republic of Serbia for a five-year period.
- One of these plans is the Action Plan for the Protection of Forests
- Sanation plans are being brought up when pollution exceeds the capacity of the environment is endangered and when there is a risk of permanent damage to the quality of the environment.

2. Norms

3. Waste management

4. Special measures

5. Limitations and prohibitions

6. Compulsory and incentive measures

7. Assessment of the influence upon the environment

8. Integral prevention and pollution control

9. Protection from the accidents

IV Monitoring and Information System of the Environment and Natural Values

1. Monitoring

2. Information system and the way of forwarding the data

3. The report on the state of the environment

V Information and Public Participation

VI Agency for the System of the Protection of the Environment

VII Economic Instruments

1. Financing

2. Obligations and costs of the polluters

VIII Supervision

IX Penal Clauses;

X Transitory and Final Clauses

FORESTRY DEVELOPMENT AND THE LEGISLATION ON THE PROTECTION OF THE ENVIRONMENT

The global effects of the present state of forests (anthropogeneous factors) represent significant impacts of the environmental hazards with serious consequences - massive deforestation, erosion, decrease of the natural soil fertility, disturbed water regime, loss of an increasing number of flora and fauna species and alike. It indicates the necessity of setting up a national strategy for forest protection and promotion of legislation in forestry in accordance with the principles of sustainable development.

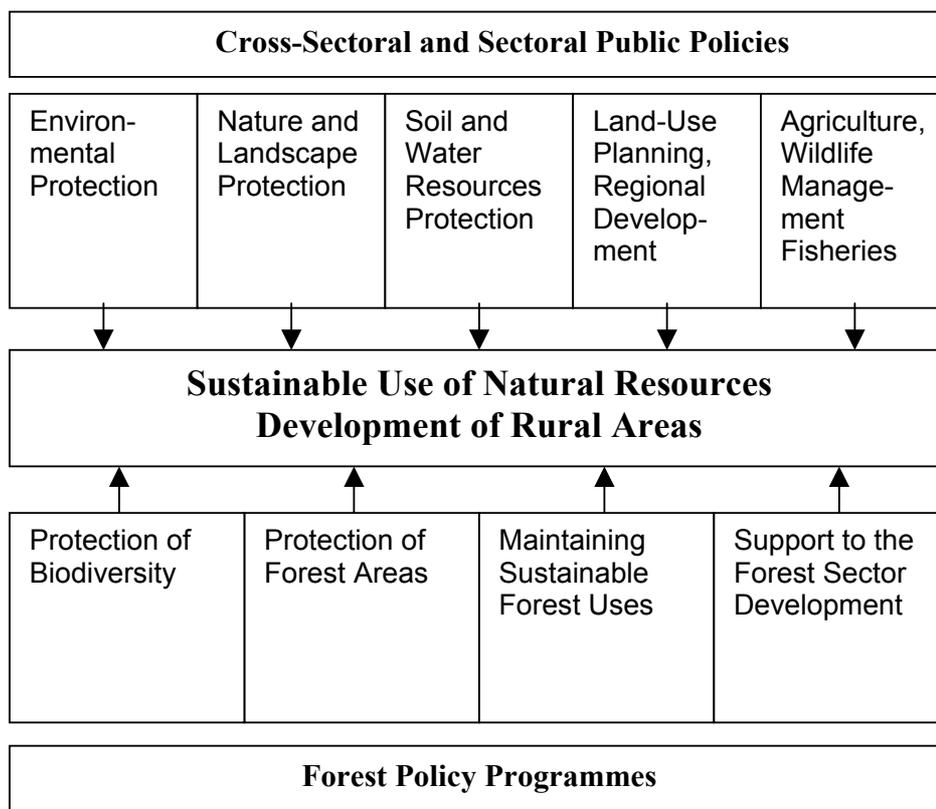
Forestry policy in Serbia faces numerous major and urgent problems. Among these are the forest drying, satisfying the demand for timber, and in particular the general problem of protecting the environment by utilising the protective functions of forests. In order to oppose the adverse effects noted, a serious effort is necessary in defining/revising the country's objectives in the field of forestry. Particular attention should be paid to such products of the forestry sector as provision of oxygen and mechanical and chemical purification of air, and the role of forests in providing water supply and erosion control, not to mention other environmental aspects such as preservation of biodiversity etc.

In order to maintain these vital roles of forests, economic measures are necessary, especially following the crisis situations (wars, economic crises, etc.). It is general consequence of such situations that the reserves (i.e. the stocking volume of forest stands) were activated in the forestry sector, mostly resulting in the detriment of the state of forests. Thus, funds should be established towards preservation and improvement of the forest cover especially of their environmentally vital functions, to which other industries and interested parties should contribute.

In addition to the points made above, one has to be aware that a high amount of interdependence exists between forest laws, economic development laws and legislation on natural resources and environment protection (Schmithuesen 2000). In the schematic representation (Figure.1) this interdependence can clearly be seen. In an analysis of the compatibility of laws and regulations the following issues should be addressed in particular:

- the implications of the expanding system of environmental and nature protection legislation on forest management;
- the degree to which the respective provisions support, or neutralise and obstruct each other;
- the scope for inserting in environmental protection laws specific provisions related to forest conservation and management;
- the need for modifications of forest management regulations in order to be compatible and to support such legislation.

Figure1: Linkages between forest policy programmes and other public policies.



Source: Schmithuesen 2000

Serious improvements of state of forest ecosystems in accordance with the sustainable development principles require certain transformations in research and management planning. It is necessary and inevitable to harmonize the existing legislation and in particular the Forests Act with the Environment Protection and National Parks Acts. It is necessary as well to adjust the whole body of legislation in its transformations to the sustainable development concepts and regulations of the European Community. This would at the same time lead to the conforming of forest management to international and European standards. The criteria and indicators as formally accepted by the Ministerial Conference on the Protection of Forests in Europe (MCPFE) are of particular importance in this context.

The Pan -European process carried by the Ministerial Conference on the Protection of Forests in Europe started in Strasbourg in 1990 and has been followed by conferences in Helsinki (1993) and Lisbon (1998). The next conference will be held in Vienna in 2003. The resolutions of the process have been signed by a large number of European countries. Resolution H2 "General guidelines for the conservation of biodiversity of European forest" was adopted at the Helsinki Conference. The Resolution L2 adopted at the Lisbon Conference further defines "Pan-European criteria, indicators and operational level guidelines for sustainable forest management". These comprise a set of six criteria

and 27 indicators, 20 of which are quantitative, for the sustainable forest management in Europe. The six criteria deal with the maintenance and appropriate enhancement of:

- Forest resources (Criterion 1)
- Forest ecosystem health and vitality (Criterion 2)
- Productive functions (Criterion 3)
- Biological diversity (Criterion 4)
- Protective functions (Criterion 5) and
- Other socio-economic functions and conditions (Criterion 6)

PRIORITY TASKS IN SERBIA

The application of the concept of more integration between development and protection in using the renewable resource base represents the fundamental objective in further advancement of environment protection. Such a strategy means to implement the "Sustainable Development" principle and includes the contemporary principles of protection, utilisation and development of the natural values at stake. An important role in performing this task is secured for trustees/managers of the natural values – waters, forests or other natural resources.

1. *Improvement of forest conservation*

Aimed at integral planning of the forest management and assurance of the forest functionality, and in keeping with the latest international forest management agreements, the measures and activities in scope of forest conservation should be coordinated and stimulated, and particularly the specific protection measures relevant for the protection of forest from dying.

2. *Improvement of biodiversity conservation*

The instruments that would integrate the biodiversity conservation policy into relevant sector policies (development of agriculture, forestry, etc.) should be established.

3. *Improvement of information on biodiversity and data utilisation*

The ministry authorized for the environmental protection system should organize the work on the development of biodiversity information subsystem in scope of the environmental information system, including the creation of conditions for the application and utilization of bioindicators for environmental monitoring.

4. *Protection of natural heritage*

A system for protection of the natural heritage should be developed, including the protection of biodiversity centres, by prescribing the conditions for construction, movement and stay in national parks and other valuable areas of nature and ecotones, according to international criteria (UNESCO, UNEP, IUCN, WWF and other), in order to conserve rare and endangered plant and animal species, significant communities of ecosystems and unique landscapes.

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SLOVAK REPUBLIC FORESTRY LEGISLATION AND EU STANDARDS

BY RASTISLAV ŠULEK AND JAROSLAV ŠÁLKA

ABSTRACT

The paper deals with the experiences of the Slovak Republic (SR) in approximation of the forest related legal framework to EU standards. The first part describes current EU policies on forests that serve as a basis for Slovak forestry policy and legislation. More specifically, the relations between actual EU and SR policies on forests are analysed and the framework for adjusting Slovak forestry legislation to the EU standards is set up. The second part analyses relevant legal provisions that need to be harmonised with the EU standards. The negotiating position of Slovak forestry is described and recommendations for the future development of Slovak forestry legislation are proposed.

Keywords: European Union, Slovak Republic, Forestry policy, Forestry legislation

THE EU AND SLOVAK REPUBLIC POLICIES ON FORESTS

It is notable that the EU does not have a common forestry policy, as forestry issues were not included in either the Rome or Maastricht Treaties. Indeed, developments in forestry practice in the EU have occurred much more as a response by individual member states to the „Rio” and „Helsinki Principles” than to EU initiatives. As a result forestry policy is affected by the implementation of other policies, such as the common agriculture policy (CAP), trade policy, competition policy and environment policy (Lukáč et al., 1997).

Due to a lack of consensus, it was never easy to develop a common forestry policy – it was stressed that forestry should stay a national responsibility. During the 1970s and early 1980s, there were several attempts to adopt some measures related to a Community policy on forests, however, they lacked a global approach. Finally, the Commission Communication COM (88) 225 – Community Strategy and Action Programme for the Forestry Sector was formally issued in 1988 and, after extensive amendment made by the European Parliament, adopted by the Council of Ministers in 1989. It contained drafts of:

- a regulation on afforestation of agricultural land with funding from structural funds;
- a regulation on genetic resources in silviculture;
- a regulation to govern marketing of forestry and propagation materials;
- a regulation to gather information on forest resources;
- regulations on the protection of forests against fire and air pollution;
- a regulation establishing the Standing Committee on Forests.

At the beginning of the 1990s, the European Parliament decided to draw up a report calling for legislation on EU forestry policy and appointed Mr. Thomas from the Committee on Agriculture and Rural Development to elaborate it. The Thomas report presents the official position of the European Parliament on the forestry sector. It suggests a list of measures to be taken at Community level to complement national forestry policies. These measures focus on:

- protection and sustainable management of forests, especially in mountainous regions;
- establishment of an integrated strategy for management of forests outside the EU;
- support for future integration of forest resources of candidate countries.

After adoption of the report in 1997, the Commission was supposed to submit a legislative proposal for a proper European forestry strategy. Moreover, the enlargement of the European Union in 1995 with Austria, Finland and Sweden greatly increased the economic and political importance of forests in the EU. Since then, the EU has been faced with the challenge of a strong integral forestry policy as well as adopting a clear position towards countries applying for accession.

In 2000, the Government of the Slovak Republic (SR) adopted the Concept of forestry policy. Looking at the context of the EU policies on forests, one can say that the Slovak concept is compatible with the goals of agriculture and rural development as well as with the environmental aspects of landscape development. It also creates room for comparison with the EU standards and for harmonisation with the forestry policy of EU member states.

In analysing EU policies on forests as well as the principles of the SR forestry policy, the following policy issues are of the greatest importance in the process of harmonisation of the SR forestry policy with the EU standards:

- Preservation of the biodiversity of forests under the Natura 2000 scheme which should be considered as a basic source of a future Community forestry strategy;
- Proper recognition of the multipurpose use and environmental values of forests together with financial compensation of forest owners securing public-beneficial forest functions;
- Afforestation of less favoured agricultural areas with financial support from structural funds;
- Compatibility of forest statistics and databases of forest resources;
- Compatibility of environmental standards, especially in the sphere of air pollution.

EU LEGISLATION IN THE AREA OF FORESTRY

With the enlargement of the EU with Central and Eastern European countries, EU measures on the forestry sector have become an issue of harmonisation and approximation of forestry legislation in associated countries. Because there is no common European forestry policy, the legal provisions on forestry issues can be found in different areas of the EU legislation, especially those dealing with (examples of basic legal provision of the EU in the individual areas are shown in Table 1):

1. forestry measures in agriculture,
2. structural policy,
3. forestry statistics,
4. protection of the Community forests against fire,
5. protection of the Community forests against air pollution,

6. processing and marketing of forestry products,
7. protective measures against the introduction of harmful organisms of plants,
8. marketing of forest reproductive material,
9. conservation of fauna and flora.

Table 1: EU legislation on forestry sector.

Area	Regulations
1.	Council Regulation (EEC) No 2080/92 of 30 June 1992 instituting a Community aid scheme for forestry measures in agriculture
2.	Council Regulation (EEC) No 4256/88 of 19 December 1988, laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the EAGGF Guidance Section Council Regulation (EC) No 1257/1999 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations Council Regulation (EC) No 1268/1999 of 21 June 1999 on Community support for pre-accession measures for agriculture and rural development in the applicant countries of central and eastern Europe in the pre- accession period
3.	Council Regulation (EEC) No 1615/89 of 29 May 1989 establishing a European Forestry Information and Communication System (EFICS)
4.	Council Regulation (EEC) No 2158/92 of 23 July 1992 on protection of the Community's forests against fire
5.	Council Regulation (EEC) No 3528/86 of 17 November 1986 on the protection of the Community's forests against atmospheric pollution
6.	Council Regulation (EEC) No 867/90 of 29 March 1990 on improving the processing and marketing conditions for forestry products
7.	Council Directive 77/93/EEC of 21 December 1976 on protective measures against the introduction into the Member States of harmful organisms of plants or plant products
8.	Council Directive 1999/105/EC of 22 December 1999 on the marketing of forest reproductive material
9.	Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora

EU COMMON POSITION AND NEGOTIATING POSITION OF THE SR IN THE AREA OF FORESTRY

All relevant legal provisions dealing with forestry issues (see examples Table 1) are a part of the *acquis communautaire* under the “Agriculture” chapter. As it is stated in the negotiating position of the SR, the Slovak Republic accepts the *acquis* under the “Agriculture” chapter, valid as of 31 December 1999, and is prepared to implement it by 1 January 2004, being set as the reference date of its accession to the EU.

The official negotiating position of the Slovak Republic – Chapter 7 Agriculture in the area of forestry deals with the following issues:

1. General provisions – horizontal measures:
 - statistics – European Forestry Information and Communication System (EFICS).
2. Structural policy and rural development:
 - structural policy and structural funds,
 - protection of forests against fire,
 - protection of forests against air pollution,
 - EFICS.
3. Phytosanitary area:
 - forest reproductive material.

In all of these areas, the SR does not have any negotiation requests.

The EU common position under the “Agriculture” chapter in the case of the SR mentions in particular only two areas dealing with forestry issues:

1. protection of the Community forests against fire,
2. transposition and implementation with regard to quality of seeds and propagating material.

WHAT HAS TO BE DONE?

The approximation of new forestry legislation in the SR to the EU standards is considered to be an important task of the forestry authorities. Since the new legal regulations will be a main issue of sustainable forestry management in the SR, it is necessary to pay an extraordinary attention to their development. According to the Report on Forestry in the Slovak Republic 2000 (Green Report), the “Survey on the EU forest legislation, relevant SR legislation and the tasks connected to its implementation in the SR” was developed and the analysis has implied that the SR forestry sector will not have problems to adapt to the EU legal system as the new Forest Act, which is being prepared, will be in harmony with it. However, there are still important problems that need to be solved very quickly. Some of them are as follows:

1. Forestry measures in agriculture:
 - A long-term programme of afforestation of less favoured agricultural areas has to be developed.
 - In order to use the Community financial sources, the adequate portion of the SR financial means has to be secured.
2. Structural policy:
 - The importance of forestry in rural development should be stressed in the Forest Act which should also contain basic principles of financial support of forestry from the EU structural funds, including support of processing and marketing of forestry products.
 - The legislative and institutional framework of the SAPARD programme should be taken into account.
3. Forestry statistics:
 - There are still problems in gathering proper information, especially on economic indicators, from non-state forest owners.
 - Forestry legislation should contain provisions that would stipulate the obligation of all forest owners and users to provide certain information on forest resources.
4. Protection of forests against fire:
 - If the SR wants to use EU financial sources in this area, it has to submit a multi-purpose regional programme for the protection of forests against fire.
5. Protection of forests against air pollution:
 - Forestry legislation should contain provisions that stipulate the obligation of all forest owners and users to enable monitoring of health condition of the Slovak forests. Such monitoring should be financed using both EU as well as the SR financial sources.
6. Forest reproductive material:
 - A national system of registration of suppliers for forest reproductive material should be established.
 - Forestry legislation should contain provisions dealing with export of forest reproductive material. The current legislation deals only with imports of forest reproductive material.

CONCLUSION

The Slovak Republic, by ratification of the European Accession Treaty, has committed itself to meet the conditions of integration to the EU. The basic requirement is a harmonisation of the SR legal system with the EU either by gradual harmonisation or immediate adoption of particular legal documents. The process is being implemented within the National Accession Programme. In accordance with this programme, the Slovak negotiating position for integration to the EU in agriculture was adopted as a background for screening. Forestry issues are included in this document, too.

Based on the analysis of EU and SR policies on forests as well as on the analysis of relevant EU and SR legislation in the area of forestry, one can say that among the most important points that need to be considered in the process of approximation of the SR forestry legislation to EU standards are issues dealing with structural policy and rural development, forestry statistics, protection of forests against fires and air pollution, and with forest reproductive material.

The SR has a long tradition in forest management and also a lot of knowledge about the preservation of biodiversity and nature conservation. It could enrich future EU policy orientations and legislation. It is hoped that the SR together with the other potential new member states of the EU will make an input on forestry policy issues in the EU by using their knowledge of forestry practice.

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RESULTS AND TENDENCIES OF FOREST SECTOR DEVELOPMENT IN UKRAINE 1991-2001

BY VITALIY STOROZHUK AND MIKHAIL POPKOV

ABSTRACT

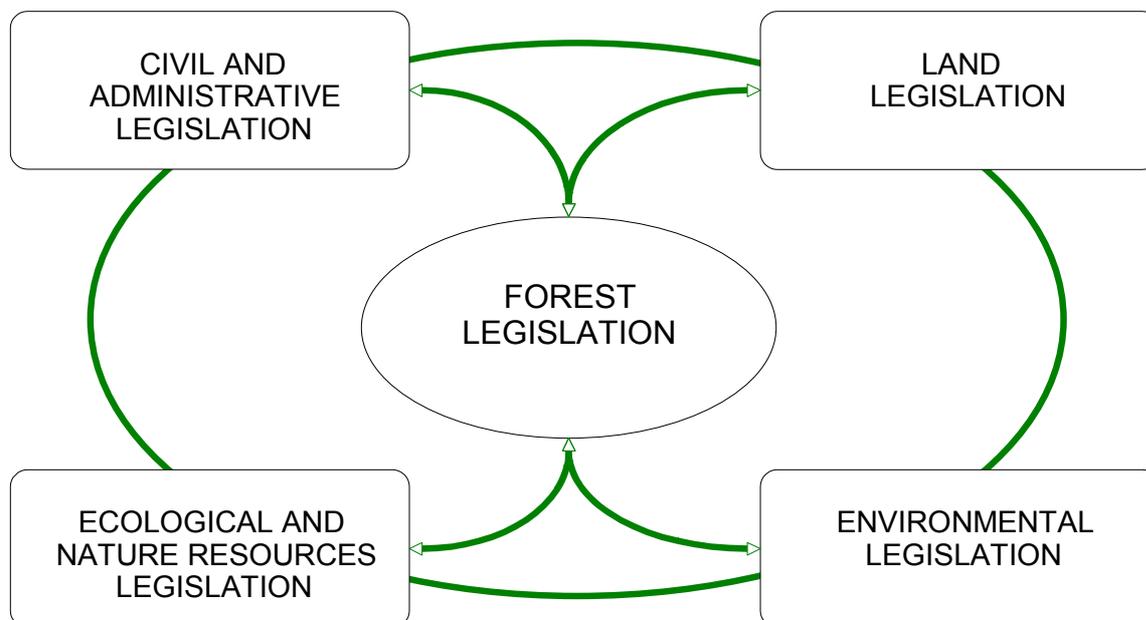
In order to understand the tasks to be addressed in the forest sector of Ukraine and to find appropriate solutions it is necessary to have a clear view of the situation and development tendencies in Ukrainian forestry.

Formally state and development dynamics of forestry may be considered as reflecting the political will of forest authorities to improve organizations and institutions by modifying the current legal framework. The review of the period 1991-2001 of forest sector developments in the independent Ukraine covers mainly changes in forest law and institutional issues.

FOREST LEGISLATION

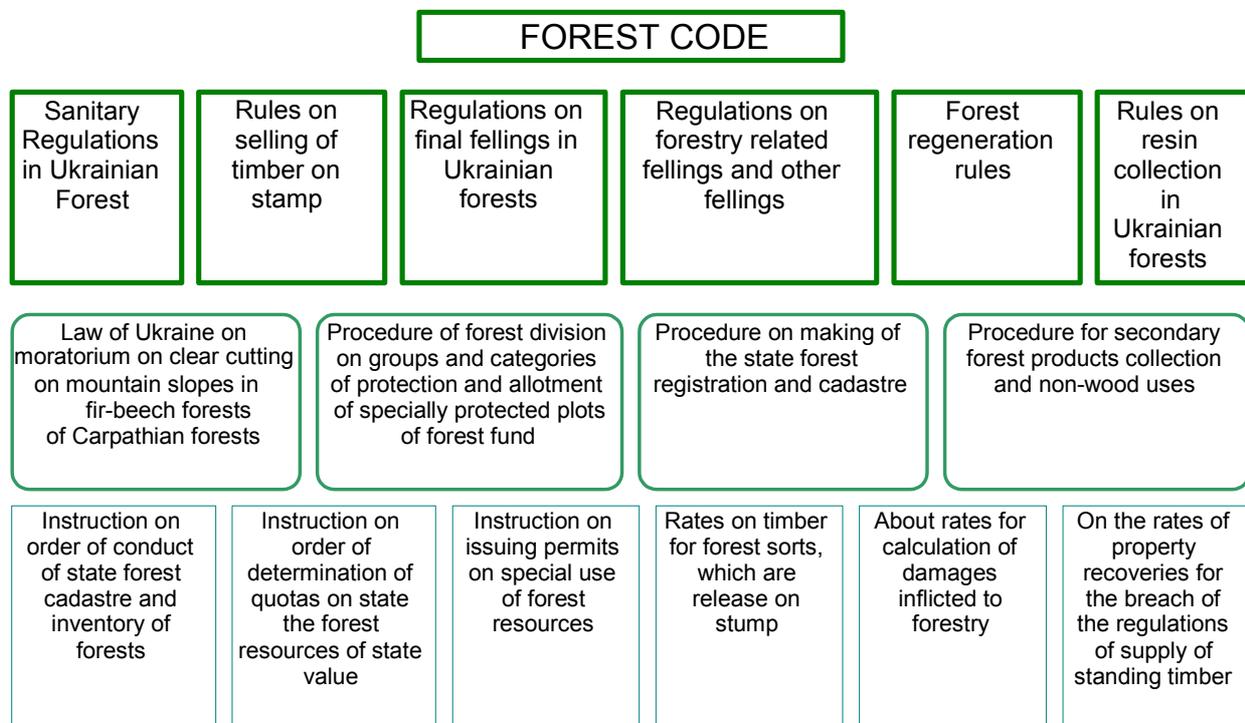
Forest legislation includes 5 blocks of laws (Figure 1). The forest law depends much on numerous other legal acts and in particular on legislation addressing civil administration, land uses, natural resources and nature conservation.

Fig.1: Forest Legislation



All of these legislations have a complicated structure and already in the legislative block addressing land, forests and natural resources one may distinguish several major laws (Figure 2). The Land and Forest Codes and the Law on Environmental Protection dominate over the other legislation. On the other hand it is difficult to distinguish major laws in civil-administrative legislation because many of them are of equal significance, such as for example the laws on property, enterprise, taxation; and the civil, criminal and administrative codes. An analysis of the current legislation supports the following conclusions: first, within every legislative block the majority of basic laws are approved before secondary laws; second, the earlier the law was approved, the more soviet-like nature it has.

Fig.2: Forest Legislation



Modern forest legislation of Ukraine (so called “nominal” legislation regulating forest management issues) was formed in the period from 1994 to 1999 and since that time, only details have been revised (Table 1). The acts were formulated mostly by the State Forestry Committee’s specialists and in many cases repeat the forest legislation of the Soviet times.

Meanwhile, a number of lately approved legislative acts (so called “functional” legislation including laws and acts affecting the maintenance of forests), particularly in the sphere of nature conservation, exist and determine largely the objectives and tasks of the forest sector. They will outline for a long term possible ways and means for possible solutions.

These legal acts are:

- The Law on Moratorium on Clear-Cutting in Mountain Slopes of Fir-Beech Forests of the Carpathian Region (2000);
- The Law on the State Programme of Ukraine's Environmental Network Development for the Years 2000-2015 (2000);
- The Decree of the Cabinet of Ministers on Urgent Measures for the Creation of Protection Forest Stands in Abandoned Agricultural Lands and River Basins (2001).

Table 1: Adoption of New Forest Legislation 1994-1999

Name of the act	Date of adoption	Legal document
On Effectiveness of the Forest Code of Ukraine	Jan 1994	RP ¹⁾
On Approval of Sanitary Rules in the Forests of Ukraine	Jul 1995	DCM ²⁾
On Approval of the Order of Division of Forests into Groups and Protection Categories, Allocation of Especially Protected Land Plots of the Land Stock	Jul 1995	DCM
On Approval of the Rules for Final Felling in Ukraine	Jul 1995	DCM
On Approval of the State Forest Inventory and State Forest Cadastre	Sep 1995	DCM
On Approval of the Rules for Forest Regeneration and Forestation	Jan 1996	DCM
On Approval of the Rules for Resin Collection in Forests on Ukraine	Feb 1996	DCM
On Approval of the Rules for Harvesting of Secondary Wood Materials and for Non-Wood Uses in the Forests of Ukraine	Apr 1996	DCM
On Approval of the Rules for Felling Related to Forest Management	May 1996	DCM
On Approval of the State System of Forest Seed Production	Jul 1996	OMF ³⁾
On Approval of the Instructions on Planning, Accounting and calculation of the Cost of Products (Works, Services) at the Forest Enterprises of Ukraine	Jul 1996	OMF
On Approval of the Regulations on Privatisation of Wood Processing Enterprises	Sep 1996	OMF
On Calculation of the Sizes of Penalties Imposed to Compensate the Damage Inflicted to the Forestry	Des 1996	DCM
On Approval of Tariffs for Sales of Standing Wood and for Resin	Jan 1997	DCM

On Approval of the Instruction on Design, Technical Acceptance, Monitoring and Quality Evaluation of the Silvicultural Objects	Oct 1997	OMF
On Approval of the Order of Collection of Duties for Special Forest Use and Use of the Land Plots of the Forest Stock	Jul 1998	DCM
On Approval of Rules for Sale of Standing Wood in the Forests of Ukraine	Jul 1999	DCM

- 1) RP - Resolution of the Parliament
- 2) DCM - Decree of the Cabinet of Ministers
- 3) OMF - Order of the Ministry of Forestry

The draft law "On Introducing Amendments and Additions to Some Laws on Nature Conservation and Rational Use of Forest Resources" submitted to Parliament in September 2001 provides a ban on export of saw logs and sawn wood of coniferous species, on oak, beech and other valuable hardwood- species as well as on firewood. In case that it would have been approved it would have affected significantly the whole forest sector of Ukraine; but due to political changes in the leadership of the Parliament the law was not forwarded for consideration.

Even without going into a detailed analysis of the above laws it is evident that their appearance has proved that there have emerged well-structured influential groups of people with their own interests in the forest sector. This conclusion is also supported by the fact that forest problems become more often the centre of attention among political parties and that their leaders use more often the mass media to express their views on forestry problems. The election of the former Chairman of the State Forestry Committee and the Head of one of the Oblast Forest Associations in the new Parliament (in April 2002) would be marked as a beginning of formation of the political lobby of the forest sector.

A start of a new round of legislation reform exposed in a revision of basic laws of Ukraine is the most important event of the recent time. At the end of 2001 the Parliament approved new Land and Civil Codes, which directly affect the forest sector. The Tax Code and some other important laws are pending for approval in the year 2002.

In respect of improving land regulation, the permission for private ownership of forests (mainly agricultural forest land) and the land turnover are among the strengths of the Land Code. Its compliance is impossible if one considers the former legal norms. The agreements on land transfer are characterized as binding norms of the Civil Code.

In keeping up with transition provisions of the Land Code the State Forestry Committee prepared additions and amendments to the current Forest Code (1994) in April 2002. The main idea was to harmonize the Forest Code with the new Land Code effective since the beginning of 2002. But it is evident that a mechanical transfer of Land Code

provisions to the Forest Code cannot solve the accrued problems. Therefore the draft law was returned for further elaboration.

The formulation of new tasks of forest policy requires a new edition of the Forest Code. Key issues of the new Forest Code will be:

- Solution of the problem concerning private and communal property of forests;
- Change of the institutional structure of the forest complex;
- Harmonization of the forest law provisions with the forest related standards of the European Union.

However it should be recognized that the approval of the Forest Code is not on the immediate legislative agenda of the Parliament, it is expected in the year 2003.

Approval of the State Programme "Forests of Ukraine" for the period of 2002-2015 by the Cabinet of Ministers may be considered the main event in the forest legislation of 2002. The Programme determines operational indices of the main forest users – the State Forestry Committee, Ministry of Agrarian Policy, Ministry of Ecology and Natural Resources, Ministry of Defense and others. The Programme provides for an increase of the forest area by 0.5 million hectares. The forest cover would rise from 15.6% up to 16.1% and the total standing volume by 16.7%. Now the standing volume in Ukraine is 1 736 million m³ of wood and the forest area amounts to 10.7 million hectares.

Demerits on the Programme include the following:

- Non-state forms of forest property are ignored in the program.
- Current institutional structures and a scheme of the forest sector financing are extended in time, thus almost excluding from consideration any prerequisites for changes in the sector.

On the other side a political decision of Government to allocate money for certain types of silvicultural operations is undoubtedly a positive aspect of the forest program.

INSTITUTIONAL DEVELOPMENT

Institutional development of the forest sector in the last decade has been centered on state forest ownership without sharp changes typical for post-socialist countries, which have chosen restitution and privatisation of forests.

The main event of those years was the liquidation of the state authorities responsible for forest management in the Carpathian region and the transfer of the major forest area under control of the Ministry of Forestry (1992). Forestry in the Carpathian regions always used to have its specificity, in particular in the Soviet times, and was integrated to the large wood processing industry supervised by the Ministry of Forest Industry and Wood-Processing. After privatization of the wood processing enterprises it has become necessary to legally separate them from state forestry. In the course of this separation the forest management in the Carpathian region has developed a specific forest administrative system. So, in a unified legislative field of Ukraine two different systems for forest management had been historically formed.

The change of the status of agricultural forests within the collective agricultural enterprises has become the second significant event. In the process of land sharing and restructuring in the agricultural sector the agricultural forests have in fact lost their owners. The state has failed to develop a single approach to these forests; therefore the local administrations with their right to dispose of local land resolve this problem differently. In some oblasts (administrative units) these forests are being transferred to the State Forestry Committee, in others communal forest management is decided, and in some oblasts privatization of the former agricultural forests is considered. The problem is not yet resolved thus creating reasons for numerous conflicts in future.

No major changes in the structure and system of governance of forests allowed for permanent use for state forest enterprises have occurred. Lowering the status of the main state forest authority from the Ministry to the Committee (1997) has not changed its real authorities. Internal structural changes are caused by the acceptance of the Carpathian forests under its control. Besides, the departments responsible for material and technical support and capital investments have been dissolved while an independent department specialized in the sales of wood, and a big forest industry enterprise (Safety Matches Factory) have been created. Some changes were related to acceptance, merge or transfer of the objects of the Natural Reserves Fund.

CONCLUSIONS

The seeming stability in the forest sector is rather relative. The current state forest system is being criticized in mass media and research publications. The most commonly expressed dissatisfactions with the state forest management are usual for countries with economies in transition. They are as follows:

- State forest enterprises combine functions of forest supervision (that is state control); reforestation, forest growing and forest protection (which is cost bearing); forest use and wood processing (that is business).
- Many functions of central executive and local forest authorities are duplicated bringing about conflicts and additional budget costs. This contradicts the main directions of the administrative reform aiming at reduction of structures with similar functions.
- State-owned forests are managed inefficiently from the owner's standpoint. State forestry even in some rich forested areas remains depending on state subsidies.
- These and other problems derive from the internal discrepancies of the state function distribution system. Regulating forest relations, clearly defining interests of state as an owner as well as financing forestry and environmental measures will be in focus of the new Forest Code of Ukraine.

Summing up the situation in the forest sector at large, we come to the following simple conclusion: The potentialities for development of the forest sector as a whole and of state forestry in particular have practically been exhausted within the frames of effective legislation and current economical mechanisms. This way or the other more fundamental legislative and institutional reforms are inevitable in the immediate years.

PREPARATION OF THE NEW FOREST CODE OF UKRAINE

BY ARTEM TOROSOV¹⁰ AND VOLODYMYR ROMANOVSKY¹¹

In the 2002 year considerable changes took place in the development of legislation and the normative base of forestry in our country. We want to put emphasis on two documents of primary importance which are the new "Land Code of Ukraine" and the state programme of forestry development from 2002 to 2015 entitled "Forests of Ukraine".

The programme "Forests of Ukraine" contains the priorities the sectors' development and steps of implementation including and financing for country's regions. The priorities are the following ones:

- Increase of the forest covered territory in all natural zones;
- Conservation of the biological diversity of forest ecosystems;
- Improvement of the resistance of forest ecosystems to negative environmental impacts;
- Sustainable forest management which satisfies the demand for wood;
- Development of forest melioration and steppe forestry.

The New "Land Code of Ukraine" becomes operational on January 1st, 2002. In this context, the "Forest Code of Ukraine" should be co-ordinated with the Land Code. In fact, we need to develop the new Forest Code. A draft of the new Forest Code was prepared by the State Committee of Forestry and submitted to the government of Ukraine. It will be improved by the end of 2002 and submitted for approval to the Parliament of Ukraine. It is necessary to mention important weak regulations of the present Forest Code as well as the articles that have been improved.

The property rights for the territories of forest lands are specified in detail. According to the present Forest Code all forests in Ukraine are state property. Thereafter the basic article of the "Land Code of Ukraine" states that the forest lands can be in state, communal and private ownership.

The legal subject of private forest property is a physical person and a legal entity. A local government and an executive authority may allow physical persons and legal entities to take into possession for rent or free of charge plots of forest lands, which do not exceed 5 hectares and which are situated on farms. Physical persons and legal entities may purchase degraded and low-productive lands with the purpose of afforestation. Physical persons and legal entities may own forests planted on their private lands. Rights and responsibilities of private owners are enumerated in the draft Forest Code. For example, they can sell their forests, lease and demise them. The owners must obtain a state forest management license.

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¹¹ State Committee of Forestry of Ukraine, Kiev, Ukraine

The legal subjects of communal property of forest lands are local communities, which acquire their right through the authorities. All lands, except for private and state lands, situated within localities are communal property.

All lands of Ukrainian Forest Lands are the state property, except for private and communal lands. The state ownership is exercised by the corresponding state organs of government – Cabinet of Ministers of Ukraine, Council of Ministers of Crimea's autonomy, Regional State Administration. They control conservation, protection, forest management and reforestation in the country. Public inspectors of the environmental protection realise the social control.

In case forest plots are leased by private and non-municipal enterprises and organisations, they have to have specialised forest-industrial sub-divisions and shall pay a rent. It could be a short-term lease - under 5 years - and a long-term lease - under 50 years.

The State Forestry Committee of Ukraine manages the greatest part of the forests (66%). In total about 300 state forest enterprises function on the territory. A state authorized body is the State Forestry Committee of Ukraine and its regional organisations. They are responsible for state administration and forest management. The new article about forest servitudes is subjoined. A new version of the article about bidding for forest resources utilisation states that bidding can be done by auctions or tender.

The regulation of the power of state government organs and organs of local government in the field of forest relationship is one of the greatest problems. The article about the communal forests solves this problem.

The authorities of management bodies on all levels are more neatly separated in the draft and the mechanism of their coordination are worked out. A new version of the article about the functional distribution of forests states that the forests according to their ecological and economic significance are divided into water-protecting and sanitary forests, recreational forest on the territory of national parks, special-purpose forests and main cutting forests.

One of the main tasks of Ukrainian forest policy is to conserve biological diversity of forest ecosystems on the species, population and cenosis levels. That is why an article about conservation of biological diversity was added in the New Forest Code. The article provides for:

- The selection and creation of gene conservation units of forests species (gene reserves, plus stands, plus trees, seed orchards, provenance tests and other);
- Ecological orientated methods of forest regeneration, forest establishment and forest exploitation;
- Promotion of conservation of rare plant and animal species, plant cenosis in accordance to the environmental legislation.

Forestry financing of is one of the most complex problems now. A new chapter about financing of forestry appears in the draft of the Code. State and regional budgets and other sources defray these charges. Utilization of forest recourses on state and communal properties is to be paid for. Utilization of forest recourses by their owners is free of charge. The payment for the exploitation of forest recourses is taken according to the tariffs or as an income, obtained from the realisation of forest recourses by competitive bidding.

The State Forest Regulation Service is responsible for inventory and planning of management. The monitoring of forests is included in the state system of environmental monitoring. This is reflected in the draft of Forest Code. In the world a great attention is paid to the certification of forest recourses. Now the Ukrainian legislation determines organisation and procedure of certification.

Common principles and norms of international law and international agreements signed by Ukraine in the field of conservation, protection, exploitation of forest and reforestation are components of the country's legal framework. If the principles of the international agreement are different from those of Ukrainian legislation, the principles of international agreements are applied.

It is necessary to emphasise that forest legislation of Ukraine, as in other countries, is formed by a framework of legal regulations. The ways of further development of forest relations need to be discussed. In order to defend the interests of forestry and to make the necessary changes in forest legislation we try to use all possibilities including the possibility to participate in this international symposium. New legislative regulations will have to be more adequate to the current conditions of social development as well as to the conditions of the economy and of forests management in Ukraine.

ESTONIAN FOREST ACT 1998 AS CONSOLIDATED IN JULY 2002

Passed 9 December 1998

(RT I 1998, 113/114, 1872),
entered into force 9 January 1999,
amended by the following Acts:

9.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387;
9.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375;
8.05.2001 entered into force 11.06.2001 - RT I 2001, 50, 282
2.12.2000 entered into force 01.01.2001 - RT I 2000, 102, 670
7.06.2000 entered into force 01.09.2000 - RT I 2000, 51, 319
8.12.1999 entered into force 01.01.2000 - RT I 1999, 95, 843
4.10.99 entered into force 14.11.99 - RT I 1999, 82, 750
6.06.99 entered into force 23.06.99 - RT I 1999, 54, 583.

CHAPTER 1 GENERAL PROVISIONS

§ 1. Scope of application of Act

(1) This Act regulates the management of forest as a renewable natural resource to ensure human environment which satisfies the population and the resources necessary for economic activity without unduly damaging the natural environment.

(2) This Act provides the legal bases for forest survey, forest management planning and forest management, regulates the directing of forestry and organisation of forest management.

(3) The provisions of the Administrative Procedure Act (RT I 2001, 58, 354; 2002, 53, 336; 61, 375) apply to administrative proceedings prescribed in this Act, taking account of the specifications provided for in this Act.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

§ 2. Forest

Forest means a site of woody vegetation with an area of at least 0.5 ha, which meets at least one of the following requirements:

- 1) trees with the height of at least 1.3 m and with the canopy density of at least 30 per cent grow there;
- 2) it is managed for obtaining timber or other forest produce, or woody vegetation is maintained there for the use in the ways specified in this Act.

§ 3. Application of Act

(1) This Act applies to land and the flora and fauna thereof if the land is entered in the cadastral register as forest land or meets the requirements of at least one of the clauses of § 2 of this Act.

(2) By a decision of the council of a local government, §§ 10-24, 27-34 and 55-56 of this Act may also be applied to plots of land which meet the requirements specified in clause 2 1) but are smaller than 0.5 ha.

(3) This Act does not apply to:

- 1) parks, green areas, berry gardens, orchards, forest nurseries, arboreta, railway, highway and field shelterbelts and protective belts with a width of up to 20 m, plantations of trees and shrubs and protective belts of water conduits;
- 2) plots of land where the design criteria or a detailed plan provides other type of land use than forest management;
- 3) privately owned land which is not entered in the cadastral register as forest land and where the average age of woody vegetation does not exceed twenty years.

§ 4. State forest

(1) In order to ensure the stable state of the environment and multiple uses of forest, the area of state owned forest shall be at least 20 per cent of the area of the mainland of the Republic of Estonia.

(2) The area of state forest in every county shall be determined by the Government of the Republic on the basis of a forestry development plan.

**CHAPTER 2
FOREST SURVEY AND MANAGEMENT PLANNING****§ 5. Forest survey and management planning**

(1) Forest survey and management planning is carried out to receive data on the condition of forest and the volume of growing stock, prepare forest management plans or advise forest owners, assess the suitability of the ways and methods of forest management and the operation of legislation related to forestry.

(2) Forest survey and management planning shall consist of the following procedures:

- 1) forest inventory;
- 2) preparation of forest management plans or forest management recommendations;
- 3) assessment of forest management.

(3) All forests to which this Act applies according to subsection 3 (1) are subject to forest survey and management planning.

(4) Forest survey and management planning shall be carried out in accordance with the forest survey and management planning guidelines.

(5) The forest survey and management planning guidelines shall be established by a regulation of the Minister of the Environment. The forest survey and management planning guidelines provide:

- 1) the object of forest survey and management planning;
- 2) the requirements for forest mapping;
- 3) the methods of forest inventory;
- 4) the planning of ways and methods of forest management;
- 5) the methods of calculating the prescribed cut;
- 6) the procedure for the assessment of forest management.

(6) Forest survey and management planning shall be directed by the Ministry of the Environment.

(08.12.1999 entered into force 01.01.2000 - RT I 1999, 95, 843)

(7) The costs of forest survey and management planning shall be covered from the state budget, except in the case set out in clause 45 (1) 3) of this Act.

§ 6. Forest inventory

(1) Forest inventory shall be made for at least one of the following purposes:

- 1) the accounting of growing stock;
- 2) the assessment of the condition of forest;
- 3) the long-term planning of forestry;
- 4) the assessment of the results of forest management and suitability of the ways of forest use;
- 5) the collection of data for the preparation of forest management plans or forest management recommendations.

(2) Forest inventory shall be made by:

- 1) the generalisation of the results of specific surveys conducted on small areas on the state or county level (statistical selection method);
- 2) the total area forest survey on the cadastral or management unit level.

(3) The purpose of inventory shall be approved by the Minister of the Environment.

§ 7. Forest management plans and forest management recommendations

(1) For the management of state forest, a forest management plan shall be prepared for each forest district or other management unit.

(2) For the consultation of the owners of forests which do not belong to the state, forest management recommendations shall be prepared for each registered immovable.

(3) A forest management plan shall contain:

- 1) the plan of forest land together with the description of the forest;
- 2) the purpose of forest use and the division of the forest into forest categories arising on the basis thereof;
- 3) a list of the parts of protection and commercial forests which require reforestation or improvement, and the maximum amount of timber to be cut in the course of reforestation or improvement;
- 4) a list of the parts of forests suitable for management as selection forests and the maximum amount of timber cut in such forests by selection cutting;
- 5) recommendations for reforestation, regulation of water and nutrition regime of forest soil, forest protection and construction of forest roads;
- 6) the parameters of the object of forest survey and management planning which must be achieved by forest management.

(4) Forest management recommendations shall contain:

- 1) the plan of forest land together with the description of the forest;
- 2) the restrictions on forest management arising from legislation or planning, purposes of use and forest categories corresponding thereto, ways of forest use and the methods of forest management which promote them;
- 3) the purposes and ways of use of commercial forests arising from the will of the owner and the methods of forest management which promote them;
- 4) a list of such parts of forests where cutting is expedient for the purpose of reforestation or forest improvement, the methods and volumes of afforestation of land and reforestation, the measures for the maintenance of biological diversity;
- 5) the parameters of the forest which must be achieved by forest management.

(5) Forest management plans and forest management recommendations shall be prepared at least once every ten years.

(6) The owner of a private forest has the right to participate in the preparation of forest management recommendations and has the obligation to make proposals arising from his or her will to the person who prepares the recommendations.

§ 8. Assessment of forest management

(1) Forest management shall be assessed:

- 1) with regard to the compliance with the requirements of legislation in reforestation, tending and use of forest, and forest protection;
- 2) with regard to the compliance of forest management plans and forest management recommendations with the requirements of legislation.

(2) The assessment of forest management shall be used for the specification of legislation and national forest policy, the preparation of a long-term forestry development plan and implementation of supplementary environmental measures, the assessment of forest management plans and forest management recommendations.

CHAPTER 3 FOREST MANAGEMENT

§ 9. Forest management

Forest management is the reforestation, tending and use of forest, and forest protection.

§ 10. Reforestation

(1) Reforestation is used in protection and commercial forests. In protected forests man shall not interfere with the natural regeneration of forest.

(2) Reforestation means sowing of forest seed, forest planting, fostering of natural regeneration by soil scarification or using other methods which promote the generation and development of young growth to the extent which ensures the fulfilment of the requirements specified in subsection (3) of this section.

(3) A clear cut area or a part of a perished forest is deemed to be reforested if more than 1 200 specimens of the principal tree species with a height of at least 0.8 m and of evenly distribution on the total area grow there per hectare.

(4) For the purposes of this Act, the principal tree species mean the tree species which most conform to the ways of forest use in the given site conditions.

(5) For reforestation, soil shall be scarified so that the scarification does not hinder the further forest management or cause erosion, deflation, paludification or deterioration of the site in any other manner.

(6) For reforestation, passages and gaps may be cut into a young growth with a height of up to 8 m.

(7) In reforestation and cultivation of nursery stock, forest seed which conforms to at least one of the following requirements shall be used:

- 1) the suitability of its hereditary properties has been tested;
- 2) it originates from trees the site and external features of which suggest that the progeny of trees will be valuable and suitable for the site to be reforested.

(8) The marketing of forest seed of unknown origin and nursery stock cultivated therefrom is prohibited.

(9) Twenty to seventy pines, white birches, ashes or oaks per one hectare shall be left on clearcuts as the seed trees. Seed trees are the trees which have attained the seed-bearing age, have a relatively well-shaped stem, a narrow and short crown and grow fast. The minimum number of seed trees is not applied if, in the cutting area:

- 1) there are no seed trees with corresponding features;
- 2) there is a viable natural regeneration;
- 3) there is a potential for natural regeneration from the parts of forest surrounding the cutting area.

(10) Importation of forest seed and nursery stock into Estonia is permitted only from the regions which are close to Estonia in terms of climate and soil and have economically valuable forest.

(11) Estonia shall be divided into forest seed regions.

(12) A regulation of the Minister of the Environment shall approve:

- 1) the requirements for forest seed and nursery stock marketed or used in state forests, and the procedure for the certification thereof;
- 2) the division of Estonia into forest seed regions, the conditions for the use of forest seed gathered from one forest seed region, and of nursery stock cultivated therefrom, in other forest seed regions;
- 3) the geographical regions from which the importation of forest seed and nursery stock is permitted;
- 4) the list of alien tree species the cultivation of which as forest trees is permitted.

§ 11. Obligation of reforestation

(1) The owner of a forest is required to reforest all clear cut areas and perished parts of protection and commercial forests with an area of more than 1 ha within three years after the cutting or perishing thereof.

(2) If an area specified in subsection (1) of this section has not regenerated within seven years after the cutting or perishing, the Ministry of the Environment shall organise its reforestation at the owner's expense.

(08.12.1999 entered into force 01.01.2000 - RT I 1999, 95, 843)

(3) The Minister of the Environment may extend the term prescribed in subsection (2) of this section in the following circumstances:

(08.12.1999 entered into force 01.01.2000 - RT I 1999, 95, 843)

- 1) due to the specific site conditions, regeneration is not possible within seven years;
- 2) the reasons for the perishing of the forest which are independent of the owner of the forest have not been eliminated.

(4) The Minister of the Environment shall establish the procedure for the submission of applications for the extension of the terms for reforestation and the processing thereof.

(5) The obligation of reforestation of a clear cut area which has not been reforested or of a perished forest shall transfer to the new owner upon transfer of a registered movable.

§ 12. Regeneration cutting

(1) Regeneration cutting is permitted for reforestation.

(2) Regeneration cutting is permitted in forest stands of any age which due to low volume increment, poor state of health, low crop density, unsuitable composition or poor hereditary properties do not conform to the purpose of use.

(3) Regeneration cutting due to the poor state of health or poor hereditary properties of the forest is permitted on the basis of an expert analysis by the Centre of Forest Protection and Silviculture if it is impossible to improve the condition of the forest by other forest management measures. The procedure for the ordering and conduct of expert analysis shall be provided by the forest protection rules.

(08.12.1999 entered into force 01.01.2000 - RT I 1999, 95, 843)

(4) Regeneration cutting due to an unsuitable composition of the forest is permitted in weedtree stands on the condition that the areas which are cut will regenerate or be reforested with economically more valuable tree species.

(5) Regeneration cutting due to low volume increment and low crop density of the forest is permitted in a forest only in the cases provided for in this Act.

(6) Regeneration cutting is divided into clear cutting and shelterwood cutting.

§ 13. Clear cutting

(1) In the case of clear cutting, all trees are cut from the cutting area within one year after the beginning of the cutting, with the exception of:

- 1) seed trees and undergrowth;
- 2) old crop trees and trees which are necessary to ensure the biological diversity, or the preserved standing parts of such trees, with the total volume of stem wood of at least 5 solid cubic metres per hectare.

(2) A new area by the side of a clear cut area may be cut clear after the regeneration of the previous clear cut area and after the minimum closing time has elapsed.

(3) Upon natural regeneration or reforestation, the minimum closing time for pines and valuable broadleaved trees shall be four years, for spruces three years, in other cases two years. Cutting years shall not be included in the closing time.

(4) Clear cutting of pine or valuable broadleaved tree stands which are younger than a hundred years, spruce stands which are younger than eighty years and birch stands which are younger than seventy years is prohibited, except if:

- 1) they have reached the average breast height diameter established by a regulation of the Minister of the Environment on the basis of the site conditions;
- 2) the cutting is carried out pursuant to the procedure provided by forest protection rules on the basis of an expert analysis conducted by the Centre of Forest Protection and Silviculture in accordance with subsection 12 (3) of this Act;
(08.12.1999 entered into force 01.01.2000 - RT I 1999, 95, 843)
- 3) their crop density is lower than established by a regulation of the Minister of the Environment due to reasons independent of the owner.

§ 14. Shelterwood cutting

(1) Shelterwood cutting is divided into uniform shelterwood cutting, group selection cutting and shelterwood strip cutting.

(2) In the case of uniform shelterwood cutting, the forest subject to reforestation shall be cut by dispersed single trees in several cutting stages within a period of ten to twenty years.

(3) In the case of group selection cutting, the forest subject to reforestation shall be cut by groups in several cutting stages within a period of twenty to forty years.

(4) In the case of shelterwood strip cutting, the forest subject to reforestation shall be cut by clear cutting from the edges, from other places by dispersed single trees or by gaps in several cutting stages within a period of twenty to forty years. Clear cutting is prohibited in an area which is wider than half of the average height of the forest. A new area by the side of a clearcut area may be cut clear after the regeneration of the previous clear cut area.

(5) A new shelterwood cutting by the side of a shelterwood cutting area may commence after its regeneration.

§ 15. Tending of forest

(1) For the tending of forest, improvement cutting, selection cutting and regulation of the water and nutrition regime of forest soil are permitted.

(2) Improvement cutting is divided into cleaning, thinning and sanitary cutting.

§ 16. Cleaning

(1) Cleaning of a stand is permitted for the improvement of the daylight and nutrition conditions of the principal tree species and shaping of the composition of the forest.

(2) Cleaning is permitted in forests the average breast height diameter of which is less than 6 cm.

§ 17. Thinning

(1) Thinning is permitted for the raising of the value of a forest by the regulation of forest density and composition, and for enabling the use of the timber of dead trees which will fall out in the immediate future.

(2) Thinning is permitted in forests the average breast height diameter of which is at least 6 cm, and the crop density and basal area of which exceeds the permitted minimum limit.

(3) The permitted minimum limits of the basal area and the crop density specified in subsection (2) of this section shall be established by a regulation of the Minister of the Environment on the basis of the age, tree species, site type, quality class and way of use of the forest.

§ 18. Sanitary cutting

(1) Sanitary cutting is permitted for the removal of trees which are a source of infection or promote the reproduction of pests from a forest, and in order to use the timber of dying or dead trees which are not a source of danger, if it does not endanger the biological diversity.

(2) Sanitary cutting is permitted in forests of any age if the trees subject to sanitary cutting cannot be removed by any other cutting permitted in this Act.

(3) The Ministry of the Environment or its regional office or the owner of a neighbouring immovable may, on the basis of an expert analysis related to forest protection, require that trees which are a source of infection or promote the reproduction of pests be removed from a forest. The Ministry of the Environment may subsidise the specified cutting or establish favourable conditions for the cutting if the dangerous situation has arisen due to reasons independent of the owner of the forest.

(08.12.1999 entered into force 01.01.2000 - RT I 1999, 95, 843)

§ 19. Selection cutting

(1) Selection cutting is permitted in mixed stands of uneven age, pure pine stands and pure spruce stands of uneven age, multistorey stands and grey alder stands managed as selection forests.

(2) For the purposes of this Act, management as selection forest means the continuous regeneration or replacement of cut or dead trees with new ones.

(3) Up to 20 per cent of the volume of live trees may be cut by the first selection cutting on the condition that the density of upper crop is not less than 0.6.

(4) Upon repeated selection cutting, the volume of the stand shall not be less than it was after the first selection cutting, except if it is caused by the cutting of dead trees.

(5) Improvement cutting and regeneration cutting is prohibited in forests managed as selection forests.

§ 20. Permitted types of cutting

Only the types of cutting specified in §§ 12-14, 16-19 and 34 of this Act are permitted.

§ 21. Regulation of water and nutrition regime of forest soil

(1) Regulation of water and nutrition regime of forest soil shall be carried out in compliance with the environmental protection requirements.

(2) The Land Improvement Act (RT I 1994, 34, 534; 2002, 53, 336) provides the conditions for the construction of the land improvement system of forests, the procedure for the approval of land improvement projects and issue of building permits of land improvement systems.

(3) The fertilisation of forests with direct effective mineral fertilisers is prohibited, except the fertilisation of forest nurseries.

§ 22. Forest protection

(1) Forest protection rules shall be established by a regulation of the Minister of the Environment to prevent deterioration of the state of health of forests and the fire risk. Forest protection rules provide:

- 1) the forest protection requirements in reforestation, tending and use of forests;
- 2) the methods and procedure for the cleaning of cutting areas;
- 3) the bases for the ordering of regeneration cutting in forests due to poor state of health or poor hereditary properties;
- 4) a list of permitted hormone and bacterial preparations and toxic chemical agents and the procedure for the use thereof;
- 5) the measures which allow to keep undried and unbarked coniferous wood in forests within the period from 1 May to 31 August;
- 6) the procedure and conditions for the ordering and conduct of expert analyses related to forest protection.

(2) The precepts and decisions of environmental supervision agencies which are based on legislation and the precepts of environmental inspectors of such agencies on prevention and decrease of forest damage and fire risk or liquidation of the consequences thereof are mandatory to the owner of a forest and the person who causes the risk, irrespective of the fact whether the activity which causes the risk is performed on the forest land or outside the forest land.

(3) If forest management is in conflict with the requirements of clauses 24 (2) 3) and 4) of this Act, an environmental supervision agency has the right to suspend or terminate the forest management activity by its decision.

(4) Hormone and bacterial preparations and toxic chemical agents shall be used for forest protection, except in forest nurseries, only if the use thereof is unavoidable according to an expert analysis related to forest protection.

(5) 1. The undried and unbarked coniferous wood cut from 1 September to 31 March shall be transported out of forests by 1 May. 1. The undried and unbarked coniferous wood cut from 1 April to 31 August shall not be kept in forests for more than one month.

(6) The requirement specified in subsection (5) of this section does not apply if the owner of the timber has applied the measures for the protection of timber prescribed by the forest protection rules.

(7) The Minister of the Environment is entitled to order the establishment of real encumbrance on an immovable for the benefit of the state, which consists in the application of forest fire protection measures. Upon ordering the establishment of real encumbrance, the Minister of the Environment shall proceed from the scope of the forest fire protection measures determined by legislation.

(08.12.1999 entered into force 01.01.2000 - RT I 1999, 95, 843)

§ 23. Forest notification

(1) The owner of a forest is required to submit a forest notification to the environmental authority of the location of the forest which contains information on:

(08.12.1999 entered into force 01.01.2000 - RT I 1999, 95, 843)

1) the types of cutting planned pursuant to §§ 13-14, 16-19 and 34 of this Act, reforestation works, construction and renewal of forest draining systems and forest roads, and measures to fulfil nature and heritage conservation requirements (including the maintenance of key biotopes) in the course of this work;

2) forest damages.

(2) The information specified in clause (1) 1) of this section shall be submitted to the environmental authority of the location of the forest at least two weeks before commencing work, and the information specified in clause 2) of this Act immediately after the owner becomes or should have become aware of the forest damage. A forest notification is deemed to be submitted as of the date of its registration in the environmental authority of the location of the forest, or the date of posting on the postage frank.

(08.12.1999 entered into force 01.01.2000 - RT I 1999, 95, 843)

(3) The owner of forest who is a natural person shall not submit a forest notification:

1) with regard to windfallen wood, windbreakage and snowbreakage cut in his or her forest;

2) with regard to 1 solid cubic metre of other timber cut per every hectare of forest land per year if the total volume does not exceed 50 solid cubic metres per year.

(4) Within two weeks as of the receipt of a notification, the environmental authority of the location of the forest shall:

(08.12.1999 entered into force 01.01.2000 - RT I 1999, 95, 843)

1) prohibit the planned activity if it is contrary to legislation;

2) draw the attention of the person submitting the report to the fact that the planned activity does not comply with a forest management plan or forest management recommendations;

3) make a proposal to the person submitting the notification to bring the planned activity into conformity with legislation, the forest management plan or forest management recommendations and to submit a new notification.

(5) The person submitting a forest notification has the right to commence works planned in the forest notification if the environmental authority of the location of the forest has not prohibited the activity planned in the notification within two weeks after the submission of the notification.

(08.12.1999 entered into force 01.01.2000 - RT I 1999, 95, 843)

(6) The Minister of the Environment shall establish the form and procedure for submission and review of forest notifications.

§ 24. Rights and obligations of owner in forest management

(1) The owner of a forest has the right to suspend or prohibit the use of his or her forest, rides, roads and other constructions for the purpose of fire protection, the protection of the ecosystem of the forest or the protection of the rides, roads and other constructions, if the meteorological conditions do not allow to use the forest or the specified constructions without damaging or endangering the forest or the constructions.

(2) The owner of a forest is required to:

- 1) ensure the conditions for the regeneration of the forest, and reforestation;
- 2) monitor the condition of the forest, protect the forest against the deterioration of site conditions, pests, diseases, littering or fires;
- 3) manage and permit his or her forest to be managed only in such a way which does not endanger the forest as an ecosystem or damage the gene pool, forest soil or water regime, the conditions for forest regeneration and reforestation, does not allow wind damages, the spread of fungus diseases or pests and is in accordance with the principles of the sustainable use of forest;
- 4) in the gathering of forest by-products, apply and permit the application of only such gathering methods which do not damage the productivity of such by-products as berries, mushrooms and herbs;
- 5) submit statistical returns pursuant to the Official Statistics Act (RT I 1997, 51, 822; 2000, 47, 289; 2002, 63, 387), and forest notifications.

(3) The requirements of clause (2) 3) of this section do not apply to forests which are used for national defence.

**CHAPTER 4
FOREST USE****§ 25. Regulation of forest use**

The regulation of forest use is based on the purposes of forest use, the forest category arising therefrom and ways of forest use in conformity therewith.

§ 26. Purposes of forest use

(1) The purposes of forest use are:

- 1) the maintenance of natural objects;
- 2) the protection of the state of the environment;
- 3) the receipt of economic income.

(2) The owner of a forest shall determine the purpose of forest use if the purpose is not determined by legislation or a plan established pursuant to the Planning and Building Act (RT I 1995, 59, 1006; 1996, 36, 738; 49, 953; 1999, 27, 380; 29, 398; 399; 95, 843; 2000, 54, 348; 2001, 42, 234; 50, 283; 65, 377; 2002, 47, 297; 53, 336; 63, 387).

(3) If legislation does not restrict the extent of forest use, the use of forest shall simultaneously ensure the satisfaction of ecological, economic, cultural and social needs.

(4) The purpose of forest use shall be fixed in a forest management plan or forest management recommendations.

§ 27. Forest categories and ways of forest use

(1) Forest categories are:

- 1) protected forest;
- 2) protection forest;
- 3) commercial forest.

(2) The ways of forest use are:

- 1) maintenance of protected natural objects (nature conservation);
- 2) protection of a landscape or landscape variety, soil or water (environmental protection);
- 3) protection of people against the pollution spreading from industrial production sites and transport facilities, and against the harmful effects of weather (sanitary protection);
- 4) creation of opportunities for people for resting, health improvement and sports activities (recreation);
- 5) gathering of tree seeds, forest berries, mushrooms, herbs and ornamental plants and parts thereof, moss, lichen, nuts, hay, branches, ornamental trees, bark and tree roots, resin and birch sap, the location of beehives and grazing of animals (use of by-products);
- 6) research and education;
- 7) obtaining of timber;
- 8) hunting;
- 9) national defence.

(3) The forest category and way of forest use shall be fixed in a forest management plan or forest management recommendations which shall constitute the basis for planning and recommendation of forest management activities by forest survey and management planning officials.

§ 28. Protected forest

(1) Forests which are designated for the maintenance of natural objects shall be categorised as protected forests:

- 1) in strict nature reserves of protected areas;
- 2) in special management zones of protected areas where the economic activities are prohibited by the protection rules of the protected area (hereinafter the protection rules of a protected area) established pursuant to the Protected Natural Objects Act (RT I 1994, 46, 773; 2002, 6, 21; 53, 336; 61, 375; 63, 387) and in areas equal thereto.

(2) The permitted ways of forest use in protected forests are:

- 1) nature conservation;
- 2) environmental protection;
- 3) research and education;
- 4) other ways of forest use specified in § 27 of this Act if such ways are permitted by the protection rules of the protected area.

(3) The restrictions on the management of protected forests arise from the Protected Natural Objects Act and the protection rules of protected areas.

§ 29. Protection forest

(1) Forests which are designated for the protection of the state of the environment shall be categorised as protection forests. Protection forests are situated:

- 1) in special management zones of protected areas where the economic activities are permitted by the protection rules of the protected area, and in the limited management zone of protected areas;
- 2) on shores and banks;
- 3) near springs and in areas with pressured ground-water;
- 4) in infiltration areas;
- 5) at drinking water intakes;
- 6) in areas sensitive to erosion and wind damage;
- 7) on alvars;
- 8) on objects protected under heritage conservation;
- 9) in other areas determined by a plan.

- (2) The permitted ways of forest use in protection forests are:
- 1) nature conservation;
 - 2) environmental protection;
 - 3) sanitary protection;
 - 4) research and education;
 - 5) other ways of forest use specified in § 27 of this Act if such ways are not contrary to the plan established pursuant to the Planning and Building Act or prohibited by legislation.
- (3) In the management of protected forests:
- 1) the width of a clearcut shall not exceed 30 m and the area shall not exceed 2 ha;
 - 2) the area of a shelterwood cutting area shall not exceed 10 ha.

§ 30. Commercial forest

- (1) Forests which are not designated as protected or protection forests are commercial forests.
- (2) All the ways of forest use specified in § 27 of this Act are permitted in commercial forests.
- (3) The owner of a forest shall choose the way of forest use in a commercial forest.
- (4) A commercial forest shall be used for nature conservation if the owner of the forest so wishes.
- (5) In the management of commercial forests:
- 1) the width of a clearcut in coniferous or valuable broadleaved tree stands, regardless of the way of regeneration, and in such weedtree stands where the clear cut areas will be reforested by sowing or planting coniferous or broadleaved trees are, shall not exceed 100 m and the area shall not exceed 5 ha;
 - 2) the width of a clearcut in weedtree stands which are subject to natural regeneration, or where the clear cut areas shall be reforested by sowing or planting weedtrees shall not exceed 150 m and the area shall not exceed 7 ha;
 - 3) the area of a shelterwood cutting area shall not exceed 10 ha.

§ 31. Key biotope

- (1) For the purposes of this Act, a key biotope is an area which needs protection in a commercial forest and where the probability of the occurrence of endangered, vulnerable or rare species is great; such areas include the vicinity of small bodies of water and springs, small marshes, burnt woodlands and bog islands, species-rich forest glades, overgrown former gardens, forest skirts, terraces and parts of virgin forests.
- (2) In the course of forest management, the key elements which are the prerequisites for the formation of a key biotope such as old trees, shrubs, stone fences and springs shall be maintained.
- (3) The Minister of the Environment shall approve the classifications of key biotopes and the guidelines for the selection of key biotopes.
- (4) The protection of a key biotope in a forest which belongs to a person in private law or a local government shall be performed on the basis of a contract entered into between the Minister of the Environment and the owner of the forest. In a state forest, the manager of state forest shall organise the protection of a key biotope in accordance with the precept of the Minister of the Environment.
- (08.12.1999 entered into force 01.01.2000 - RT I 1999, 95, 843)
- (5) The contract shall specify the obligations of the owner of a forest in protecting a key biotope and the obligations of the state in fostering the protection of the key biotope, and obligations upon compensation for damage or payment of additional costs caused by the maintenance of biological diversity and by the restrictions on forest use arising from the contract.

§ 32. Restrictions on right to use forest

- (1) In forests owned by persons in public law and in private forests which are not fenced or marked, the following restrictions shall apply to the user of a forest of another person:

1) it is permitted to stay in the forest, to gather berries, mushrooms, nuts, ornamental branches, herbs and ornamental plants or parts thereof without unduly harming the interests of the owner of the forest or disturbing the ecosystem, game and protected animals during their breeding season, without disturbing other persons who are in the forest or without leaving permanent traces, and provided that the fire safety requirements and the requirements of the owner of the forest or the manager of state forest are adhered to;

2) camping and making a campfire is permitted only at designated places or with the permission of the owner of the forest or the manager of state forest;

3) it is permitted to be in a forest with dogs if the dogs are on the lead, with the exception of service dogs who are performing their service functions or hunting-dogs while hunting.

(2) If the owner of a forest has incurred expenses for increasing the productivity of forest berries, mushrooms, nuts, ornamental branches, herbs and ornamental plants or parts thereof, or if the income received from other uses of forest has decreased due to the measures for increasing productivity, he or she has the right to charge a fee for the gathering of forest berries, mushrooms, nuts, ornamental branches, herbs and ornamental plants or parts thereof.

(3) In order to prevent a natural disaster in the case of an especially high fire risk, the executive body of a local government has the right to prohibit:

1) the use of forest for obtaining timber, use of by-products, hunting, research and education, and recreation;

2) the staying in the forest of another person.

(4) Forests shall be used for national defence:

1) for permanent training in state forests or for training which causes forest damage, with the permission of the Government of the Republic;

2) in other cases, with the permission of the owner of the forest or the manager of state forest.

(5) Within the period prescribed for exercising the right of pre-emption, thinning, sanitary cutting, selection cutting, clear cutting and shelterwood cutting shall be prohibited.

§ 33. Obligation to prove legality of right to cut standing crop and delivery and transportation of timber, transactions performed with right to cut standing crop or with timber, and transportation of timber

(1) A person who transfers the right to cut standing crop or delivers timber shall prove the legality of the right to cut standing crop or the legality of the possession of timber to the person who obtains the right or receives timber, and the latter shall verify it if:

1) the right to cut standing crop or timber is transferred;

2) the timber is transferred for processing, storage or transportation.

(2) Upon the transfer of a standing crop for cutting, the transferor shall prove to the transferee the legality of the possession of the right to cut standing crop and the transferee shall verify it.

(3) The documents which certify the legality of the right to cut standing crop and the legality of the possession of timber are:

1) an extract from the land register;

2) an extract from the cadastral register in the case of a state forest;

3) a transfer deed for the right to cut standing crop;

4) a transfer deed for timber, or a legal instrument of delivery and receipt of timber;

5) an identification of the person who transfers the right to cut or delivers timber and the person who transfers a standing crop for cutting, or a copy of the registry card of the commercial register.

(4) For the purposes of this Act, a transaction performed with the right to cut standing crop or with timber means the transfer of the right to cut standing crop or transfer of timber, and transfer of timber for processing or storage.

(5) Upon transportation of timber, the transporter of timber shall have a conveyance document certifying the volume and ownership of timber issued by the owner of timber.

(6) The Minister of the Environment shall establish the rules for the transactions performed with the right to cut standing crop or with timber, the rules for the transportation of timber and the legal instrument of delivery and receipt of timber, and the form of the conveyance document.

(7) Within two weeks after the sale of the cutting right or timber, the owner of the forest is required to notify, in accordance with the form established by the Minister of the Environment, the environmental authority of the location of the forest of:

(08.12.1999 entered into force 01.01.2000 - RT I 1999, 95, 843)

- 1) the name of the buyer of the cutting right or timber;
- 2) the scope of the sold cutting right;
- 3) the volume of timber sold.

(8) For the purposes of this Act, timber means a cut tree and the timber assortment produced thereof. The definition of timber does not include the by-products of forest.

§ 34. Deforestation

(1) For the purposes of this Act, deforestation means the cutting which is done in order to allow the use of land for purposes other than the tending of forest.

(2) Deforestation may be performed by an order of the executive body of a local government if a person authorised by the Minister of the Environment has previously granted his or her consent thereto.

CHAPTER 5 DIRECTING OF FORESTRY

§ 35. Forestry development plan

(1) Forestry shall be directed through forestry development plans prepared at the state level.

(2) A forestry development plan shall integrate the issues of forest management, timber industry, timber trade, environmental protection and socio-economic issues, determine forestry programmes which need state financing and delimit state forest.

(3) Forestry development plans shall be prepared at least every ten years. The Ministry of the Environment shall organise the preparation of a development plan and the preparation costs shall be covered from the state budget.

(4) The Government of the Republic shall submit a development plan as an essential national issue to the Riigikogu² for approval.

(5) Appropriate non-governmental organisations shall be involved in the preparation of a forestry development plan.

§ 36. Duties of state in forestry

(1) The duties of the state in forestry shall be:

- 1) development of forest policy and legislation;
- 2) administration of state forest;
- 3) management of state forest;
- 4) ensuring the good state of forest;
- 5) support to private forestry;
- 6) forest survey and management planning and accounting of forest;
- 7) state supervision;
- 8) organisation of basic education in forestry and forest science;
- 9) directing of hunting.

(2) Appropriate non-governmental organisations shall be involved in the development of forest policy and legislation.

§ 37. County forestry council

(1) County forestry councils shall be formed with the purpose of co-ordinating the forest management activities in the counties.

(2) The duties of a county forestry council shall be:

- 1) to organise the exchange of information on forest management and protection of natural objects;
- 2) to propose amendments to legislation which regulate forest management and protection of natural objects;
- 3) to make proposals to combine the activity plans of appropriate government and self-governing agencies and non-governmental organisations.

(3) The county governor shall form a county forestry council, determine the number of its members and appoint a chairman.

(08.12.1999 entered into force 01.01.2000 - RT I 1999, 95, 843)

(4) The Ministry of the Environment shall organise the clerical support to county forestry councils.

(08.12.1999 entered into force 01.01.2000 - RT I 1999, 95, 843)

§ 38. Ensuring good state of forest

(1) To ensure the good state of forest, the state shall:

- 1) control the quality of forest seeds used in reforestation, and marketed nursery stock or nursery stock used in state forests;
- 2) monitor the situation of fire protection and apply measures to prevent and extinguish extensive and especially dangerous fires;
- 3) monitor and forecast the condition of forest, apply measures to avoid or decrease extensive and especially dangerous forest damage;
- 4) apply measures to maintain biological diversity;
- 5) monitor the sustainable management of forest.

(2) The state shall apply the measures specified in subsection (1) of this section for ensuring the good state of forest through the Ministry of the Environment.

(08.12.1999 entered into force 01.01.2000 - RT I 1999, 95, 843)

§ 381. Centre of Forest Protection and Silviculture

(1) The Centre of Forest Protection and Silviculture is a government agency which operates in the area of government of the Minister of the Environment.

(2) The Centre of Forest Protection and Silviculture shall control the quality of forest seeds used in reforestation, and marketed nursery stock or nursery stock used in state forests, shall organise the creation of forest seed stock, shall monitor and forecast the condition of forest, shall perform state supervision to the extent and pursuant to the procedure provided by law, shall apply measures to avoid or decrease extensive and especially dangerous forest damage, shall collect and analyse information concerning forest protection and reforestation, and shall maintain corresponding forestry databases.

(3) The statutes of the Centre of Forest Protection and Silviculture shall be approved by the Minister of the Environment.

(4) The Director of the Centre of Forest Protection and Silviculture shall be appointed to or released from the office by the Minister of the Environment.

(08.12.1999 entered into force 01.01.2000 - RT I 1999, 95, 843)

§ 39. State accounting of forest resource and information related to forestry

(1) The state shall maintain a state register on the area, growing stock, location and state of forests on the basis of the information obtained from an inventory made in accordance with § 6 of this Act.

(2) The accounting of forest resources with regard to productive and nonproductive forests shall be separate in the state register.

(3) Productive forest means a forest the annual timber production capacity of which is at least 1 solid cubic metre of stem wood per 1 ha as an average of a longer period. Nonproductive forest means a forest the annual timber production capacity of which is less than 1 solid cubic metre of stem wood per 1 ha as an average of a longer period.

(4) The Government of the Republic shall establish the state register for the accounting of forest resource and approve the statutes of the register.

(5) The Ministry of the Environment shall organise the collection, processing and dissemination of information related to forestry.

(08.12.1999 entered into force 01.01.2000 - RT I 1999, 95, 843)

§ 40. Support to private forestry

(1) Private forestry shall be supported by:

- 1) preparation of forest management recommendations;
- 2) consultation;
- 3) promotion of joint activity.

(2) The state may support private forestry on the basis of a forestry development plan also by land improvement operations, construction of roads and afforestation of wasteland.

(3) The activities listed in subsection (1) of this section shall be financed from the state budget.

(4) The costs for the founding of a foundation which supports the development of private forestry and the costs for participation in the activities thereof shall be covered from the state budget.

CHAPTER 6 ORGANISATION OF FOREST MANAGEMENT

§ 41. Organisation of forest management

Reforestation, tending of forest, use of forest and forest protection shall be organised by:

- 1) the owner of the forest in a forest which belongs to a person in private law, to local government or to other legal person in public law, except the state;
- 2) a person who has obtained the right of use of land on the land granted by law for perpetual use pursuant to the Estonian SSR Farm Act (ENSV Teataja 3 1989, 39, 611; RT I 1993, 72/73, 1021; 1994, 30, 465; 66, 1159) and on other legal basis equal thereto and who, for the purposes of this Act, is deemed equal to the owner of forest;
- 3) an administrator of state assets within the meaning of the State Assets Act in a state forest, except the state forest administered by the Ministry of the Environment;
- 4) the State Forest Management Centre (hereinafter Centre) established by this Act in a state forest administered by the Ministry of the Environment, or a manager of the protected area in a protected forest of a protected area.

§ 42. Right to use state forest

(1) A person or state agency who organises the management of a state forest (hereinafter manager of state forest) has the right to use the state forest. The Government of the Republic shall determine the volume of timber permitted to cut from state forests by regeneration cutting, selection cutting or thinning for each manager of state forest on the basis of forest management plans.

(2) The manager of a state forest shall use the state forest by himself or herself, or transfer the rights of use specified in subsection (3) of this section without charge or for a charge.

(3) The manager of a state forest may transfer the right to use the state forest for recreation, use of by-products, hunting, research and education and national defence without charge or for a charge, taking into account the provisions of subsections 32 (1) and (2) of this Act.

(4) The manager of a state forest may transfer the right to cut standing crop only by sale pursuant to the procedure provided for in this Act.

(5) The right to cut standing crop means the right to cut trees to the extent, at the place, time and on the conditions prescribed by a contract of purchase and sale, to produce timber assortments of these trees and to take the assortments obtained out of the forest. The right to cut standing crop shall be accompanied by the right to use the land pursuant to the content of the cutting right.

(6) The manager of a state forest shall use the cutting right necessary for the tending of forest and reforestation in compliance with the requirements of this Act by himself or herself, or shall transfer the possession thereof pursuant to clause 24 (1) 6) of the State Assets Act (RT I 1995, 22, 327; 1996, 36, 738; 40, 773; 48, 942; 81, 1446; 1997, 45, 724; 1998, 30, 409; 1999, 10, 155; 16, 271; 2000, 39, 239; 49, 306; 51, 319; 2001, 7, 17; 24, 133; 93, 565; 2002, 53, 336).

§ 43. Sale of right to cut standing crop and sale of timber in state forests

(1) The sale of the right to cut standing crop or of timber in a state forest shall take place:

- 1) by a public auction;
- 2) by tender with preliminary negotiations;
- 3) at negotiated price.

(2) The administrator of state assets shall appoint the organiser of the sale of the right to cut standing crop or of timber.

(3) The Government of the Republic shall establish the procedure for the sale of the right to cut standing crop or of timber. The specified procedure shall determine:

- 1) the methods for the determination of the base price of the right to cut standing crop or of timber;
- 2) the rules of procedure for the sale of the right to cut standing crop or of timber;
- 3) the procedure for the settlement of protests;
- 4) the supervision of sale;
- 5) the choice of the type of sale.

(4) A negotiated price may be applied in the case of small quantities, firewood, rapidly perishable timber, trial consignments and long-term contracts.

(5) The selling price of the right to cut standing crop or of timber by public auction or tender with preliminary negotiations shall not be lower than the base price determined in accordance with clause (3) 1) of this section.

(6) A negotiated price of the right to cut standing crop or of timber shall not be lower than the usual value of the standing crop or timber.

§ 44. Permitted commercial activities in management of state forests

(1) In the management of state forests, the administrator of state assets may permit the following commercial activities:

- 1) sale of the right to use forest;
- 2) sale of timber and other forest produce;
- 3) processing of forest produce and sale of the products of processing;
- 4) sale of services.

(2) An administrator of state assets shall establish the list of services specified in clause (1) 4) of this section.

§ 45. Mandatory works upon management of state forest

(1) The manager of a state forest is required to:

- 1) perform all work which is necessary for a widest possible use of state forest for the purposes of nature conservation, environmental and sanitary protection, for obtaining timber and for recreation;
- 2) perform all the duties imposed on the owner of forest by this Act and by legislation based on this Act;
- 3) order state forest management plans and finance the preparation thereof.

(2) The Government of the Republic may assign special duties to the manager of a state forest, the performance of which shall be covered from the state budget.

(3) The manager of a state forest shall be responsible for the maintenance and lawful use of the state forest, timber obtained from the state forest and property left at the disposal of the manager.

§ 46. Financing of reforestation, tending of forest, use and protection of state forests

An administrator of state assets, to whom state forest as a state asset has been transferred for administration, shall organise the financing of reforestation, tending of forest, use and protection of state forests, with the exception of state forests managed by the Centre.

§ 47. Centre

(1) The Centre is a profit-making state agency whose permitted scope of economic activities, forest management obligations and organisation of activities are provided for in this Act.

(2) The Centre shall receive an income from its economic activities which ensures:

- 1) the preparation of state forest management plans;
- 2) the reforestation, tending of forest, protection, use and transfer for use of state forests in compliance with the requirements of law;
- 3) transfers to the state budget revenue in the amounts provided by law;
- 4) (Repealed - 08.12.1999 entered into force 01.01.2000 - RT I 1999, 95, 843)
- 5) the sale of standing crop or timber to timber industries to the extent which ensures the balanced income of state budget revenue from this branch of economy;
- 6) if necessary, the application of mechanisms which stabilise the timber market;
- 7) the performance of public functions imposed on state forests.

(3) The Government of the Republic shall approve the statutes of the Centre on the proposal of the Minister of the Environment.

§ 48. Organisation of activities of Centre

(1) The highest directing body of the Centre shall be the council which organises the strategic management of the Centre.

(2) The Centre shall have a director general who represents the Centre without special authorisation, organises the operational management and accounting of the Centre.

(3) The chairman of the council shall enter into an employment contract with the director general of the Centre for up to five years on the basis of a decision of the council of the Centre. The director general or a person authorised by the director general shall enter into employment contracts with the employees of the Centre.

(4) The director general of the Centre shall report on his or her activities to the council, the Minister of the Environment and a person authorised by the Minister of the Environment.

(5) The director general of the Centre or a person authorised by him or her shall enter into contracts on the right to use state forest, contracts on the transfer of the right to cut standing crop or of timber and shall monitor the performance of these contracts.

(6) (Repealed - 07.06.2000 entered into force 01.09.2000 - RT I 2000, 51, 319)

(7) The requirements for legal persons established by the Accounting Act (RT I 1994, 48, 790; 1995, 26/28, 355; 92, 1604; 1996, 40, 773; 42, 811; 49, 953; 52/54, 993; 1998, 59, 941; 91/93, 1500; 96, 1515; 1999, 55, 584; 101, 903; 2001, 11, 49; 87, 527; 2002, 23, 131; 53, 336; 57, 355) apply in organisation of the accounting of the Centre;

(8) Upon organisation of activities in the field of tourism, the requirements established with regard to undertakings in the Tourism Act (RT I 2000, 95, 607; 2002, 63, 387) apply to the Centre.

(08.05.2001 entered into force 11.06.2001 - RT I 2001, 50, 282)

§ 49. Council of Centre

- (1) The council shall be formed for a term of three years.
- (2) The council shall be comprised of nine members. The Government of the Republic shall approve the composition of the council. The council shall comprise:
- 1) two members appointed by a resolution of the Riigikogu;
 - 2) two representatives of the Ministry of the Environment;
 - 3) one representative of the Ministry of Economic Affairs;
 - 4) one representative of the Ministry of Finance;
 - 5) three experts on the proposal of the Minister of the Environment.
- (3) A member of the council may resign before the end of the term with a good reason and he or she shall be replaced by a new member.
- (4) The Riigikogu shall appoint the members of the council of the Centre by a resolution on the proposal of the standing Environmental Committee of the Riigikogu. The authority of a member of the council appointed by the Riigikogu shall terminate upon the termination of the authority of the person as a member of the Riigikogu. The Riigikogu, Minister of the Environment, Minister of Economic Affairs and Minister of Finance may withdraw a member appointed by them before the termination of the authority if:
- 1) he or she has failed to perform his or her duties to a material extent;
 - 2) he or she is not able to participate in the work of the council;
 - 3) his or her service relationship has terminated.
- (5) The members of the council shall elect a chairman from among themselves who shall organise the activities of the council, and a deputy chairman who shall perform the duties of the chairman during the chairman's absence.
- (6) The competence of the council shall include:
- 1) the approval of the objectives of the economic activities of the Centre and monitoring the observance thereof;
 - 2) the appointment to and release from office of a director general of the Centre, and approval of his or her job description;
 - 3) the approval of the budget of the Centre and the report on the implementation of the annual budget, and submission thereof to the Minister of the Environment;
- (08.05.2001 entered into force 11.06.2001 - RT I 2001, 50, 282)
- 4) the election of an auditor, review of auditing results and submission thereof to the Minister of the Environment;
 - 5) the approval of the salary scale and salary rates of the employees of the Centre;
 - 6) the grant of approval to the taking of loans.
- (7) Meetings of the council shall be held when necessary but not less frequently than once every three months. The meeting of the council shall be called by the chairman of the council or, during the absence of the chairman, by the deputy chairman.
- (8) The council shall have a quorum if at least half of the members participate in the meeting, including the chairman or, during his or her absence, the deputy chairman.
- (9) The meeting of the council shall also be called if a member of the council, the director general of the Centre, the auditor or the Minister of the Environment so requests.
- (10) The decisions of the council shall be recorded in the minutes. The chairman and the secretary shall sign the minutes. The dissenting opinion recorded in the minutes shall be confirmed by the signature of the member of the council.
- (11) A decision of the council shall be adopted if over one-half of the members of the council who participate in the meeting vote in favour of the decision.
- (12) Each member of the council shall have one vote. Members of the council do not have the right to abstain from voting or to remain undecided.

(13) Members of the council shall be solidarily liable for any damage wrongfully caused to the Centre by violation of the requirements of law or by failure to perform their duties. A member of the council shall be relieved from liability if he or she maintained a dissenting opinion in the adoption of the resolution which was the basis for the illegal activity, and the dissenting opinion has been recorded in the minutes. The limitation period for a claim against a member of the council shall be five years from the commencement of the violation or from the occurrence of the violation.

(14) The members of the council shall be remunerated pursuant to the procedure established by the Government of the Republic.

§ 50. Use of revenue received from state forest managed by Centre

(1) The revenue which is received from a state forest managed by the Centre by the management thereof (hereinafter revenue from forests) shall be the income from:

- 1) the sale of the right to cut standing crop;
- 2) the sale of timber and other forest produce;
- 3) the sale of services;
- 4) the use and transfer of state assets which are at the disposal of the Centre;
- 5) from the fulfilment of the terms and conditions of a contract entered into between the Centre and the user of a state forest.

(2) 26 per cent of the charge for the sale of the right to cut standing crop sold for regeneration cutting and the income from the sale of timber received from regeneration cutting by the Centre shall be transferred to the state budget.

(16.06.1999 entered into force 23.06.1999 - RT I 1999, 54, 583)

(3) The revenue from forests not specified in subsection (2) of this section shall remain at the disposal of the Centre and shall be used for reforestation, tending of forest, use of forest and forest protection, and for the organisation of these activities.

§ 51. Budget and financing of Centre

(1) The council of the Centre shall approve the budget of the Centre on the basis of the revenue from forests provided for in the state budget and the part of the revenue from forests which is retained for the management of state forests.

(08.05.2001 entered into force 11.06.2001 - RT I 2001, 50, 282)

(2) The expenditure of the Centre shall be covered:

- 1) from the revenue from forests pursuant to subsection 50 (3) of this Act;
- 2) from the state budget for the performance of the duties assigned by the Government of the Republic;
- 3) from local budgets for the performance of the duties agreed with the local governments;
- 4) from subsidies and donations;
- 5) from loans taken on the basis of a decision of the council of the Centre.

(3) The amount of a loan shall not exceed 10 per cent of the annual budget expenditure.

(4) The Centre shall be liable to pay value added tax.

§ 52. Property in possession of Centre

(1) The property in the possession of the Centre shall be formed from the property granted for use by the state and the property created or procured as a result of the activities of the Centre, with the exception of standing crop.

(2) The Centre shall use the property in its possession for the management of state forests and for generating income.

(3) If the movable property in the possession of the Centre is not necessary for the management of state forests and for generating income, the Centre may:

1) grant the property for use without charge to another state agency if the property is necessary for the exercise of state authority;

2) grant the property for use for a charge by public auction or tender with preliminary negotiations;

3) transfer the property without charge to another state agency if the property is necessary for exercising state authority;

4) transfer the property for a charge by public auction or tender with preliminary negotiations.

(4) The Government of the Republic shall establish the procedure for the grant of use, transfer and delivery of property.

(5) The use, grant of use, and transfer of state assets in the possession of the Centre in the cases not specified in this section shall be performed pursuant to the procedure provided for in the State Assets Act and legislation established on the basis thereof.

(6) The director general of the Centre or a person authorised by him or her shall enter into contracts on the grant of use, transfer and delivery of property in the possession of the Centre and shall monitor the performance thereof.

§ 53. Exceptions for disposal of income received from use, grant of use and transfer of property in possession of Centre

The provisions of subsections 16 (4), 17 (2) and 24 (2) of the State Assets Act do not apply to the revenue received from the use, grant of use and transfer of property in the possession of the Centre.

§ 54. Supervision and monitoring of management of state forests

(1) The State Audit Office shall monitor the activities of the Centre. The State Audit Office has the right to propose to the Riigikogu, the Minister of the Environment, Minister of Economic Affairs and Minister of Finance to remove a member or members of the council on the basis of the results of the monitoring pursuant to subsection 49 (4) of this Act.

(2) The Ministry of the Environment and the State Audit Office shall monitor the performance of the duties of the owner of forest by managers of state forest. The Ministry of the Environment shall exercise the supervision pursuant to the procedure established by the Minister of the Environment.

(08.12.1999 entered into force 01.01.2000 - RT I 1999, 95, 843)

CHAPTER 7 STATE SUPERVISION

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 55. State supervision of reforestation, tending of forest, forest use and forest protection

The environmental supervision agencies shall exercise state supervision over the legality of reforestation, tending of forest, use of forest and forest protection pursuant to the procedure provided for in the Environmental Supervision Act (RT I 1997, 86, 1460; 2002, 61, 375).

§ 56. Damage caused to environment by violation of provisions of forestry law

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

(1) (Repealed - 19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

(2) The Government of the Republic shall establish the rates for the calculation of damage caused to the environment by the violation of the provisions of forestry law.

(3) Within the meaning of this Act, damage is caused to the environment:

(08.05.2001 entered into force 11.06.2001 - RT I 2001, 50, 282)

1) if forest is cut such that it is more sparse than permitted by the minimum limits of the basal area and the crop density, if the permitted rotation age, closing time or cutting time are not complied with upon logging, or if forest is cut in a place where cutting is prohibited;

(08.05.2001 entered into force 11.06.2001 - RT I 2001, 50, 282)

- 2) if trees, shrubs, forest plantation or natural regeneration are destroyed or damaged by mechanical damaging thereof or impairing of the site conditions;
 - 3) if soil is damaged;
 - 4) by causing forest fire;
 - 5) by littering forests;
 - 6) if the cutting areas or timber landings are left uncleared.
- (4) (Repealed - 07.06.2000 entered into force 01.09.2000 - RT I 2000, 51, 319)

§ 56¹. (Repealed - 19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 56². (Repealed - 19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 56³. (Repealed - 19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 56⁴. (Repealed - 19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 56⁵. (Repealed - 19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 56⁶. (Repealed - 19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 56⁷. (Repealed - 19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 56⁸. (Repealed - 19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

CHAPTER 7¹

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

LIABILITY

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 56⁹. Unlawful cutting, damaging or destruction of forest, trees or shrubs

(1) Unlawful cutting or destruction of forest, trees or shrubs or damaging of forest, trees or shrubs in any other manner is punishable by a fine of up to 200 fine units or by detention.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 30 000 kroons.

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 56¹⁰. Violation of requirements for reforestation, tending of forest, forest use or forest protection

(1) Violation of the requirements for reforestation, tending of forest, forest use or forest protection is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 20 000 kroons.

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 56¹¹. Failure to submit forest notification

(1) Failure to submit a forest notification is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 20 000 kroons.

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 56¹². Violation of rules for transactions with rights to cut standing crop or with timber

(1) Violation of the rules for transactions with the rights to cut standing crop or with timber is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 30 000 kroons.

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 56¹³. Application of confiscation

A body conducting extra-judicial proceedings or a court may apply confiscation of the direct object of commission of a misdemeanour provided for in § 569 or 5612, pursuant to § 83 of the Penal Code (RT I 2001, 61, 364; 2002, 44, 284; 56, 350).

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 56¹⁴. Proceedings

(1) The provisions of the General Part of the Penal Code and of the Code of Misdemeanour Procedure (RT I 2002, 50, 313) apply to the misdemeanours provided for in §§ 569–5612 of this Act.

(2) Extra-judicial proceedings concerning the misdemeanours provided for in §§ 569–5612 of this Act shall be conducted by:

- 1) the Environmental Inspectorate;
- 2) police prefectures.

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

CHAPTER 8 FINAL PROVISIONS

§ 57. Management of forest subject to privatisation

(1) The Minister of the Environment or an agency designated by him or her shall organise the management of forests subject to privatisation until the transfer thereof.

(2) Areas which belonged to the state until 23 July 1940 and are now covered with forest shall not be subject to privatisation.

§ 58. Entry into force of Act

Legislation concerning reforestation, tending of forest, use of forest, forest protection and the use of standing crop or timber shall be brought into conformity with this Act within three months. Until then, they are valid in so far as they are not contrary to this Act.

§ 59. Repeal of earlier legislation

The following are repealed:

- 1) the Forest Act (RT I 1993, 69, 990; 1995, 53, 845; 57, 977; 1996, 49, 953; 1997, 42, 677);
- 2) the Forest Foundations Act (RT I 1995, 57, 977; 1996, 6, 102; 1997, 86, 1463).

§ 60. Formation of Centre

(1) The Centre shall be formed by the merger of the Forest Economics and Information Centre, forest districts administered by the Ministry of Environment, Sagadi Training Centre, Rāpina Forestry School, Marana Forest Nursery and Kullenga Forest Nursery, as the legal successor thereof as at 1 January 1999.

(2) The Minister of the Environment shall organise the transfer of the property, liabilities and operations of state agencies specified in subsection (1) of this section to the Centre, and termination of their activities, and transfer of the funds of the Forest Foundation which are on the special account of the Forestry Board to the Centre.

(3) The Centre shall bring its activities into accordance with the requirements of this Act within three months after the entry into force of this Act.

(4) Until the first meeting of the council of the Centre, the Minister of the Environment shall organise the activities of the Centre or designate a person to do so, prepare and call the first meeting of the council of the Centre and approve all the documents necessary for the activities of the Centre.

(5) The Centre has the right to provide tourism services until 1 January 2003.

(08.05.2001 entered into force 11.06.2001 - RT I 2001, 50, 282)

¹ RT = Riigi Teataja = State Gazette

² Riigikogu = the parliament of Estonia

³ ENSV Teataja = ESSR Gazette

The Saeima¹² has adopted
and the President has proclaimed the
following Law:

FORESTRY LAW¹³

CHAPTER I GENERAL PROVISIONS

Section 1.

The following terms are used in this Law:

- 1) **confirmation** – a document issued by the State Forest Service, attesting to the legality of a specific planned activity and shall be regarded as a permit for such activity;
- 2) **quality of locality** – a classification unit for the description of the productivity of a forest stand, which is determined on the basis of the height of trees at a certain age;
- 3) **principal felling** – a type of felling for harvesting the main timber crop, which is conducted at once or by several turns;
- 4) **principal felling diameter** – the smallest average diameter of the dominant tree species of the dominant stand of the forest stand at a height of 1.3 metres, that must be reached in order to cut in a principal felling before the attainment of the principal felling age;
- 5) **principal felling age** – the lowest age of the dominant tree species of a forest stand, that must be reached in order to commence felling of the forest in a principal felling;
- 6) **clear felling** – a type of principal felling. By such felling the basal area of a forest stand or part thereof is reduced, within a year from its commencement, to the extent that it becomes smaller than the critical basal area;
- 7) **critical basal area** – limit value of a basal area below which satisfactory development of a forest stand is impossible, and the forest stand is to be regenerated;
- 8) **forest protection** – measures for prevention or reduction of forest degradation and consequences thereof;
- 9) **forest management plan** – a document in which the particular management goals for forest property or forests in lawful possession, and the intended forest management activities are specified;
- 10) **forest regeneration** – sowing and planting of forests, as well as facilitating natural regeneration in the forest soil;
- 11) **forest degradation** – partial or complete loss of growth potential of a forest stand due to the impact of pests, diseases, animals, humans, wind, snow, fire and similar factors;
- 12) **forest cultivation** – sowing and planting of forest, as well as facilitating natural regeneration in land areas not covered by forest;

¹² The Parliament of the Republic of Latvia

¹³ Disclaimer: The English language text below is provided by the Translation and Terminology Centre for information only; it confers no rights and imposes no obligations separate from those conferred or imposed by the legislation formally adopted and published. Only the latter is authentic. The original Latvian text uses masculine pronouns in the singular. The Translation and Terminology Centre uses the principle of gender-neutral language in its English translations. In addition, gender-specific Latvian nouns have been translated as gender-neutral terms, e.g. *chairperson*.

- 13) **sustainable forest management** –management and utilisation of forests and forest lands in such a manner and at such a level as to maintain the biological diversity thereof, productivity and vitality, as well as regeneration ability and the ability to fulfil significant ecological, economical and social functions at the present time and in the future, on a local and global scale;
- 14) **forest inventory** – acquisition and documentation of information regarding forests;
- 15) **forest monitoring** – a system of permanent observation in order to evaluate the state of health of growing trees in the forest, the environmental situation and the evaluation of environmental pollution impact;
- 16) **sources of forest reproductive material** – individual trees, forest stands and plantations for acquisition of tree seeds;
- 17) **forest reproductive material** – seeds, seedlings, young plants and parts of plants which are intended to be utilised for forest regeneration or cultivation;
- 18) **lawful forest possessor** -
- a) a person into whose ownership, in accordance with law and on the basis of a decision by a specific institution, in the course of the land reform, land has been transferred (granted) for payment or whose ownership rights to the land have been restored and the land has been determined (surveyed) on site, or
 - b) a person who has acquired possession of the forest land pursuant to the right of inheritance or on another lawful basis;
- 19) **State Forestry Register** – an information system that compiles and stores information regarding forests and the economic activity proceeding therein;
- 20) **forest stand** – a forest with uniform circumstances for forest growing, composition of tree species and age;
- 21) **minimum basal area** – the smallest basal area which is necessary that further productive development of a forest stand be possible;
- 22) **unproductive forest-stand** – a forest stand, in which the growing of timber is not effective due to insufficient growth of wood supplies, composition of tree species, or quality of trees, or the basal area of which is smaller than the critical basal area;
- 23) **plantation forests** – cultivated forest stands, intended for specific purposes and registered in the State Forestry Register;
- 24) **basal area** – the total of basal areas of tree trunks (square metres) growing in the area of one hectare, at the height of 1.3 m from the root collar;
- 25) **dominant stand** – trees of a forest stand with the greatest wood supplies, the height of which does not differ from the average height by more than 10 per cent; and
- 26) **dominating tree species** – a tree species that has the greatest wood supplies in the forest stand.

Section 2.

- (1) The purpose of this Law is to regulate sustainable management of all the forests of Latvia, by guaranteeing equal rights, immunity of ownership rights and independence of economic activity, and determining equal obligations to all forest owners or lawful possessors.
- (2) Additional restrictions for the management of forests of special protection, forests to be conserved, protective zones and forest areas of special protection shall be prescribed by other laws and Cabinet Regulations.

Section 3.

(1) The subject matter of this Law is forest and forest land:

- 1) a forest is an ecosystem in all stages of its development, dominated by trees the height of which at the particular location may reach at least seven metres and the present or potential projection of the crown of which is at least 20 per cent of the area occupied by the forest stand; and
- 2) forestland is land covered by forest, land under forest infrastructure facilities, as well as adjacent overflowing clearings, marshes and glades.

(2) The following shall not be regarded as forest:

- 1) areas separate from forests, covered with trees, the size of which does not exceed 0.1 hectare;
- 2) rows of trees of artificial or natural origin, the width of which is less than 20 metres; and
- 3) orchards, parks, cemeteries and plantations for the acquisition of tree seeds.

Section 4.

(1) This Law shall apply to:

- 1) persons for which forest land is in the ownership or lawful possession; and
- 2) persons whose rights are determined and obligations imposed by this Law and other regulatory enactments regulating forest management and utilisation.

(2) In a State forest the functions of a forest owner set out by this Law regarding forest management and protection shall be performed by the State stock company Latvijas valsts meži [Latvian State Forests] which has been founded for the administration and management of State forest property.

(3) The economic independence of a person may be restricted in cases set out in this Law and other cases prescribed by regulatory enactments.

CHAPTER II RIGHT TO STAY IN A FOREST

Section 5.

(1) Natural persons have the right to stay and move freely in a State or a local government forest, if regulatory enactments do not specify otherwise. Means of transportation may be used only for moving along forest roads, except in cases when it is permitted to move in the forest also for the purpose of forest management and protection.

(2) Staying and free movement of natural persons in other forests may be restricted by the owner or the lawful possessor of the forest.

(3) Upon recommendation of the State Forest Service or an environmental protection institution in the interests of forest fire safety, as well as in the interests of territories of special protection and wild plants and animals, a local government may restrict the right of natural persons to stay and freely move in a forest.

(4) If the rights of a natural person to stay and freely move in a forest are restricted, it shall be an obligation of the forest owner or lawful possessor to demarcate the relevant territory with visible warning notices.

(5) State officials who perform service duties shall have the right to move in a forest without restrictions.

(6) Restrictions to stay and freely move in a forest shall be in effect only if such restrictions conform with the requirements set out in Paragraph four of this Section.

Section 6.

It is an obligation of a person, while staying in a forest, to observe forest fire safety regulations, not to damage forest soil and forest infrastructure, not to pollute the forest with waste, observe the prescribed requirements regarding utilisation of rest areas, not to destroy bird nests and ant hills, and not to otherwise harm wild plants and animals, as well as not to enter the territories specified in Section 5, Paragraphs two and three of this Law.

CHAPTER III TREE FELLING

Section 7.

(1) Tree felling shall be permitted:

- 1) in a principal felling – for harvesting the main timber crop in a forest stand after attainment of the principal felling age or the principal felling diameter;
- 2) in a thinning felling – for improvement of the composition of a forest stand, growing conditions of the remaining forest stand and the state of health of a forest stand;
- 3) in a sanitary felling – trees damaged by forest diseases, pests, animals or otherwise impaired, dry and broken trees;
- 4) in a reconstructive felling – unproductive forest stands in accordance with procedures set out in regulatory enactments; and
- 5) in other felling – for the establishment and maintenance of forest infrastructure, landscape formation, as well as after forestland transformation.

(2) Tree felling in a forest shall be permitted only in accordance with the procedures set out in this Law and other regulatory enactments.

Section 8.

The procedures for tree felling outside forestland shall be determined by the Cabinet.

Section 9.

(1) Principal felling shall be permitted if:

- 1) a forest stand has reached the following principal felling age:

Dominating tree species	Principal felling age (in years) depending on the quality of locality		
	I and higher	II-III	IV and lower
Oak	101	121	121
Pine and larch	101	101	121
Spruce, ash and lime-tree	81	81	81
Birch	71	71	51
Black alder	71	71	71
Aspen	41	41	41

- 2) a forest stand has reached the principal felling diameter; and
- 3) the sanitary opinion of the State Forest Service specified in Section 11 of this Law has been received.

(2) Principal felling is prohibited if:

- 1) the forest owners or the lawful possessors have not regenerated the forest, within the terms and in compliance with the quality specified in regulatory enactments, at least to the extent of 80 per cent of the total area to be regenerated in the forests in their possession within the territory of the relevant forestry district;
- 2) if in the forests of one management site, in the adjacent areas to the principal felling area, the forest stand is not recognised as regenerated within a space of 1.0 hectares and more, and the forest stand has not reached the age of at least three years; or
- 3) in nature reserves and nature reserve zones of national parks, in the protective coastal zone of the Baltic Sea and the Gulf of Riga at the width of 300 metres, in forest areas of special protection (micro-reserves).

Section 10.

(1) A thinning felling shall be permitted in cases when the basal area of a forest stand exceeds the minimum basal area, or if the forest stand contains trees infected with diseases, infested with pests, or damaged due to other reasons.

(2) As a result of a felling the basal area of the forest stand shall not become smaller than the minimum basal area.

Section 11.

If, before commencing a thinning felling, it is expected that the basal area of the forest stand, after felling of the trees infected with diseases, infested with pests or damaged due to other reasons, will be smaller than the critical basal area, the forest stand may be cut in principal felling upon the receipt of a sanitary opinion of the State Forest Service.

Section 12.

(1) In order to commence tree felling in forest land, a confirmation shall be necessary, except in cases when such trees are cut, for the purpose of thinning of forest stands, the stump diameter of which is less than 12 centimetres, as well as dry and windthrown trees. The amount of dry and windthrown trees in ownership or lawful possession, cut without a confirmation at the territory of the relevant forestry district, shall not exceed 10 cubic meters per year.

(2) If tree felling is necessary in emergency situations (snowthrow, windfall, or windthrown, interfering with infrastructure operation, restriction of forest fires and other cases set out in regulatory enactments), tree felling may be started after an oral notification of the State Forest Service. A confirmation shall be issued after the examination of the felling location on site.

(3) Tree felling in a forest is prohibited, if a forest inventory has not been made in the forest of the forest owner or the lawful possessor, except in cases referred to in Paragraph two of this Section.

(4) It is prohibited to cut trees that have reached the size, as specified by the Cabinet, of trees of special protection – venerable trees.

Section 13.

The criteria for principal felling and thinning felling – the minimum and critical basal area, the principal felling average according to the dominating species and quality of location, the maximum area or width of clear felling, the procedures for declaring a forest stand as unproductive, the procedures for felling of trees infected with diseases or infested with pests, the procedures for the establishment of felling areas, and environmental protection requirements regarding principal felling and thinning felling, as well as the procedures for tree felling in the cases referred to in Section 12, Paragraph two, shall be prescribed by the Cabinet.

Section 14.

Tree felling in violation of the procedures set out in this Law, or the damaging of trees, shall be regarded as arbitrary tree felling or damaging of trees.

CHAPTER IV. UTILISATION OF FOREST NON-TIMBER VALUE

Section 15.

Forest non-timber value is the following:

- 1) material value – tangible things which are related to the forest and which are separated from the forest in the course of acquisition thereof; and
- 2) the recreative, environment-stabilising and ecological properties inherent in a forest.

Section 16.

(1) Forest non-timber material value – wild berries, fruit, nuts, mushrooms and medical plants – may be gathered by persons at their discretion, if the forest owner or the lawful possessor has not set restrictions in accordance with the provisions of Section 5, Paragraph four of this Law.

(2) The procedures for utilisation of wild animals shall be determined by the regulatory enactments regarding protection of species and biotopes, and hunting.

(3) In a State or local government forest, everyone has the right to gather wild berries, fruit, nuts and mushrooms, in compliance with the provisions of Sections 5 and 6 of this Law.

CHAPTER V. FOREST REPRODUCTIVE MATERIAL

Section 17.

Forest reproductive material intended for forest regeneration (sowing or planting) and forest cultivation, as well as for growing of forest planting material, may be gathered only from sources of forest reproductive material registered in the State Forest Service.

Section 18.

The State Forest Service shall maintain a register of sources of forest reproductive material and certify forest reproductive material.

Section 19.

For forest regeneration and forest cultivation it shall be permitted to utilise only certified forest reproductive material of an origin suitable for the particular location. Forest owners or lawful possessors may regenerate the forest with wildings and seeds grown in their own forest.

Section 20.

Regulations regarding registration of sources of forest reproductive material, requirements for its quality and certification, procedures for sale and utilisation of forest reproductive material (also genetically modified forest reproductive material) shall be determined by the Cabinet.

CHAPTER VI FOREST REGENERATION AND CULTIVATION

Section 21.

It is an obligation of a forest owner or lawful possessor:

- 1) to regenerate a forest stand not later than within three years after the performance of felling (including the year of felling) or the impact of other factors, if the cross section of the forest stand has become, due to such impact, smaller than the critical basal area. For separate types of forest growing conditions the Cabinet may specify various time periods for forest regeneration; and
- 2) to ensure maintenance of the regenerated forest stand.

Section 22.

A landowner or lawful possessor shall have the right to cultivate a forest, if such rights are not restricted by regulatory enactments.

Section 23.

The Cabinet shall determine:

- 1) the criteria by which a forest stand shall be regarded as regenerated or cultivated, and time periods for forest regeneration for separate types of forest growing conditions; and
- 2) criteria for examination of maintenance of a regenerated or cultivated forest stand.

Section 24.

(1) A forest stand shall be considered to be a plantation forest, if it is registered in the State Forest Service as a plantation forest.

(2) The procedures regarding tree felling and forest regeneration determined by this Law shall not apply to plantation forests.

(3) After felling of a plantation forest stand, it shall be permitted to repeatedly cultivate a plantation forest stand in the same area.

Section 25.

The procedures for cultivation, registration, tree felling and management of plantation forests shall be determined by the Cabinet.

CHAPTER VII FOREST PROTECTION

Section 26.

It shall be an obligation of a forest owner or lawful possessor, and of a person who performs forest felling, prepares, stores or processes timber in a forest or in its immediate vicinity:

- 1) to perform activities that reduce the possibility of forest degradation and restrict distribution thereof; and
- 2) to supervise the forest situation and notify the State Forest Service of the determined forest degradation.

Section 27.

In emergency situations, due to mass multiplying of forest pests and spread of diseases, the State Forest Service may instruct the persons referred to in Section 26 of this Law to:

- 1) discontinue or postpone felling of all types of trees, except felling for the purpose of elimination of the consequences of an emergency situation;
- 2) take measures in order to combat pests and diseases or prevent spread thereof; and
- 3) destroy forest reproductive material infected with diseases or infested with pests.

Section 28.

The procedures by which emergency situations are declared due to forest fire or mass spread of forest pests and diseases, forest protection measures, as well as procedures regarding their performance and time periods shall be determined by the Cabinet.

CHAPTER VIII INFORMATION REGARDING FORESTS, AND A FOREST MANAGEMENT PLAN

Section 29.

(1) It shall be an obligation of a forest owner or lawful possessor to notify the State Forest Service, by 1 February of each year, of the following changes that have occurred in the forestland during the previous year:

- 1) activities for the performance of which a confirmation was required;
- 2) forest degradation;
- 3) forest regeneration;
- 4) forest cultivation; and
- 5) maintenance of young growths.

(2) It shall be an obligation of a forest owners or lawful possessors to perform, in the forests of their ownership or lawful possession, a forest inventory at least once in 10 years, and to submit these materials to the State Forest Service.

(3) A forest owner or legal possessor shall be liable for the veracity of the submitted information, specified in Paragraph one and two of this Section.

Section 30.

Forest owners or lawful possessors have the right to receive all information relating to the forest in their ownership or lawful possession from the State Forestry Register. Forest inventory information regarding the forest of a definite owner or lawful possessor shall be restricted access information.

Section 31.

A forest management plan shall be developed on the basis of the forest inventory data. A forest owner or lawful possessor shall be entitled to include additional information in the forest management plan. When planning forest management, a forest owner or lawful possessor shall observe:

- 1) maximum equable and sustainable utilisation of timber resources;
- 2) the requirements set out in Section 35 of this Law;
- 3) preservation and increase of forest productivity and value; and
- 4) the requirements set out in this Law and other regulatory enactments.

Section 32.

A forest management plan shall be one of prerequisites for the receipt of State subsidies by a forest owner or lawful possessor.

Section 33.

The forestry activities to be subsidised by the State, and the annual programme of such activities in the State budget within the resources intended for such purpose shall be determined by the Cabinet.

Section 34.

(1) Forest inventory and forest management planning shall be performed by persons who have specified professional qualifications.

(2) The requirements to be set for the professional qualifications necessary for the performance of forest inventory and forest management planning, shall be determined by the Cabinet.

(3) The procedures for forest inventory, for the maintenance of the State Forestry Register, the scope of information to be provided by the forest owner or lawful possessor, and the procedures for provision of such information shall be determined by the Cabinet.

CHAPTER IX PROTECTION OF NATURE IN A FOREST

Section 35.

(1) Forest management regimens and goals of economic utilisation, ecological or social priority shall be determined by this Law and other regulatory enactments. The management goal shall be included in the development plans of the territory (in the national planning of the Republic of Latvia, in local government development plans at the local and regional level).

(2) In the management of a forest, it is a duty of a forest owner or lawful possessor to comply with the general requirements of nature protection, in order to:

- 1) ensure the preservation of the biological diversity of the forest;
- 2) preserve the ability of the forest to protect the soil from erosion;

- 3) protect surface water and underground water from contamination; and
- 4) preserve the essential elements of cultural heritage in the forest.

Section 36.

For the preservation of biological diversity in a forest, forest areas of special protection shall be specified – micro-reserves, protected zones along waters and wetlands. Structural elements of special significance in forest stands shall be preserved in all types of felling. The procedures regarding the establishment and management of such forest areas – micro-reserves – shall be determined by the Cabinet.

Section 37.

- (1) The general environmental protection requirements regarding forest management, and restrictions on economic activity during animal reproduction season shall be determined by the Cabinet.
- (2) If necessary, the State Forest Service may determine, in addition to the general requirements, micro-reserves, the establishment criteria and procedures of which shall be determined by the Cabinet.
- (3) The restrictions of rights to use a forest specified in Paragraph two of this Section shall be taken into account when determining the cadastral value of the land.

Section 38.

- (1) For the supervision of the health situation of a forest and the environmental state in a forest, forest monitoring shall be performed in all the territory of the State. Forest monitoring shall be financed from State budget subsidies from general revenue.
- (2) The procedures for the performance of forest monitoring shall be determined by the Cabinet.

CHAPTER X ISSUANCE OF A CONFIRMATION

Section 39.

- (1) A forest owner or lawful possessor shall obtain a confirmation from the State Forest Service for the following activities:
 - 1) tree felling;
 - 2) construction or reconstruction of land amelioration systems or other buildings, if it may impact on the forest;
 - 3) road construction for undertakings (forestry);
 - 4) acquisition of forest reproductive material; and
 - 5) use of artificial fertilisers and pesticides in forestland.
- (2) If forest in ownership or lawful possession is located in the Gauja, Slītere or Ķemeri National Parks, or in Teiču, Krustkalnu, Grīņu or Moricsalas nature reserves, a confirmation shall be obtained from the administration of these territories.
- (3) The administration of nature territories of special protection shall receive confirmation forms from the State Forest Service, and submit, in accordance with the procedures and terms specified by the Cabinet, information to the State Forest Service regarding the confirmations issued.
- (4) A confirmation shall be issued within a month from receipt of a written application from the forest owner or lawful possessor.
- (5) The confirmation shall be valid until 31 December of the current year.

(6) The procedures for issuance of a confirmation and the information to be included in the application shall be determined by the Cabinet.

Section 40.

(1) A confirmation shall not be issued if:

- 1) the planned activity does not comply with the requirements of regulatory enactments;
- 2) a forest owner or lawful possessor has not indicated in the application the information specified in Section 39, Paragraph six of this Law, or has not submitted the information specified in Section 29; or
- 3) a forest owner or lawful possessor has not submitted forest inventory materials.

(2) In the case, where the confirmation is not issued, a substantiated written refusal shall be issued within a month from receipt of the application.

CHAPTER XI TRANSFORMATION OF FOREST LAND

Section 41.

For transformation of forestland into other types of land usage, a permit of the State Forest Service shall be necessary each time.

Section 42.

(1) If forestland is transformed, it is an obligation of the proposer of the transformation to compensate the State for the losses caused by destruction of the natural forest environment.

(2) The conditions for transformation of forestland, and the procedures for acquisition of a permit, as well as the procedures regarding calculation of and compensation for losses, shall be determined by the Cabinet.

(3) Utilisation of the subterranean depths in forestland shall be conducted in accordance with the procedures set out in the Law On Subterranean Depths.

CHAPTER XII STATE FOREST ADMINISTRATION

Section 43.

(1) In the forestry sector the functions of State administration shall be performed by:

- 1) the Ministry of Agriculture that shall formulate forestry policy and the regulatory enactments necessary for implementation thereof, and shall provide information to all the interested groups;
- 2) the State Forest Service that shall supervise compliance with those regulatory enactments that regulate forest management and utilisation in all the forests of Latvia; and
- 3) the Ministry of Environmental Protection and Regional Development that shall control compliance with the norms of nature protection in all the forests of Latvia, and shall approve forest management plans in protected nature territories.

(2) The State with its institutions and financing shall support stabilisation of sustainable forest functions and development of forestry.

(3) In accordance with procedures determined by the Cabinet, a Forest Development Fund shall be established for the financing of forestry support and development programs, scientific research of forests, and education and training of forest owners.

Section 44.

(1) State forest land shall be the land of the Forestry Department of the Ministry of Agriculture according to the situation on 21 July 1940, which has not been transferred, in the course of the land reform, to other natural or legal persons for permanent use, as well as such forest land which belongs to, or is within the jurisdiction of the State.

(2) State forestland shall be the property of the State that shall be entered in the Land Register in the name of the State, in accordance with the procedures specified by law.

(3) State forest land shall not be transferred for permanent use, except in cases when it is to be transferred, upon co-ordination with the Minister for Agriculture, to the former land owners or their successors as equal substitution for land that has not been returned in nature territories under special protection.

(4) Sale or other types of alienation of State forest land recorded in the Land Register shall be permitted by an order of the Cabinet, issued each time, in the following cases:

- 1) upon privatisation of land under dwelling houses and household buildings and constructions belonging to them;
- 2) upon adjusting or optimising the external borders of forest sections in a State forest; and
- 3) upon transformation of forestland, if further utilisation thereof is not related to forest management.

(5) In the rest of cases State forestland shall be alienated only by decisions taken each time by the *Saeima*.

Section 45.

The maximum amount for tree felling in hectares and cubic metres, distributed according to the dominating tree species permitted to be felled in a principal felling in the course of five years, with respect to State forests, shall be calculated by the State Forest Service and approved by the Cabinet.

CHAPTER XIII SCIENTIFIC RESEARCH FORESTS

Section 46.

(1) Scientific research forests shall be utilised for the establishment and maintenance of long-term scientific research sites.

(2) Income from scientific research forests shall be utilised for the management of such forests in accordance with the budget of the State Forest Service.

Section 47.

Scientific research forests shall be administrated and managed by the State Forest Service.

Section 48.

The following shall not apply to scientific research forests:

- 1) regulations regarding tree felling;
- 2) regulations regarding utilisation of forest reproductive material;
- 3) regulations regarding the establishment of a new forest stand; and
- 4) regulations regarding forest protection.

Section 49.

State forestland for the purposes of scientific research shall be allocated, and procedures for the management of scientific research forests shall be determined by the Cabinet. Scientific research forests shall be recorded in the State Forestry Register.

**CHAPTER XIV
LIABILITY FOR VIOLATIONS OF THE REGULATORY ENACTMENTS ON FOREST MANAGEMENT
AND UTILISATION**

Section 50.

(1) For violations of this Law and other regulatory enactments regulating forest management and utilisation, persons shall be subject to liability as prescribed by regulatory enactments.

(2) Persons held administratively or criminally liable shall not be released from the duty to compensate for damages caused as a result of violations of the regulatory enactments.

(3) If damage have been caused by a forest owner or lawful possessor, through violation of this Law and other regulatory enactments regulating forest management and utilisation, the State Forest Service shall recover compensation for damages for the benefit of the State.

(4) The procedures for calculation of damages shall be regulated by the Cabinet.

TRANSITIONAL PROVISIONS

1. With the coming into force of this Law the following are repealed:

- 1) the Law On Forest Management and Utilisation (*Latvijas Republikas Saeimas un Ministru Kabineta Ziņotājs*, 1994, No. 9; 1995, No. 11, 22; 1996, No. 13, 19; 1997, No. 7, 14); and
- 2) the Law On Utilisation of State Forests (*Latvijas Republikas Saeimas un Ministru Kabineta Ziņotājs*, 1995, No. 10; 1998, No. 5).

2. The Cabinet shall:

- 1) issue the regulations referred to in this Law by 1 January 2001; and
- 2) ensure the establishment of the State Forestry Register by 1 January 2002.

3. Prior to the adoption of the relevant Cabinet Regulations, the following Cabinet Regulations shall be in force, insofar as they do not conflict with this Law:

- 1) Regulation No. 132 of 14 June 1994, On Classification of Forests into Categories and Specification of Forest Areas of Special Protection;
- 2) Regulation No. 25 of 24 January 1995, Regulations Regarding Forest Regeneration;

- 3) Regulation No. 58 of 21 March 1995, Sanitary Regulations Regarding Forest Management and Utilisation;
 - 4) Regulation No. 98 of 18 April 1995, Regulations Regarding Establishment of a Forest Area of Special Protection "Sites of Christmas Battles";
 - 5) Regulation No. 241 of 25 July 1995, Regulations Regarding Material Liability for Violations of Regulations on Forest Management and Utilisation;
 - 6) Regulation No. 332 of 13 August 1996, Regulations Regarding Compensation for Damages to Forestry Due to Transformation or Deterioration of Quality of Forest Land;
 - 7) Regulation No. 332 of 20 August 1996, Procedures Regarding Organisation of State Forest Management;
 - 8) Regulation No. 334 of 20 August 1996, Procedures Regarding Organisation of Forest Monitoring;
 - 9) Regulation No. 449 of 9 December 1996, Regulations Regarding Principal Felling;
 - 10) Regulation No. 450 of 9 December 1996, Regulations Regarding Intermediate Felling; and
 - 11) Regulation No. 440 of 24 November 1998, Regulations Regarding Tree and Bush Felling not Included in the Forest Fund.
4. Until the establishment of the Forest State Register, the functions of the relevant information system shall be performed by the database "Forest Fund".
5. Section 9, Paragraph one, Clause 2 of this Law shall come into force on 1 January 2002.
6. Section 9, Paragraph two, Clause 1 of this Law shall come into force on 1 January 2001.
7. Section 12, Paragraph three, and Section 29, Paragraph two of this Law, with respect to State forests shall come into force on 1 January 2008. Until that time, inventory information included in the updated database "Forest Fund" shall be used.
8. Forest management projects that were prepared prior to the coming into force of this Law shall be regarded as forest management plans within the meaning of this Law. Forest inventory information that was included in the above-mentioned forest management plans shall be regarded as forest inventory information within the meaning of this Law and shall be valid until termination of validity period of the relevant forest management projects.

This Law shall come into force on the day following its proclamation.

This Law has been adopted by the Saeima on 24 February 2000.

President
Riga, 16 March 2000

V. Viķe-Freiberga

The Saeima¹⁴ has adopted and the President has proclaimed the following Law:

STATE FOREST SERVICE LAW¹⁵

CHAPTER I STRUCTURE AND FUNCTIONS OF THE STATE FOREST SERVICE

Section 1. State Forest Service

(1) The State Forest Service (hereinafter – Service) is a State civil institution supervised by the Ministry of Agriculture, which institution is responsible for the implementation of uniform forest policy in all forests of Latvia, monitors compliance with regulatory enactments, and implements support programmes for ensuring sustainable forestry.

(2) The Service consists of the central headquarters of the Service and territorial units – State regional forest offices that perform the functions of the State Forest Service in specific territories, and a unit established for the performance of special assignments.

(3) The unit for performance of special assignments is the Forest Research Station which has been established for scientific research on the management of forests and for ensuring continuity of scientific research.

(4) The territorial units of the Service and the Forest Research Station have the status of a legal person.

Section 2. Functions of the Service

(1) The Service shall perform, within the scope of its competence, the following functions:

- 1) monitor, in all the forests of Latvia, compliance with such regulatory enactments as regulate forest management and utilisation;
- 2) evaluate the operation of regulatory enactments with respect to management and utilisation of forests, and submit proposals to the Ministry of Agriculture to increase the effectiveness of such regulatory enactments;
- 3) participate in the preparation of draft regulatory enactments regulating forest management and utilisation;
- 4) issue permits, certificates, licences, confirmations and other documents prescribed by regulatory enactments;
- 5) attest the source of obtaining of forest reproductive material and certify forest reproductive material;
- 6) perform monitoring of forests and forest pathology states;
- 7) check the quality of forest inventory data;

¹⁴ The Parliament of the Republic of Latvia

¹⁵ Disclaimer: The English language text below is provided by the Translation and Terminology Centre for information only; it confers no rights and imposes no obligations separate from those conferred or imposed by the legislation formally adopted and published. Only the latter is authentic. The original Latvian text uses masculine pronouns in the singular. The Translation and Terminology Centre uses the principle of gender-neutral language in its English translations. In addition, gender-specific Latvian nouns have been translated as gender-neutral terms, e.g. chairperson.

- 8) maintain the State Forest Register;
 - 9) examine hunters and issue hunting licences;
 - 10) organise the monitoring of forest fire safety and the containment of fires;
 - 11) administer the implementation of State-funded and internationally funded support programmes regarding forestry;
 - 12) inform the general public regarding the state of forests and hunting resources and utilisation thereof;
 - 13) manage scientific research forests for the purpose of conducting sustainable scientific research in forestry;
 - 14) inform and consult forest owners regarding forestry issues and the requirements of relevant regulatory enactments; and
 - 15) provide paid services.
- (3) In the field of private law, the Service shall have the rights of a legal person.
- (4) In performing the specified functions, the Service shall co-operate with the State Audit Office, the Office of the Prosecutor General, the Ministry of the Interior, the Ministry of Environmental Protection and Regional Development, the National Guard and the Border Guard, and relevant units thereof, local governments and with other interested institutions, as well as with the public. In the field of control of forest management and forest protection, the Service shall co-operate with relevant international and foreign organisations.

CHAPTER II OFFICIALS OF THE SERVICE, THEIR DUTIES AND RIGHTS

Section 3. Officials of the Service

- (1) The Service shall be managed by a Director General, who shall be appointed to and released from office by the Cabinet in conformity with the requirements of Section 7 of the State Civil Service Law.
- (2) The officials of the Service responsible for performance of the functions of the Service shall be the Director General, chief foresters, directors, foresters and forest rangers.
- (3) The Director General shall appoint heads of territorial units of the Service (chief foresters, directors) to office.
- (4) Other officials of territorial units of the Service (foresters, forest rangers) shall be appointed to office by the head of the relevant unit (chief forester or director).

Section 4. Duties of Officials of the Service

Officials of the Service have a duty to ensure monitoring of all forests in conformity with the requirements of forest regulatory enactments, to stop and prevent violations of forest management, and to utilise regulations in order to stop utilisation of forest lands for unforeseen purposes, as well as to stop and prevent any other activity harmful to the forest.

Section 5. Director General of the Service

The Director General of the Service shall:

- 1) be responsible for the performance of tasks assigned to the Service;
- 2) manage and supervise the work of the central headquarters and territorial units;
- 3) determine the rights, duties and responsibilities of the officials and employees of the Service;
- 4) approve the structure of the Service and the list of employees of the central headquarters (staff list);
- 5) represent, without special authorisation, the interests of the Service in other institutions, provide direct instructions to each official and employee of the central headquarters, as well as to the heads of territorial units (chief foresters, directors);
- 6) develop and submit to the Ministry of Agriculture, in accordance with specified procedures, draft Service requests regarding the State budget, and administer the budget of the Service;
- 7) examine complaints regarding decisions taken and instructions issued by officials of subordinate units and territorial units, and revoke unjustified decisions taken and instructions issued by the officials referred to, except decisions regarding imposition of administrative sanctions that are subject to appeal in accordance with procedures determined by law;
- 8) examine, within the scope of his or her competence, administrative violation matters and impose administrative sanctions for such violations as are subject, in accordance with law, to the jurisdiction of the Service; and
- 9) specify the territory of operation of territorial units and approve their by-laws.

Section 6. Head of Territorial Units of the Service (Chief Foresters, Directors)

Heads of territorial units of the Service (chief foresters, directors) shall:

- 1) manage the work of a territorial unit and be responsible for performance of the tasks assigned to it;
- 2) approve the internal structure of a territorial unit and the list of employees (staff list);
- 3) examine complaints regarding decisions taken and instructions issued by the heads of subordinate units and territorial units, and revoke unjustified decisions taken and instructions issued by the officials referred to, except decisions regarding imposition of administrative sanctions that are subject to appeal in accordance with procedures determined by law;
- 4) examine, within the scope of his or her competence, administrative violation matters and impose administrative sanctions for such violations as are subject, in accordance with law, to the jurisdiction of the Service;
- 5) bring an action in court against persons at fault regarding compensation for civil law losses in accordance with procedures determined by law; and
- 6) represent, without special authorisation, the interests of the territorial unit in other institutions, and provide direct instructions to each official and employee of the territorial unit.

Section 7. Rights of Officials of the Service

(1) In monitoring the observance of regulatory enactments that regulate forest management and utilisation, officials of the Service within the scope of their competence, have the right:

- 1) to check on site, without hindrance, whether the requirements of regulatory enactments are observed in forest management;

- 2) to suspend or prohibit the activity of those legal persons and natural persons who violate regulatory enactments, as well as stop any other activity harmful to the forest and environment that is specified in regulatory enactments;
- 3) to check the personal identity documents of violators, convey violators to the premises of the police or of local government institutions, as well as to transfer materials regarding forest offences to law enforcement institutions in order to hold the guilty persons liable in accordance with procedures determined by law;
- 4) to check, in accordance with procedures prescribed in regulatory enactments, the personal property of violators, their means of transport, locations of acquisition, storage, processing and sale of illegally acquired products, tools for the acquisition of such products and other evidence, to remove illegally acquired forest resources, hunting products and tools for committing of such violations;
- 5) to take decisions, provide opinions and issue orders and instructions, prepare reports (statements), examine materials regarding violation of regulatory enactments within the competence of the Service and, if necessary, hold the persons at fault administratively liable and perform other activities provided for by regulatory enactments.
- 6) to request and receive, free of charge, written and oral information from legal persons and natural persons, as well as to become acquainted with relevant documents and the situation on site;
- 7) to cancel illegally obtained or utilised permits, certificates, licences and confirmations; and
- 8) to check transportation records of timber, to suspend or prohibit the activities of those legal persons and natural persons who violate the requirements of regulatory enactments related to the transportation of timber.

Section 8. Legal Protection of Officials of the Service

- (1) For preventing officials of the Service from exercising their lawful rights, for infringement of their honour, for threats or violence directed towards officials, as well as for endangering the life of officials in the course of their official duties, persons at fault shall be held liable as determined by law.
- (2) Officials of the Service have the right to purchase, store, carry and use service weapons or other special means of self-defence.

CHAPTER III COMPLIANCE WITH DECISIONS TAKEN BY OFFICIALS OF THE SERVICE AND APPEAL PROCEDURES THEREOF

Section 9. Compliance with the Requirements of Officials of the Service

Decisions taken and directions given by officials of the Service within the scope of competence specified by law shall be mandatory for legal persons and natural persons subject to the control and supervision of the Service, which persons are engaged in forest management, logging, timber transportation and the conduct of recreational events in forests.

Section 10. Appeal Procedures Regarding Decisions and Instructions of Officials of the Service

Decisions taken (except decisions on the imposition of administrative sanctions that are subject to appeal in accordance with procedures determined by law) and instructions issued by officials of the Service may be appealed in writing within 30 calendar days of the receipt of such decisions or instructions, in accordance with the following procedures:

- 1) decisions taken and instructions issued by officials of territorial organisational units of the Service shall be appealed to the head of the relevant territorial organisational unit (chief forester, director);

- 2) decisions taken and instructions issued by the heads of relevant territorial units (chief foresters, directors) shall be appealed to the Director General; and
- 3) decisions taken and instructions issued by the Director General shall be appealed to the court.

CHAPTER IV SERVICE PROVISIONS

Section 11. Social Benefits for Officials (Employees) of the Service

- (1) In addition to the base salaries of officials (employees) of the Service supplements shall be determined for qualifications and length of service in accordance with procedures prescribed by the Cabinet.
- (2) Life and health of officials of the Service may be insured from the State budget resources up to the amount of 24 months base salary of the relevant official, in accordance with procedures prescribed by the Cabinet.

Section 12. Financial Provision of the Service

- (1) The financial resources of the Service shall comprise:
 - 1) a grant from the general revenue of the State budget; and
 - 2) income for paid services provided by the Service.
- (2) For performance of its tasks, the Service shall be provided with the necessary technical means (transport, communications), and officials of the Service shall be provided with service firearms.
- (3) The Service shall be exempted from the payment of court expenses regarding claims for compensation for such losses as have occurred through violation of regulatory enactments that regulate forest management and utilisation if such losses are recovered to the benefit of the State.

Section 13. Identification Documents and Identifying Insignia of Officials of the Service

- (1) Officials and employees of the Service shall have a service identification document.
- (2) For the performance of their duties, officials of the Service shall be provided, free of charge, with a service uniform that shall be worn when performing their official duties. A sample of the uniform shall be approved by the Service.

TRANSITIONAL PROVISIONS

1. By 1 February 2000, the Cabinet shall adopt regulations with respect to the implementation of this Law.
2. With the coming into force of this Law, the State Forest Service shall be successor in interest of such duties and obligations of the State Forest Service as the State Forest Service had up to the day of coming into force of this Law, except:
 - 1) duties with respect to State forest management, sale of forest resources in State forests and forest regeneration in State forests;
 - 2) obligations arising from logging contracts entered into up to 28 May 1998 in accordance with Cabinet Regulation No. 335 of 7 November 1995, Regulations on Procedures for Entering into Long-term Logging Contracts;
 - 3) obligations arising from purchase contracts entered into in accordance with Cabinet Regulation No. 319 of 25 August 1998, Regulations on Tendering Procedures Regarding Felling Areas and Individual Trees;
 - 4) obligations arising from forest regeneration work secured with security deposit in accordance with Cabinet Regulation No. 25 of 24 January 1995, Regulations on Forest Regeneration; and

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5) obligations arising from lease contracts of hunting areas, entered into in accordance with Cabinet Regulation No. 251 of 6 August 1995, Regulations on Hunting.

3. The obligations determined in Section 2 of Transitional Provisions, which regulations are not taken over by the State Forest Service, shall be taken over by the State Stock Company "Latvijas valsts meži" [Latvian State Forests] in accordance with the procedures set out in regulatory enactments.

This Law comes into force on 1 January, 2000.

This Law has been adopted by the Saeima on 25 November 1999.

President

V.Vīķe-Freiberga

Riga, 15 December 1999

LAW ON HUNTING

CHAPTER 1 GENERAL PROVISIONS

Article 1

The following terms are used in the Law:

- 1) **Hunting areas** - territories suitable for game natural life and used for hunting;
- 2) **Game** - wild mammals and birds the processed products of which are used in national economy;
Suspended by Law of 05.06.1997;
- 3) **Game resources** - all game in the territory of Latvia;
- 4) **Game management** - system of natural resource utilization which in line with obtaining game production ensures the number of wild beasts for game fund and maintains the necessary habitat for game;
- 5) **Nature territories of special protection and usage** - territories determined by the statutory acts of Saeima or the Cabinet of Ministers;
- 6) **Hunting licence** - document permitting to hunt limited or unlimited game in the area determined in the licence;
- 7) **Limited game** - wild beasts for hunting of which a hunting licence is issued permitting to hunt beasts of only one origin;
- 8) **Unlimited game** - wild beasts for hunting of which a season hunting licence is issued;
- 9) **Hunting organization project** - a document approved by State Forest Service providing evaluation of the continuous hunting area; on basis of this document the number of limited game allowed to hunt is determined;
- 10) **Hunting site** - continuous hunting area managed by one owner of hunting rights;
- 11) **Hunting site management project** - a document elaborated by the owner of hunting rights providing game care organization and hunting resource utilization in the hunting site and complied with hunting organization project;
- 12) **Hunting weapons** - a shotgun with a single barrel or with several barrels, combined shotguns and rifle guns charged with hunting munition;
- 13) **Hunting munitions** - prepared cartridge consisting of a shell with capsule, gunpowder and prodgy (hunting bullets, pellets, greengages)for shooting with a hunting weapon;
- 14) **Legal hunting appliances** - traps, pitfalls and other appliances of a definite type determined in the hunting licence issued by State Forest Service;
- 15) **Game trophies** - game horns together with scull (maxilla or frontal bone), laniary, skulls, and pelages.
- 16) **Hunting rights owner** - land owner or also land user until approving land ownership rights in the Landbooks in whose possession or usage existing land area includes hunting areas relevant to the provisions described in the Law.
- 17) **Hunting licence user** - hunting rights owner or other person to whom according to agreement pursuant to the law hunting rights owner has given his hunting rights and who is managing the game fund;
- 18) **Regulations on hunting** - statutory act approved by the Cabinet of Ministers determining the order of hunting.

Article 2

Law on hunting provides basic provisions on hunting management in the Republic of Latvia.

Article 3

Hunting shall be considered action the purpose of which is to chase, capture, and kill game as well as ownerless pets (dogs, cats) roving in hunting areas, and after owner's request to hunting rights users in written - escaped domestic animals.

Article 4

(1) State shall administrate (account and protect) the hunting resources in Latvia. State Forest Service and institutions of the Ministry of Environment Protection and Regional Development shall supervise utilization and protection of game in compliance with laws and regulations of the Cabinet of Ministers.

(2) Game becomes the possession of the physical or legal entity only after they have been hunted in compliance with the present Law and respective regulations.

(3) Hunting resources shall be used so as not to cause damage to other management sectors, to ensure protection and preservation of the game species, gene pool and its habitat.

Article 5

State Forest Service shall determine the hunting areas. They shall be divided into hunting rights owner areas and hunting agreement areas.

Article 6

Hunting rights user shall manage the hunting funds, but State Forest Service shall control hunting process, and accomplishment of hunting organization project. Exception shall be nature reserves and national parks where the accomplishment of hunting organisation is controlled respectively by administration of nature reserve or National Park.

CHAPTER 2 HUNTING LICENCE AND HUNTING RIGHTS

Article 7

(1) Hunter's licence shall be a basic document entitling to hunt, to purchase hunting weapons, and to receive hunting licence. The order of purchasing, registering, storing, and selling hunting weapons shall be determined by the Cabinet of Ministers, but the order of their usage shall be determined by the Regulations on hunting.

(2) Hunting with weapons shall be permitted provided they are registered with State Police Institution as hunting weapons.

(3) Only hunting munitions shall be used for hunting.

Article 8

(1) Hunter's licence may be obtained by inhabitants of the Republic of Latvia who have reached the age of 18. Regional forest districts shall issue Hunter's licence after passing exam with the hunters' examination commission. The amount of knowledge to be tested shall be determined in Regulations on hunting. Hunter's licence shall be considered to be valid in all the territory of Latvia.

(2) Regional Council or republic town council shall approve the hunters' examination commission after State Forest Service proposals including experts from State Forest Service, environment protection, State Police, as well as representatives from hunters' associations. State Forest Service establishing fees for taking exams and preparing hunter's licences shall fund the functioning of hunters' examination commission. The results of exam shall be recorded in minutes.

(3) Suspended by Law of 16.03.2000.

Article 9

(1) Hunters' examination commission shall be entitled to invalidate or temporarily disable hunter's licence as a result of violation of the present Law as well as Regulations on hunting. State Forest Service or hunters association established in compliance with Article 10 of the present Law shall initiate the case of imposing fines or invalidating hunter's licence.

(2) The respective State Police Institution shall be informed about hunter's licence invalidating or temporal disabling.

Article 10

Inhabitants of the Republic of Latvia possessing hunter's licence are permitted to hunt individually or form hunters' associations on voluntary basis and other public organizations as provided by law.

Article 11

(Suspended by Law of 16.03.2000 coming into force on 19.04.2000)

Article 12

The present Law, other laws, and Regulations on hunting shall determine organization of hunting in specially protected and utilized nature territories in order to control the number of wild beasts.

Article 13

Foreign citizens possessing hunting documents issued by State Forest Service of the Republic of Latvia and their own country shall be permitted to hunt in compliance with the present Law and Regulations on hunting.

Article 14

(1) Utilization of estates located in hunting areas shall be regulated by agreements signed by their owners and owners of hunting rights. These agreements shall be annexes of hunting site management project. Owner of hunter's rights shall start acting in a hunting fund after the hunting site management project is registered with State Head Forestry office.

(2) User of hunting rights shall not pass hunting rights over to the third person unless otherwise provided by provisions of the present Law.

Article 15

Provisions of statutory acts shall determine termination of using hunting areas. Owner of hunting rights shall cover expenses of hunting resource renewal provided they have decreased as a result of his action and provided such amends are described in agreement.

CHAPTER 3 AMOUNT OF GAME SHOOTING AND THE ORDER OF ISSUING HUNTING LICENCES

Article 16

(1) The minimal hunting areas within which it is permitted to hunt limited game in respective hunting site shall be as follows:

- 1) roe deer hunting - not less than 200 ha including all the forest lands and fenceless agricultural lands;
- 2) wild boar, cow and calf of red deer hunting - not less than 1000 ha;
- 3) deer bull hunting - not less than 2000 ha;
- 4) elk hunting - not less than 2500 ha in areas which are named in hunting organization projects as elk funds, and 5000 ha in areas which are named in the project as red deer funds;

(2) In respect to elks, deer, and wild boars - forest areas or their parts and separate forest areas bigger than 30 ha shall be included in hunting areas.

Provided the provisions (1) and (2) of this Article prohibit hunting, owners of hunting rights shall be permitted to sign mutual agreements on organising limited game species care as described in hunting organisation project.

Article 17

State Forest Service shall annually determine maximum allowed number of limited game shooting in hunting areas in compliance with hunting organisation project.

Article 18

State duty shall be paid for hunting licences and permits to take hunting trophies out of the Republic of Latvia. Hunting trophies shall be taken out of the Republic of Latvia as provided in Regulations on hunting.

Article 19

(1) A fund shall be established for developing hunting fund.

(2) Fund resources shall be used for the following purposes:

- 1) monitoring of game population, and consequent additional necessary protection measures;
- 2) scientific research of game and its population;
- 3) participation in international hunting organizations and exhibitions;

(4) Cabinet of Ministers shall confirm the Statutes of the Fund.

(According to Law of 16.03.2000. enforced on 19.04.2000)

Article 20

(1) State Forest Service territorial offices or administrations of nature reserves and national parks in whose territory the respective hunting areas are located shall issue limited game hunting licences to hunting rights owners in the beginning of the hunting season. Administrations of nature reserves and national parks shall receive limited game hunting licences at State Forest Service and in a months time after the end of hunting season shall inform State Forest Service about the issued hunting licences and number of beasts hunted, as well as invalidate unused licences.

(2) State Forest Service may issue hunting licences beyond the determined term and beyond the determined amount of game shooting in exceptional cases when vast damage is done to agriculture and forestry.

(3) Hunting rights user shall be permitted to hunt unlimited game only after receiving hunting licence issued by State Forest Service territorial office or administration of nature reserve or national park in whose territory the respective hunting areas are located. Administration of nature reserve or national park shall inform State Forest Service about the issued hunting licences and number of beasts hunted.

(Including amendments by the Law of 16.03.2000. enforced on 19.04.2000.)

CHAPTER 4 GAME, TERMS AND TYPES OF HUNTING

Article 21

- (1) List of game, terms and types of hunting shall be determined by Regulations on hunting.
- (2) Hunting with a goal to control infections shall not be forbidden neither by land owner or user nor by owner of hunting rights.

Article 22

- (1) Any hunting shall be reported to the local state forestry office beforehand. State head forester, state forester or their appointed State Forest Service officer shall control the hunting procedure.
- (2) Hunting with hunting appliances shall be permitted only with a permit in written issued by State Forest Service.

Article 23

Illegal hunting shall mean:

- 1) hunting within terms and time of day not complying with the Regulations on hunting;
- 2) hunting without hunter's licence (does not refer to chasers), hunting licence, and hunting weapons usage licence;
- 3) hunting provided hunting licence has not been filled at the site where game has been shot or wounded;
- 4) in areas closed for hunting;
- 5) hunting without land owner's or land user's and hunting rights user's agreement;
- 6) hunting in circumstances when beasts are fledging from nature catastrophes;
- 7) hunting using night vision devices which function on basis of invisible for human eye ray, as well as laser type or likewise optical sights (except for filament type lighting devices);
- 8) being in hunting areas provided an individual has not applied at the local forestry but the individual is possessing prepared for use (set or uncovered by proper cover) weapon or traps, nooses, or other hunting appliances, possessing obtained game production, as well as being on general roads with prepared for usage weapon;
- 9) any other action provided appliances and types of hunting used do not comply with the Regulations on hunting.

Article 24

- (1) Hunting or capturing of game for the purpose of scientific research, exhibiting in museums, breeding in a different place or keeping in captivity shall be permitted only with State Forest Service single permit.
- (2) Prohibited for hunting wild beasts shall be obtained, hunted or kept in captivity with a single permit of the Ministry of Environment Protection and Regional Development. Bringing game into the Republic of Latvia from another country shall be permitted only with a single permit of Ministry of Environment Protection and Regional Development and State Forest Service.

**CHAPTER 5
HUNTING RESOURCE SUPERVISION
AND LIABILITY FOR VIOLATION OF THE PRESENT LAW**

Article 25

(1) Supervision on enforcement of the present Law and other statutory acts relevant to hunting outside hunting areas shall be carried out by state and local communities police forces within the scope of their competence, but regarding illegal hunting - also officers of State Forest Service and Ministry of Environment Protection and Regional Development.

(2) State Forest Service shall carry out supervision in all hunting areas, but land owner or user and hunting rights owner shall carry out supervision in his own hunting areas. If necessary co-ordinated action of all units mentioned in this Article and Home guards shall be permitted for carrying out supervision in hunting areas and out of their bounds.

Article 26

In order to assess the damage done by the game to agriculture, domestic animals, and forestry State Forest Service shall establish commission including representatives from the respective local community, hunting rights users, and also the respective experts. The commission shall determine the amount of damage according to the methods approved by the Ministry of Agriculture. Hunting rights users shall cover the expenses unless provided otherwise by the agreement on transferring hunting rights. In case of dispute the court shall make the decision.

Article 27

Damage caused by physical or legal entity to hunting fund through violation of the present Law or other acts of law relevant to hunting shall be compensated as provided by law and to extent determined by the Cabinet of Ministers. The compensation shall be awarded in favour of the state.
(According to Law of 16.03.2000 enforced on 19.04.2000)

Article 28

For violating the present Law physical and legal entities shall be called to account as provided by law.

**CHAPTER 6
INTERNATIONAL AGREEMENTS**

Article 29

Provisions of international agreements shall be enforced in the territory of Latvia provided the signed international agreements provide other regulations on hunting than those in the present Law.

THE LAW ON THE AMENDMENT OF THE FOREST LAW OF THE REPUBLIC OF LITHUANIA

April 10, 2001, NR.: IX-240

(“Valstybės žinios”, NR.: 96-1872, 1996, NR.: 110-2507, 1997, NR.: 96-2426, 1998, NR.: 56-1542, 1999, NR.: 110-3203; 2000, NR.: 111-3566)

Article 1. New edition of the Forest Law of the Republic of Lithuania
The Forest Law of the Republic of Lithuania shall be amended and laid down as following:

LAW ON FORESTS OF THE REPUBLIC OF LITHUANIA

CHAPTER 1 GENERAL PROVISIONS

Article 1. Purpose of the Law

The purpose of the Forest Law is to regulate reforestation, protection and use and to form the legal preconditions for the management of all ownership type forests upon equal sustainable forestry principles, ensuring a rational use of the forest resources by supplying with the industrial material, preservation of the biodiversity, increase of forest productivity, landscape stability and environment quality possibility to perform the ecological, economical and social functions without inflicting damage to other ecosystems.

Article 2. The major definitions of the Law

(1) **Forest** – a land area not less than 0.1 hectare in size covered with trees, the height of which in a natural site in the maturity age is not less than 5 meters, other forest plants as well as thinned or vegetation-lost forest due to the acts of nature or human activities (cutting areas, burnt areas, clearings). Tree lines up to 10 meters of width in fields, at roadsides, water bodies, in living areas and cemeteries, single trees and bushes, parks planted and grown by man in urban and rural areas are not defined as forests. The procedures for care, protection and use of these plantings shall be established by the Ministry of Environment.

(2) **Forest stand** – part of forest where the storey's structure of woody forest plants is even, with a predomination of a certain tree species, the vegetation is of similar age, having a common site and it is the part which distinguishes itself upon these criteria from nearby forest parts.

(3) **Forest land** – an area covered with forest (forest stands) and non - forest covered areas (cutting areas, dead forest stand areas, forest clearings, nursery areas, forest seed orchards, raw-material bushings and plantations). Forest roads, forest block, technological and fire break lines, areas covered by timber storage houses and other forest-related equipment, recreation grounds, animal feed grounds, and land assigned for afforestation is ascribed to forest land as well.

(4) **Forest group** – forest land areas with similar basic forest management objectives and regimes.

(5) **Urban (city) forests** – forests on the urban territories.

(6) **Forest parks** – forest areas not less than 3 hectares used for intensive recreation with appropriate recreation equipment and infrastructure.

(7) **Forest resources** – non-cut forests, resin, stumps and the resinous, tree bark, bast and birch-bark, sap, Christmas trees, other decorative forest materials, branches, twigs, mushrooms, nuts, berries, fruits, herbs and medical materials, forest litter and leaves, and forest vegetation.

(8) **Non-cut forest** – growing trees, dead-wood, windfalls, windbreaks and other non-cut woody forest plants.

- (9) **Forest estate** – a forest land area managed upon private or state ownership rights.
- (10) **Forest owners** – the state and the citizens of the Republic of Lithuania which, obtained the ownership rights for forests upon the procedures set forth by the Law.
- (11) **Forest governors** - forest enterprises, administrations of state strict nature reserves, administrations of national parks, municipalities, other state enterprises and organisations possessing the forest governance right provided by the Government upon the procedures set forth by the Law.
- (12) **Forest users** – legal and natural persons having obtained forest and forest resource use right following the procedures set forth by this Law and other legal acts.
- (13) **State forest officers** – officers of state forest governance and state forest control institutions, forest protection staff of forest enterprises having the powers established by the Law. The list of offices of the state forest officers shall be approved by the Ministry of Environment.
- (14) **Forest enterprises** – state enterprises governing and using state forests upon the property-confide basis and disposing them upon the procedures set forth by the Law and performing complex forestry activities and other activities defined under the statutes of the forest enterprise.
- (15) **The General State Forest Enterprise under the Ministry of Environment** – economic administration institution of state forests ascribed to the forest enterprises which organises and coordinates reforestation, maintenance, protection and forest resource use of these forests.
- (16) **Complex forestry activities** – activities, covering reforestation, maintenance, protection, rational use of forest resources and trade in timber and forest resources.
- (17) **Forest management planning** – forestry planning system covering forest inventory and recording, analysis of forest condition, use and economic activities and forestry organising and development project preparation.

Article 3. Forest groups, objectives of economic activities and regime

- (1) Forests are divided into groups upon the objectives of the economic activities, their regime and the major functional purpose.
- (2) Group I – strict reserves forests. These are the strict reserves and small strict reserves forests on the territories of state strict nature reserves, state parks and biosphere monitoring territories. Objective of economic activities – to preserve the forests for a natural growth. Forest cuttings, except for the cases defined under the Law on Protected Areas and the Regulations of strict nature reserves, are not made.
- (3) Group II – forests of special purpose, split into the following:
- 1) A – ecosystem protection forests. Landscape, telmologic, pedologic, botanical, forest genetic, zoological, botanical-zoological reserves and reserves of these types in national parks and biosphere monitoring territories, forests with protected natural resource areas, anti-erosion and other forests. Objective of economic activities – to preserve or restore forest ecosystems or separate ecosystem components. Forests damaged by the natural calamities or biotic factors, forest stands of poor sanitary condition shall be cut by non-clear or clear sanitary cuttings. The forest stands which reached the natural maturity can be cut by final non-clear cuttings;
 - 2) B – recreational forests. Recreational forests cover forest parks, urban (city) forests, forests of recreation zones of the state parks, recreational forest areas and other forests defined for recreation. Objective of economic activities – to form and preserve the recreational forest environment. Forest stands damaged by the natural calamities or biotic factors and forest stands of poor sanitary condition shall be cut by non-clear or clear sanitary cuttings. The forest stands which reached the natural maturity can be cut by final non-clear cuttings. All types of forest thinning, sanitary and landscape formation cuttings are allowed. Cuttings shall be performed after the recreation season except for the forest stands damaged by the natural calamities or biotic factors.

(4) Group III – protective forests. These are the forests in the territories of geological, geomorphological, hidrographical, and cultural reserves, reserves of these types in the state parks and biosphere monitoring territories, forests of protection zones and other forests. Objective of economic activities – to form productive forest stands, capable of performing the functions of protection of soils, air, water and human living surroundings. Non-clear and small-area (up to 5 hectares) clear-cut cuttings, forest tending and sanitary cuttings permitted.

(5) Group IV – economic (commercial) forests. These are the forests not ascribed to I-III groups. Objective of economic activities – to form productive forest stands and supply wood continuously following environment protection requirement. All types of cuttings permitted. Clear cutting areas shall not exceed 8 hectares.

(6) The sanitary clear-cutting areas at II, III, and IV group of forests shall not be limited.

(7) Certain parts of the forest reserves may be ascribed to different forest groups, following territory-planning documents.

(8) The procedure and regulations for forest ascribing to certain groups shall be defined and performed by the Government upon the proposal of the Ministry of Environment.

Article 4. Forest ownership rights and forests of state significance

(1) Forests can belong to the state or citizens of the Republic of Lithuania upon the right of ownership. The state ownership predominates in the forests of the Republic of Lithuania upon the forest areas.

(2) The state forest can be leased for recreation, hunting or other purposes by the Government or its authorised institution except for the cases related to organising of economic activities.

(3) Private forest estates shall not be split into parts if the estate equals or is below the size of 5 hectares.

(4) The forests of state significance belong to the Republic of Lithuania on exclusive ownership rights. The forests of state significance are:

1) forests of the state strict nature reserves, state park strict reserves and small strict reserves, the Kursiu nerija (Curonian Spit) National Park forests;

2) urban (city) forests;

3) state forest nurseries and seed orchards ;

4) forests belonging to the objects of forest scientific research and training, seed breeding and selection the areas of which are approved by the Government;

5) state forest belts with the width of 7 km at the Baltic Sea and the Curonian Spit having no ownership rights restituted upon the Law on Restitution of the Citizen Ownership Rights for the Remaining Real Estate Property;

6) other forests ascribed to the forests of state significance upon decisions of the Government.

(5) The Government or the Ministry of Environment authorised by the Government possesses the rights and obligations of the state forest owner.

(6) The state forests are managed upon the property-confide basis by forest enterprises, administrations of state strict nature reserves, administrations of national parks, municipalities, other state enterprises and organisations possessing the forest management right provided upon the procedures set forth by the Law.

Article 5. State management of forests and supervision of implementation of the Forest Law

(1) The state forestry policy trends are defined by Seimas (Parliament of the Republic of Lithuania) by adopting appropriate laws.

(2) The state forestry strategy and state forestry programmes are prepared by the Ministry of Environment. The Ministry of Environment, during the performance of the state forestry administration functions:

- 1) organises forestry strategy and state forestry development programmes preparation;
 - 2) organises forest coverage increase, forest genetic fund, landscape and biodiversity preservation, selection and seed breeding, forest resource use, and other programme project preparation and co-ordinates the implementation of these programmes;
 - 3) prepares drafts of legal acts on the forestry issues;
 - 4) organises and co-ordinates the inventory of all forests of the country, preparation of forest management projects, co-ordinates forest monitoring;
 - 5) organises the state accounting of forests and formation of the Forest State Cadaster of the Republic of Lithuania;
 - 6) prepares annual forest cutting norm projects for state forests;
 - 7) organises the international co-operation related to the forestry sector.
- (3) The State Environment Protection Inspection and its territorial forest control divisions perform condition, use, reforestation and protection control functions for all forests of the country:
 - 1) controls the observance of the Law on Forests and performs the state control function of all ownership type forest condition, use, reforestation, and protection;
 - 2) issues permissions for forest cutting for the state forest governors and private forest owners upon the procedures defined by the Ministry of Environment;
 - 3) controls forest management work quality;
 - 4) consults private forest owners on the issues of forest use, reforestation, maintenance, and protection.
- (4) Reforestation, maintenance, protection and forest resource use is organised and co-ordinated by the General State Forest Enterprise under the Ministry of Environment. The General State Forest Enterprise under the Ministry of Environment during the performance of its functions:
 - 1) acts as the founder (establisher) of the forest enterprises and co-ordinates their activities;
 - 2) establishes the obligatory norms for forest enterprises for reforestation, protection and management works;
 - 3) organises the general state fire-emergency and sanitary forest protection system;
 - 4) organises and co-ordinates reforestation, protection, management and forest resource use in relation to progressive technologies.
- (5) Private forests are reforested, managed and used by private forest owners following the Law on Forests as well as Regulations on Management and Use of Private Forests and other legal acts regulating the forest management approved by the Government or the Ministry of Environment authorised by the Government taking into regard proposals of private forest owner organisations. Private forest owners have the right to joint into associations and co-operatives upon the procedures set forth by the Law, establish enterprises and organisations. The state shall promote and support private forestry development, private forest owners self-governing organisations which provide consulting and economic activities for private forest owners. Forest owners co-operatives shall have the status of agricultural co-operatives.

Article 6. Rights and obligations of the state forest officers

- (1) The state forest officers shall have the right to:
 - 1) possess and wear established types of uniforms and distinctive tokens;
 - 2) stop vehicles carrying timber and other forest production, check the documents of origin of timber or other forest production carried by these vehicles, and also, in case of suspicion for illegal obtaining of this production, check the personal documents of the carrying vehicles, use forced stopping measures of transporting vehicles;

- 3) demand certifications from legal and natural persons regarding the obtaining and use of the forest resources, and in case of their absence – demand written or spoken explanations for actions related to the use of forest resources;
- 4) to take over the illegally obtained timber and other forest production from the transgressors, poach accessories and other material evidence of transgressions upon procedures set forth by the Law;
- 5) to bring the transgressors to police headquarters or into the municipality premises of alderman offices in rural areas for identification of personalities, writing of protocols and acts;
- 6) stop or prohibit illegal economic activities in forest estates if these activities infringe the Law and requirements set forth by other legal acts and when damage to forest is made;
- 7) conclude administrative infringement protocols upon the procedures set forth by the Law, impose administrative penalties for infringements of this Law and infringements of the requirements of other legal acts defined under the Administrative Law Infringement Code;
- 8) possess, carry, and use firearms and special accessories upon the procedures set forth by Firearm and Ammunition Control Law and other laws in case of infringements defined under Article 6, Part 2 of this Law. In case of refusal to fulfil the legitimate demands of the officer, the officer shall have the right to use compulsion, but as far as it shall appear necessary for the fulfilment of his official duty, and only after all possible persuasive or other means were inefficient;
- 9) the state forest officers shall also have other rights provided by the Law.

(2) The state forest officer shall have the right to use physical compulsion, special means or firearms when it is related with the execution of his duties during forest protection:

- 1) when protecting himself or other persons from excess or directly threatening danger to the life or the health;
- 2) during detention of transgressors or persons committing crimes who avoid detention actively and when it appears impossible to detain them otherwise, and also in cases when such persons refuse to fulfil a legitimate demand to lay down firearms or other objects able to damage a human when it appears impossible to disarm such persons otherwise;
- 3) in case of attempts to take over the firearms and when it is repel attack of protected objects if its is life-threatening.

(3) It is prohibited to use physical compulsion or special accessories and firearms against women if it is obvious that they are pregnant, and against other persons if it is obvious that they are disabled, under-aged when their age is known to the officer or when their appearance corresponds to their age, except for cases when they resist in a life- or health-threatening way or in case of attacks of groups of such persons when such attacks are life- or health-threatening. It is prohibited to use firearms at public-gathering places if there is a threat of damaging of others.

(4) State forest officers and forest enterprise employees shall not have the right to work on a hired basis, be establishers or participants (shareholders, members, interest holders, etc.) of legal persons, private timber preparation, wood processing, timber and wood trade and hunting service companies and perform other activities prohibited by the Law.

(5) The tasks, functions, and duties of the state forest officers shall be defined by the Regulations of the State Forest Officers. The regulations shall be approved by the Government.

Article 7. Economic regulation of state forestry

(1) Forest enterprises act upon the Law of State and Municipal Enterprises, perform complex forestry activities in state forests, sell ready-made forest production, non-cut forests and provide services upon procedures established by the Government or the Ministry of Environment authorised by the Government. Taking into regard the capital of forest enterprises, land and forest shall not be included into accounting in terms of value expression.

(2) Obligatory 5 per cent deductions shall be calculated to the state budget revenues from forest enterprise incomes for the raw material timber and non-cut forests sold as defined under procedures established by the Government for meeting of the general forestry needs. These deductions shall be included into state budget revenues and shall be used for financing of the Special General Forestry Needs Financing Programme (forest inventory, accounting, preparation of state forest management projects, organising and maintenance of common independent on forest ownership rights state fire-emergency system, liquidation of natural calamity damages or pest source liquidation, forest science and projecting works, consultation and training of private forest owners, establishment of private forest owners organisational structures, organising of forest propaganda, for programmes implemented by forestry servicing organisations as well as financing of other forestry needs).

Article 8. Visits of persons at forests

(1) Physical persons shall have the right to visit forests freely, except for forests of strict nature reserves and special purpose objects (border zones, military objects, or similar) and forests where it shall be limited by the Law. Visiting persons can gather fruit, medical herbs and medical materials, except for the plant species, the list of which is approved by the Ministry of Environment, can gather nuts, berries, and mushrooms, keep bees in state forests keeping them in hives and bee-coops following this Law, Law on Environment Protection and requirements of other legal acts.

(2) Upon the applications of the executive municipality institution forest enterprise, state park administrations, and private forest owners, and in city forests - without such applications, in the presence of important reasons (big forest fire emergency threat, forest cuttings, specialised economic activity areas, protected objects, necessity to preserve forest resources, forest businesses, and etc.) visits to of physical persons forest or use of medical herbs, mushrooms, berries and other forest resources can be prohibited or restricted.

(3) Visits to forests and use of forest resources in protected areas is regulated by the Law of Protected Areas and Regulations of Protected Areas, approved by the Government or the Ministry of Environment authorised by the Government.

(4) The forest areas of prohibited or restricted visiting shall be indicated by information signs built by forest governors, owners or users.

CHAPTER II FOREST USE

Article 9. Obligations of the forest governors, owners, and users

(1) Forests shall be managed upon the principle of sustainable use ensuring a continuous supply of timber and other forest resources and preserving annual or periodical balance between the timber growth and its use volume.

(2) Forest governors, owners, and users obligate to protect forests from fires, pests, diseases and other negative factors, to reforestate the cut forest in time and in a proper manner, to use forests in such ways which would decrease the negative impact to the environment, to perform rational economic activities on forest land (in forest), to maintain the soil productivity, preserve the biological diversity, follow laws and requirements defined by other legal acts.

(3) The forest users obligate to arrange damaged forest areas during the forest use in such a way to be suitable to use upon their purpose, to use the forest roads, drainage systems and other technological units with care without infringing the rights and legal interests of forest governors, owners, and other users.

(4) Forest governors and users in state forests shall follow the Regulations on Non-Cut State Forest Allotting and Marketing. These Regulations shall be adopted by the Government. The timber producers in state forests shall cut and take out the produced wood upon terms identified in forest use permissions, including extended terms. Forest cutting and produced wood take out terms may be extended up to 6 months upon requests of timber producers. The cut timber and non-taken out wood during the defined terms shall be transferred to the forest governor's property upon a gratuitous basis. The settings of forest

cutting and produced wood take out term are defined under the Regulations on Non-cut State Forest Allotting and Marketing.

(5) Forest owners shall follow this law, the Regulations on Management and Use of Private Forests and other legal acts as well as the obligatory forest management project parts to be implemented, i.e. final cutting decade norms, reforestation and environmental requirements.

(6) It is prohibited to perform cuttings or use other forest resources without having a permission issued upon established procedures when such permissions are necessary upon legal acts in force.

(7) Private forest owners shall provide information and statistical data about forestry activities in their estates to the Ministry of Environment and the Department of Statistics.

(8) Roundwood measuring, accounting, and marking procedures shall be established by the Ministry of Environment.

Article 10. The right of forest governors, owners and users to use forests and forest resources

(1) Owners of private forests attain the right to use forest after receiving a document confirming the ownership of the land plot. Regulations on Management and Use of Private Forest are approved by the Government, taking into consideration the proposals of private forest owners organisations.

(2) Forest governors and users shall have the right, as established by the Government or the Ministry of Environment authorised by it, to use forests and forest resources (timber and other forest resources prepared for scientific research, training, bee-keeping, pasturing of domestic animals, protection of natural complexes and other purposes in compliance with the Law). In the cases defined under these procedures, the right for timber and other forest resource preparation shall be attained after receiving permissions of appropriate forms. This right expires in case of death of the person having the permission, after reorganisation or liquidation of a legal person when the permission expires or when the permission is treated as invalid upon the established procedures.

(3) The rights of forest governors, owners, and users are protected by the Law. The rights infringed shall be restituted, and the damages inflicted shall be compensated upon the procedures defined under the Law and other legal acts. The rights of the forest governors, owners, and users may be limited upon the procedures defined under the Law for the interests of the society, environmental purposes, or forest protection.

Article 11. Conversion of forest lands into other purpose lands

(1) The forest lands may be converted into other purpose lands in exceptional cases only concordant to the interests of the state, forest owners, and society upon the procedures established by the Government.

(2) Forest cutting for the technological and production forestry purposes (preparation of nurseries, construction of the forest roads, fire break lines, technological clearings, recreation grounds and construction of timber storages, digging of sand or gravel upon the procedures established, and etc.) shall not be treated as forest land conversion into other purpose lands.

Article 12. Forest land draining and fertilising, road construction on forest lands

(1) Forest drainage, fertilising and use of poisonous chemical substances in forest land shall be performed in compliance to the Law on Environment Protection and applicable legal acts.

(2) Forest land drainage systems and forest roads, extending over the forest estates of several forest owners or governors shall be maintained and repaired by the governors, owners or users of these estates upon the procedures defined by the Law. Forest drainage system maintenance works shall be performed and forest roads shall be constructed from the resources of the forest governors, owners, users, municipalities, Road Funds, and from other resources.

CHAPTER III
STATE FOREST CADASTER OF THE REPUBLIC OF LITHUANIA AND
FOREST MANAGEMENT PROJECT

Article 13. State forest inventory and forest register

(1) The objective of the state forest inventory and forest register – to evaluate the forest resources, their quality, provide information about the natural and economic condition of forests. State forest inventory is performed at all forest estates. The state inventory performed at forest enterprises, state strict nature reserves and state parts not only includes forest register, but state-owned non-forest land (agricultural land, water, etc.) as well.

(2) The non-forest land covered by naturally generated trees shall be inventoried during the process of forest management and included into register as forest upon the procedures defined by the Ministry of Environment and the Ministry of Agriculture.

(3) The state forest inventory specialists shall have the right to enter all forest estates, perform inventory works and receive necessary information for their performance.

(4) The state inventory in the Republic of Lithuania shall be performed upon the selection method. It is purposed for strategic planning of the forest sector upon the state level. Forest compartment inventory is performed for organising of the forestry on the level of forest estates and for preparation of forest management projects.

(5) State forest inventory and forest register procedures, their content and periodicity shall be defined by the Ministry of Environment.

(6) Forest register shall be managed and state cadaster of the forests of the Republic of Lithuania shall be prepared using the state forest inventory data. This cadaster covers the sum of total data about forests, their ownership, forest resource quantities, their quality, and economic value. The contents of the cadaster and its compilation procedures shall be defined by the Government.

(7) The state forest inventory and register in state-owned and private forests shall be performed from the state resources. The inventory and register data shall be provided to forest owners and governors upon a free-of-charge basis defined upon the procedures of the Ministry of Environment. Forest compartments inventory and forest management project preparation shall be carried out from the state funds and funds of forest governors and owners.

Article 14. Forest management project

(1) Forest management project – a document of special territory planning upon which forestry is organised, reforestation, use and forest land management works performed. Forest management projects are prepared for all forest estates. Forests shall be managed, used and reforested upon forestry management projects.

(2) The following types of forest management projects are distinguished:

1) forest management schemes – prepared for forest governors and region territories, and are purposed for defining of the general forest land use policies, preparation of their management concepts;

2) interior forest management projects – prepared for forest governors and private forest estates and are purposed for defining of concrete management mean system.

(3) Forest management projects shall be prepared upon the project preparation regulations and methodology and criteria defined in them approved by a government-authorised institution. The composite forest management project parts shall be the following:

- 1) the background – shall cover the existing situation of land use, protection, and forest management problem analysis, evaluation of previous results of forest management project implementation, and the forecast of social and economic needs;
 - 2) project part - covers the issues of solution preparation for the planned forest territory use objectives and management concept (forest management schemes) or management mean schemes (interior forest management projects);
 - 3) conclusion – covers planning document solution result forecasting, discussion, compliance and approval.
- (4) Ministry of Environment, taking into regard the size of forest estate, defines the contents of forest management project and other indicators, as well as forest stands cutting age at all forests. The final forest cuttings shall be performed at mature or over-mature forests, and in maturing forests in cases defined in the regulation for these cuttings. Intermediate forest cuttings shall be performed for the purpose of forest stands productivity increase, improvement of the forest sanitary condition, preservation of the biological diversity, use of the timber resources, forest stand reconstruction and other purposes defined under other legal acts. The annual forest cutting norm for final forest cuttings shall be defined for each forest governor and owner upon the methodology approved by the Ministry of Environment.
- (5) The annual forest cutting norms for state forests are approved by the Government. The annual forest cutting norm shall not be exceeded, except for the cases of natural calamities when dried-up, fallen, broken, burnt or otherwise damaged forest stands volume makes up more than on quarter of the annual cutting norm. The total annual norm of all types of forest cutting in the country shall not exceed the annual timber growth.
- (6) The volumes of intermediate forest cuttings at state forest shall be established by the Ministry of Environment.
- (7) The forest governors, possessing more than 500 hectares of forest, shall not exceed the annual major forest cutting norm. In case of the natural calamities and when this norm was not implemented during the proceeding years calculating from the year of its approval, the annual final forest cutting norm may be increased upon the procedures established by the Ministry of Environment. Other forest governors and owners may deviate from the annual forest cutting norm without breaching of the requirements of forest cutting regulations, but shall follow the decade forest cutting norm.
- (8) The forest management projects shall be prepared and forest inventory shall be performed by natural and legal persons upon the procedures defined by the Ministry of Environment. Following these procedures, the forest management data is accumulated and managed in a centralised way, forest management projects are prepared, co-ordinated and approved.

CHAPTER IV REFORESTATION, GROWING AND CUTTING

Article 15. Reforestation and afforestation

- (1) Forests shall be reforested by their governors, owners and users from their own resources.
- (2) The forest coverage of the territory of the Republic of Lithuania shall be increased upon the procedures established by the Law and other legal acts regulating the establishment of forests in non-forest lands.
- (3) Forests in non-forest lands shall be planted following the procedures established by the Ministry of Environment and the Ministry of Agriculture from the state funds and the funds of forest governors and owners.
- (4) When forests are planted in non-forest territories upon the procedures established by the Law, the Law of Forests shall apply to these areas.
- (5) Forest shall be artificially reforested in clear - cutting areas and burnt areas not later than within three years after their origin. The forest shall artificially be reforested upon the ecological basis, according to Regulations on reforestation, approved by the Ministry of Environment. The state forest officers may prohibit further forest final cuttings till the cut forest be reforested. Exceptions shall be available in cases when big-size forest areas are lost due to the natural calamities.

(6) Reforestation and afforestation also covers forest stand reconstruction, supplementation of forest plantings and care and protection until young stand is formed. Lost forest plantings shall be reforested not later than within two years.

Article 16. Growing and cutting of forest stands

(1) The purpose of the forest stand growing and care means is to form productive forests complying to the conditions of forest site by giving a priority to the local tree and other plant species, mixed forest plantings and mixed forest stands. The forest stand growing and care regulating means as well as final and intermediate forest cuttings are performed by the norms and regulations approved by the Ministry of Environment.

(2) Forest thinning are performed in non-mature forest stands for the increase of their productivity and stability and preservation of the biological diversity. These forest cuttings regulate forest stand density and the specific composition. The sanitary forest cuttings are performed for maintaining and improving of the forest healthiness.

(3) Other cuttings, such as cuttings for landscape forming, implementation of the biotechnical means, preparation of the fire break lines and places for the technological equipment, and other purposes, may also be performed.

CHAPTER V FOREST PROTECTION

Article 17. Forest protection tasks

The forest protection tasks include protection of forests and forest resources against illegal activities- self-willed forest cutting, infringement of forest use procedures, plundering of forest resources, forest pollution, littering, setting on fire, damage inflicted by the domestic animals as well as protection of forests against the damage inflicted by forest animals, fires, diseases, pests and other natural calamities, mechanical damage of forest soil and trees.

Article 18. Forest protection against fire and natural calamities

(1) All forest, despite their form of ownership, shall have the common system of state fire-emergency means created and maintained including check-ups, prevention and protection means. This common system of state fire-emergency is prepared and implemented by the General Forest Enterprise under the Ministry of Environment, forest enterprises and state park administrations together with municipalities. Forest governors, owners, users and visitors shall follow the fire-emergency protection requirements approved by legal acts.

(2) Forest enterprises, state parks, and municipalities shall provide funds for the common state fire-emergency check-up and fire extinguishing system in all forest estates. Forest governors and owners shall implement the preventive fire-emergency protection means (installation of fire break lines and bonfire places, cleaning of littered forest, etc.) from their own resources.

(3) In case of the natural calamities, the Ministry of Environment has the right to establish special protective and calamity consequence liquidation means which shall be obligatory to all forest governors, owners, and users.

Article 19. Forest protection against diseases and pests

(1) Forest governors, owners, and users shall follow forest sanitary protection requirements established by legal acts, to transport the coniferous timber out of forest during established periods, or protect properly this timber left in forest against pests. Forest governors, owners, and users shall inform forest enterprises and state park administrations about the sources of tree diseases and pests.

(2) Big pest and disease sources shall be localised and liquidated from resources of the state, forest governors and owners.

Article 20. Forest protection against domestic and wild animals

(1) Pasturage of domestic animals in state forest lands is prohibited, except for the cases defined by the Ministry of Environment. Animal pasturage in private forests is prohibited in cutting areas and young forest stands under 20 years of age.

(2) The number of hunted animals in the forest lands shall be maintained such as to guarantee the stability of ecosystem. During the regulation of animal number in forests, the requirements of the Law on Environment Protection and other legal acts shall be followed.

Article 21. Forest protection against pollution

Forest protection against pollution, permissible pollution and compensation for the damage inflicted on forests is established by the Law on Environment Protection and other legal acts. Lost or damaged forests shall be reforested from the resources of the damagers, and in case on non-identification of the damagers- from the resources of state, forest governors and owners, and other sources.

**CHAPTER VI
LIABILITY FOR INFRINGEMENTS OF THE FOREST LAW**

Article 22. Liability

Natural and legal persons who inflicted the requirements of this Law shall be held liable upon the procedures established by the law.

Article 23. Compensation of damage inflicted by illegal actions

(1) Natural and legal persons which inflicted damage to the forests of forest governors, owners, and users, and other property, legal interests of forest, as object of environment, shall compensate the damage in full, or, in case of opportunity, to restore the condition as it was before the infringement. Damage estimation procedures are established by the Law and other legal acts.

(2) The right to of initiating a suite for the damage inflicted by illegal actions can be used by:

- 1) forest governors, owners, and users whose forests, property or legal interests suffered damage;
- 2) state forest officers, when the damage is inflicted on forest, as object of environment.

**CHAPTER VII
INTERNATIONAL CO-OPERATION OF THE REPUBLIC OF LITHUANIA IN THE FORESTRY**

Article 24. International co-operation of the Republic of Lithuania on the forestry issues

The Republic of Lithuania, following principles of sustainable forest management, concludes international agreements on the forestry issues, participates in the activities of international forestry organisations.

Article 25. Application of the international agreements of the Republic of Lithuania

If the international agreements of the Republic of Lithuania define forest use, reforestation and protection requirements which different from this Law, the provisions of the international agreements shall apply.

I, hereto, announce the approval of this Law adopted by the Seimas (*Parliament) of the Republic of Lithuania

PRESIDENT OF THE REPUBLIC

VALDAS ADAMKUS

APPROVED

by the Minister of Environment
of the Republic of Lithuania
Order of September 17, 2002, No. 484

POLICY OF THE LITHUANIAN FORESTRY AND ITS IMPLEMENTATION STRATEGY

I. GENERAL PROVISIONS

Forest represent one of the major Lithuanian natural resources serving for the welfare of the state and its citizens, preserving the stability of the landscape and environment quality. Despite the forest ownership form, forest, primarily, is the national property that shall be preserved for the future generations at the same meeting the ecological, economic and social needs of the society. Being a source of supply with timber and other forest products, forest is the essential factor of the ecological balance providing living places for numerous animal and plant species, stopping the soil erosion, absorbing the carbon dioxide and purifying the air, protecting the ground and the surface waters, providing opportunities for recreation of the urban and rural people.

With the purpose of ensuring a sustainable forestry development, satisfying of the forest-related needs of various groups of the society, and ensuring preservation of forests for further generations, acknowledging a long forest growth duration, and taking into regard the differences of the ownership forms and their relationship, by promoting conditions for proper management of forests with the purpose of economic benefits for the country, a long-term forestry policy has been formed in Lithuania in compliance to the policies of other branches of the economy of the country, based on the traditions of the country and requirements of the European Union legal norms, international conventions, resolutions, agreements, programmes, and national legal acts.

The following instruments are used for the purpose of implementation of the forestry policy: well-organised, qualified forestry administration independent from any temporal political changes; the Forest Law and other legal acts; taxes revenues and financial support; education and training; management of the forestry information; public relations.

Following the principles and directions of forming of the Lithuanian forestry policy, the strategy of the Lithuanian Forestry development shall be implemented. The main objective of the Strategy is to define the major instruments for the implementation of the forestry policy for the period until the year of 2015.

II. FORESTRY POLICY FORMING PRINCIPLES

The Lithuanian forestry policy is being formed upon the following principles:

1) responsibility for the continuous and sustainable use of the forest resources

Considering the role of forests as the major source of the renewable natural resources for the society, the forestry policy ensures the responsibility of forest owners, forest governors and users for the state of forests and a sustainable use of resources and their restoration. The state, through the execution of the state regulating functions of all forests of the country, developing of the forest infrastructure, forest protection against the natural calamities, widespread diseases and pests, provides legal, financial and other preconditions for the preservation of forests, rational use of the forest resources, meeting the social needs of the society and for the environment protection;

2) compliance to the national legal system and international agreements

The Lithuanian forestry policy is formed following the Constitution of the Republic of Lithuania and other legal acts, and also the Convention on the Conservation of European Wildlife and Natural Habitat, signed in 1979 in Bern, the Biodiversity Convention signed in Rio de Janeiro in 1992, and Forest Protection Principles adopted at the United Nations conference "Environment and

Development”, the Strasbourg 1990, Helsinki 1993, and Lisbon 1998 resolutions of the Ministerial Conferences on Protection of Forests in Europe, the principles of the European Union forestry strategies, European Union directives on forestry and environment protection issues;

3) participation and co-operation of all interested groups of the society

The policy takes into regard the opinion of all interested groups of the society, complies and balances the interests of forest owners, forest governors and users, wood processors, environmental organisations, and other social groups related to forest and forestry-related economy. All major forestry policy statements shall be in compliance with separate stakeholders and submitted for public consideration of the society;

4) variety of forest ownership forms and their equality of rights

The equality of rights for economic activities in forests of all ownership forms is implemented. Equal legal and other conditions both for the management and economic activities in private as well as state-owned forests are created. During the development of the Lithuania forestry, the market economy relationship and free competition principles are strengthened at the private as well as in the state-owned forestry sector;

5) forestry complexity

Forestry is being developed in a complex manner upon the basis of multiple use taking into regard its significance and relations to the consumers of the forest products and services, wood processing industry structures as well as other groups of society having their interests in forests and forestry;

6) continuation of the forestry traditions

The Lithuanian forestry has traditions tested through the course of time, which are taken into consideration during the transfer of the experience of foreign countries. Forestry reforms and reorganisations, implementation of novelties on the forestry management and other issues shall be performed consistently, taking into consideration the practical know-how of the specialists, public opinion, and interests of the state.

III. GUIDELINES OF THE FORESTRY POLICY

The Lithuanian forestry policy is being formed and implemented following four guidelines: general, economical, ecological, and social.

The general guideline of the Forestry Policy:

- 1) preservation and enrichment of the forest resources
- 2) ensuring of the variety of forest ownership forms
- 3) participation of the society in the solution of the major forestry issues
- 4) information to the society about the forests of the country, their condition and management
- 5) development education and research on forestry issues
- 6) strengthening and development of international relations

The economic guideline of the Forestry Policy

- 1) a rational, even and continuous use of the forest resources, increase of forest productivity, and improvement of the quality of the grown timber
- 2) increase of the economic efficiency of forestry

The ecological guideline of the Forestry Policy

- 1) ensuring of the sustainability of ecosystems
- 2) preservation of biodiversity and improvement of forest healthiness

The social guideline of the Forestry Policy:

- 1) meeting the general forest-related needs of the society
- 2) development of state and private forestry sectors in the context of rural development

IV. ANALYSIS OF THE FORESTRY SECTOR

Forests represent one of the most important Lithuanian natural resources having a fundamental economic, social and ecological significance.

At the present time, forests in Lithuania cover about 2 million hectares, or about 31 per cent of the territory of the country. The total timber volume accumulated in the forests of the country reaches 371.7 million m³. Forest area per one inhabitant of the country reach 0.57 hectare or 106 m³ of timber volume accordingly. The forest resources permanently increased during the last fifty years and, at present time, they are sufficient for ensuring a balanced fulfilment of the public needs.

Strengths: Sufficient forest resources for ensuring a balanced fulfilment of the public needs and forestry development

The forests of strict reserves, special-purpose (ecosystem protection and recreational) forests, and protective forests cover 571 thousand hectares or 28.3% of the total forest area of the country. About 19% of all Lithuanian forests are under protected territories, with forests at the same time making up about 50 % of the total protected areas. The Lithuanian forests can be described for a variety of species and mixtures.

Strengths: Substantial forest areas for forest ecosystem, soil, air, and water protection, recreation, performing of other ecological and social functions

71.1 % of forest lands are covered by the fourth-group (commercial) forests, in which the main objective of the economic activities is to form productive forest stands for a permanent timber supply. The average site class quality is 2.0, the stocking level 0.71, growing stock volume – 193 m³/ha, with the average current increment reaching 6.1 m³/ha annually.

It shall be noted that the annual felling amount in the forests of the country was 3.0-3.2 million m³ 10 years ago. Due to the increasing areas of premature and mature forest stands and their volumes in the forests of the country, forest cutting volumes are gradually increasing. During the recent years, about 5 million m³ of timber was cut in the Lithuanian forests annually, whereas the total annual current timber increment reached 11.7 million m³. Forest cutting volumes might reach 6-6.5 million m³ per year in the nearest future.

Strengths: Productive forest stands predominate, and forest felling volumes enable to ensure the supply of the industry and inhabitants with local forest materials, export of wood products and raw material

At present, there are about 400-500 thousand hectares of abandoned and unusable agricultural land, exploited pits and peat-bogs as well as other abandoned land plots, which could be afforested. In such a way the forest cover of Lithuania would be increased by several per cent and approximate the forest cover of other Baltic countries. This would ensure an economically rational use of uncultivated and poor-quality lands.

Opportunity: After planting of forests on poor-quality and abandoned lands, the Lithuanian forest cover would increase by several per cent and approximate the forest cover of other Baltic countries

In Lithuania, forest seedlings are grown at more than 500 nurseries. The majority of these nurseries are small-size and non-perspective and the quality of the forest seedlings grown in some of the nurseries do not comply to quality requirements because an efficient use of modern machinery and application of advanced forest seedlings growing technologies is impossible in small-size nurseries. The majority of the nurseries produce little of the deciduous trees, ornithochoric trees and bushes, the variety of forest plants is poor for the increase of the forest biodiversity and establishment of new forests in the agricultural land.

Weakness: Small-size nurseries do not ensure quality of seedlings, their growing costs are high, limited possibilities for use of modern machinery and application of advanced technologies; the majority of the nurseries produce insufficient assortment of the deciduous trees and bushes

Following the results of long-term forest condition observations (regional forest monitoring in Lithuania is performed since 1987) the condition of all kinds of trees deteriorated till 1995. A tendency of forest condition improvement was observed from 1995. At present moment, the general condition of the deciduous trees is worse if compared to the condition of the coniferous. The same is observed in other European countries. If compared to other European countries, the condition of the Lithuanian forests is average.

Opportunity: Due to the decrease of air pollution and by applying the necessary forest pest, disease and other forest damaging factor prevention means, the condition of the Lithuanian forests could further improve

State forest inventory is performed at all forests of the country. Upon this data, state cadaster (register) of forests is performed which covers the data about forests, their ownership, forest resource quantity and quality as well as the economic value. This data is actualised periodically and is used for the strategic forestry planning. All forest holdings have forest management plans upon which the forestry is organised and all reforestation, forest use, and forest land management activities are performed.

Strengths: All Lithuanian forests and their resources are inventoried data periodically actualised and used for the forestry practice

The ownership structure of the Lithuanian forests changes due to the ongoing Land (and forest) Reform. According to the Forest Law of the Republic of Lithuania, forest can belong both to the state, and also to the citizens of the Republic of Lithuania on the basis of private ownership. On January 01, 2002, there was 521 thousand hectares of private forests, or 26% of the total forest area of the country. It has been estimated that private forests will make about 40-45 per cent of the total forest area of the country after completion of the Land (forest) Reform.

Opportunity: Private forest ownership creates conditions for forming of the forestland market and competition in the forest sector of the country as well as in the foreign markets

The Land (forest) Reform lasts for ten years already. However, the ownership rights were restored to half of the forests areas only, i.e. for the areas in which private ownership rights could be restored. About 500 thousand hectares of forests are reserved for the restitution of the ownership rights and there are no economic or commercial activities performed in these areas. This is why the forest resources of the country are used insufficiently.

Weakness: A slow-proceeding Land (forest) Reform due to which the forest resources of the country are used insufficiently

During the course of the Land (forest) Reform, small forest ownerships emerged (as for January 01, 2002, the average size of a private forest holding was about 4.4 ha), the network of forest owners co-operatives and other economic entities developed very slowly, and the Lithuanian Forest Owners Association covers only a very small number of the total forest owners. At present time, a quarter, and after the completion of the reform- almost a half of the Lithuanian forests with all their functions they perform will be managed by private forest owners, the estates of which are small-sized, giving little income, their forest management knowledge is insufficient, and the ownership duty concept is poorly developed for ensuring a observance of the sustainable forest management principles.

Weakness: Small-sized private forest holdings, weak co-operation of forest owners and lack of forestry know-how hinder the development of private forestry.

Lithuania has a common fire emergency and sanitary forest protection system, which now ensures fire emergency and sanitary protection of all forests of the country completely. This system has been developed and adopted to big forest management entities, and primarily to the state forest enterprises. Due to the increase of small-sized private forest estates, this system might be insufficiently efficient in ensuring fire-emergency and sanitary protection to all forest ownership forms.

Threat: Due the increasing number of small-sized private forest estates, the existing forest fire-emergency and sanitary protection system may become inefficient.

Forestry is important branch of the Lithuanian economy. The surplus value of the Lithuanian forest sector (forestry, together with wood industry, including timber and wood product production, fibre, paper and paper items, furniture production) made 3.6 % in 2001, with the forestry sector sharing about 0.6% of the GDP. Forestry activities are not subsidised from the state budget. At present, the state forest enterprises act like state enterprises upon the Law of State and Municipal Enterprises and pay all taxes foreseen to the state enterprises. The state forest enterprises give about 100-130 million LTL to the state budget in forms of various taxes and deductions.

Strengths: Forestry activities do not need to be subsidised from the state budget.

The increasing areas of private forest decrease respectively the state forest areas managed by state forest enterprises. Some state forest enterprises become too small in size for performing efficient economic activities and for ensuring implementation of all reforestation, forest protection, and maintenance instruments.

Threat: Due to the decrease of state forest areas, part of the state forest enterprises may become economically inefficient.

Forestry specialists with university, college, and secondary-school level education have been prepared from the third decade of the last century in Lithuania. Qualified forestry personnel education traditions have almost eighty years. The greater part of the forestry study graduates work in the forestry sector. For example, about 60 per cent of the 1990-2000 year graduates of the Lithuanian Agricultural University, Forest Faculty work at state forest enterprises or other forestry-related enterprises and organisations. The general qualification of the specialists working in the forestry sector is high enough now.

Strengths: A sufficiently high qualification of the specialists working in the forestry sector

The wood cut in the Lithuanian forests is prepared in assortments most often, its transportation using forwarders and self-loading trailers is increasing. In 2000, the state forest enterprises prepared about 96 per cent of timber in assortments, and only 4 per cent in stems or semi-stems. Almost two-thirds of the timber produced at state forest enterprises were transported out of forests using forwarders or self-loading trailers.

Strengths: State forest enterprises use rational timber harvesting technologies and modern machinery

There are about 30 thousand kilometres of forest roads in the country. This road network is well-maintained with about 20 per cent of the total road network repaired and with about 100 km new forest roads constructed annually. Such a wide and permanently maintained and renewed road network creates good conditions for timber harvesting works and arrangements of timber sales.

Strengths: A sufficient road network for the forestry development

The state forest enterprises and administrations of the national parks use the services of contractors for timber harvesting, reforestation and thinning development widely. The contractor-based work volumes increase in all of the above-mentioned forestry activities. In 2000, the contractors cut 87 per cent of trees in the state forest enterprises, and extracted out of felling sites about 32 per cent of all harvested timber. During the same year, the contractors planted 71 per cent of the total reforestation areas and tended 62 per cent of the thinning areas.

Opportunity: Increasing contractor work volumes create favourable conditions for development of private contractor companies

The greater part of the prepared roundwood is sold for the local market with quite a significant quantity exported. In 2001, 1.3 million m³ of the round wood and about 750 thousand m³ of sawn timber products was exported abroad (this quantity equals to approximately two-thirds of the total sawn-timber produced in the country). The volumes of imported round wood are very insignificant.

Opportunity: Favourable geographical location of the country for the development of foreign trade in wood products

Weakness: Too big exports of round and primarily-processed wood

Pulpwood makes up the majority of the exported round wood, the possibilities of the use of which are very limited in the country. At the present time, the exports of the pulpwood reached 1 million m³ per year. Other types of small-sized round wood and residual products are not used efficiently in the country.

Weakness: Insufficiently developed timber industry of the country

With the support of foreign countries and international funds various international projects have been implemented on the forestry development issues in Lithuania. During the preparation for the European Union membership, the accession states receive support from the accession support initiatives, and after Lithuania becomes member, it will have an opportunity to use the structural funds of the European Union.

Opportunity: Use of the support of foreign countries, international and European Union structural funds for the development of the forest sector

V. VISION

The Lithuanian forests – a natural element of the Lithuanian landscape distinguishing for their healthiness, biodiversity, productivity and stability, supplying with timber and other wood products, providing home for numerous animal and plant species, stopping soil erosion, absorbing carbon dioxide and purifying the air, protecting ground and surface waters, satisfying other balanced ecological, economical, and social public needs.

The Lithuanian forestry - a modern, market-oriented branch of the country's economy rationally using and increasing the forest resources, having a developed infrastructure and qualified personnel, applying modern technologies, creating working places and cosy living surroundings.

VI. MISSION OF THE STATE

- To form and implement a rational forestry development policy, which would ensure ecologically, economically and socially balanced development of the forestry sector.
- To ensure the stability of the forest ecosystems, preservation of the biodiversity, increase of the forest productivity, improvement of their quality and healthiness.
- To preserve the valuable forest genetic fund by using the national forest genetic resources for the establishing and creating of new objects of forest seed basis.
- To increase the forest cover of Lithuania by planting forests on uncultivated and poor-quality soils as well as other non-used land areas where forest planting would contribute to the formation of the Lithuanian natural carcass.
- To ensure the variety of forest ownership forms and the efficiency of forestry state regulation.
- To ensure meeting of the general forest-related social needs of the society.
- To create a favourable legal, economic and institutional environment for the effective and competitive functioning of the forest economy, wood industry and a variety of forest business enterprises in a free market.
- To encourage innovations, competitiveness, development of markets and establishment of working places.
- To ensure the maintenance of the scientific potential and its rational application as well as the preparation of high-qualification forestry specialists.

VII. STRATEGIC FORESTRY DEVELOPMENT OBJECTIVES

1. Preservation and increase of the forest resources

- 1.1. A rational use of the forest resources by decreasing the share of clear-cutting, forming and establishing ecologically stable forest stands and restoring them in a timely manner.
- 1.2. Limitation of forest areas conversion into other purpose lands by applying legal and administrative means.
- 1.3. Establishing of new forests, increase of the Lithuanian forest cover by 3% during the next 20 years with the purpose of increasing the ecological stability of the country and ensuring the role of forests in the general rural development (incomes, work places, social and economic stability) as well as economically rational use of uncultivated and poor-quality soils taking into regard the environmental, landscape formation, protection of the cultural heritage, tourism development and other factors.

2. Ensuring of the forest ownership variety

- 2.1. Creation of the legal conditions for the provision of the forest ownership rights to the Lithuanian and foreign natural and legal persons.
- 2.2. Creation of equal legal conditions for natural and legal persons after the completion of the Land (and forest) Reform to obtain former reserved forest for the restitution of the ownership rights not taken by the owners, the forests which are not rational for the use of the state forest managers, and providing a priority to the state in protected areas.

- 2.3. Correction of small-area state forests interfering into larger private forest ownership areas and vice versa as well as correction of non-rational boundaries between the forests of the state and the private sector through equivalent forest property exchanges.
- 2.4. Development of private forest owners training, consulting and education system and preparation of separate education and training programmes using the existing potential of private forest owner self-governing organisations, forest research and training, consulting and education institutions.
- 2.5. Creation of legal and economic preconditions promoting merging of small-sized forest holdings, association and co-operation of the forest owners.

3. Participation of the society in the solution of the major forestry issues

- 3.1. Performing of public opinion polls and sociological researches, organising of discussions in the periodical press and other means of mass media on the forestry issues, analysis and application of the obtained information at taking the state-governing decisions.
- 3.2. Co-operation of foresters and interested groups of the society for co-ordination of forestry development and solving problematic forestry issues.

4. Informing of the society about the forests of the country, their condition and management

- 4.1. Improvement of a continuous and periodical forest resource and condition monitoring system and forestry sector statistics taking into consideration the criteria and indicators adopted by the European Union.
- 4.2. Preparation of a common forestry information supply system by joining databases existing at separate institutions into a common system and by creating necessary databases foreseeing information exchange not only inside the forestry sector, but with the outside information users as well.
- 4.3. Systematic presentation of information about the condition of state-owned and private forests and forestry in official periodical publications and through other mass media, as well as by issuing special statistical publications.
- 4.4. Popularisation of forest science and education activities.

5. Development of forest research and forest education

- 5.1. Establishing of the fundamental and applied scientific research priorities for forest and wood industry, implementation and development of research by ensuring the maintenance of the existing forest research potential and its rational application.
- 5.2. Co-operation of the Lithuanian forest education and university, high-school non-university and professional training organisations seeking a more efficient research development and application of results for practice and training, involvement of young specialists into scientific activities.
- 5.3. Actualisation of the university, high-school non-university and professional training school programmes paying a greater attention for teaching of the market economy basics, sustainable forest management principles, application of modern technologies and use of machinery, and other urgent forest education areas.
- 5.4. Preparation of long-term co-operation programmes between research and education organisations of the Baltic and the European Union countries foreseeing teacher and student exchanges, training and research programme opportunities abroad.

6. Strengthening and development of international relations

- 6.1. Co-ordination of the Lithuanian legal acts, regulating the forestry activities according to the requirements of international documents, taking into regard the Convention on the Conservation of European Wildlife and Natural Habitat, signed in 1979 in Bern, Biodiversity Convention signed in Rio de Janeiro in 1992, and Forest Protection Principles adopted at the United Nations conference "Environment and Development", the Strasbourg 1990, Helsinki 1993, and Lisbon 1998 resolutions of the Ministerial Conferences on Protection of Forests in Europe, the principles of the European Union

forestry policies and strategies, European Union directives on forestry and environment protection issues.

- 6.2. Setting of priorities for co-operation with the foreign countries, preparation of a programme for practical co-operation.
- 6.3. Implementation of changes related to the enlargement of the European Union taking into consideration the requirements of international resolutions, conventions and agreements, and in co-operation with international organisations.
- 6.4. Information and know-how exchange on the forestry issues with international organisations and individual foreign countries with the purpose of a mutually beneficial use of information.

7. Rational, sustainable and continuous use of the forest resources and increase of the forest productivity

- 7.1. Differentiated use of the forest resources upon forest groups and categories, aimed at economically valuable forest stand formation at IV and III group forests, giving a priority for the preservation of the nature values in II and I forest groups.
- 7.2. Implementation of forest management activities in forests based on forest management plans and requirements of forest research.
- 7.3. Control of forest resource use at forests of all ownership forms taking into regard the actual timber increment, tree species composition and age structure, and seeking a continuous use.
- 7.4. Application of forest tree breeding means, thinning, improvement of forest infrastructure (roads, ditches, technological lines and routes) and improvement of the economic instruments, taking into regard the requirements for sustainable forest management and the abundance of small-sized private forest holdings.
- 7.5. Improvement of forest protection against plundering and thefts with a deeper differentiation into legal liability and by developing forest protection structures.

8. Improvement of the economic efficiency of forestry

- 8.1. Optimising of forestry state regulation system by preparing and implementing an optimal forestry state regulation model based on the Lithuanian forestry traditions, European Union requirements as well as the Lithuanian and foreign countries' forestry administration systems legal and economic situation analysis.
- 8.2. Increase of efficiency of the companies involved in forest commercial activities by preparing and implementing optimal economic activity organisation models in forests.
- 8.3. Improvement of complex forest management activities in state forests, including reforestation, maintenance, protection, rational use of forest resources, trade in round wood and other forest resources as well as low-quality wood and fuel-wood selling as non-cut forest.
- 8.4. Improvement of the taxation system in the forestry sector taking into regard market economy conditions.
- 8.5. Renewal of forest management activities in the forests reserved for the restitution of the ownership rights seeking to include these, as soon as possible, into forest resource use and ensure forestry incomes from these forests after the completion of the Land (forest) Reform.
- 8.6. Use of more economically efficient forest machinery and technologies by applying of low-cost demanding and ecologically-sound forestry management systems (for example, the natural regeneration).
- 8.7. Increase of the size of forest nurseries and their modernisation seeking to ensure the quality of the forest seedlings, decrease their growing costs, as well as to use modern and advanced forest seedlings growing technologies.
- 8.8. Increase of a rational use of small-sized wood and felling residues inside the domestic market by developing the capacity of the wood processing industry and use of this type of wood for the energetic purposes.
- 8.9. Introduction of a compensation system for the forest owners for their losses due to the restrictions of forest management activities in the protected areas under establishment.

8.10. Promotion of investments into the forest products production and marketing.

8.11. Promotion of wood product exports.

9. Ensuring of sustainability of forest ecosystems

9.1. Preparation of the scientifically-based normative proposals for the co-ordination of economic and social issues during the establishment of protected areas, revising the existing boundaries and establishing a related economic regime in these forests.

9.2. Inventory of natural and semi-natural forests (based on FAO classification), a more exact clarification of their protection regime and establishment of new protected territories primarily at the most valuable natural object habitats.

9.3. Restoration of the ecological value of degraded forest ecosystems.

10. Preservation of the biodiversity and improvement of forest healthiness

10.1. Improvement of register and protection of rare and extinction plant and animal species and their habitats.

10.2. Reforestation and forest planting upon the ecological-genetic basis, planting more of mixed plantations, hard deciduous, combining afforestation with the natural regeneration, paying a special attention to the formation of sustainable forest edges.

10.3. Increase of the assortment of forest nurseries' production seeking to ensure the stability of the planted forests and preservation of the biodiversity.

10.4. Distinguishing of basic valuable forest populations in the each natural forest region by preserving the natural species and genetic structure through a natural use of the genetic resources for reproduction.

10.5. Improvement of the unified forest fire-emergency and sanitary forest protection systems on the national level taking into consideration the abundance of small-sized private forest holdings.

10.6. Reduce of chemical forest protection means and their replacement with biological and mechanical means.

10.7. A rational use of the game animal resources with the purpose of balancing their numbers in populations, reduction of their damage for forests, and other requirements.

11. Satisfying of the general forest-related society needs

11.1. Co-ordination of forest visiting regulation taking into regard the needs of forest owners and the whole society.

11.2. Development of the cognitive recreation and tourism infrastructure in the forests.

11.3. Ensuring of the preservation of the cultural heritage objects in state-owned and private forests, taking a special regard to the specifics of small-sized forest holdings.

11.4. Promotion of women employment in the forestry sector.

12. Development of state and private forestry in the context of the general rural development

12.1. Creation of new working places in the forestry sector by developing various forest businesses, economical promotion of these businesses (subsidies, preferential credits, tax privileges and etc.) in the rural development context.

12.2. Promotion of recreational, hunting and other service providing to the society and promotion of non-wood forest product development in the private and state forestry sector.

12.3. Improvement of the social security for those working in the forest sector seeking to create better work safety conditions for both state and private forestry sector.

12.4. Integration of private forestry development into the general rural development programmes co-ordinating the activities with the rural self-governing institutions.

VIII. IMPLEMENTATION OF THE STRATEGIC FORESTRY DEVELOPMENT OBJECTIVES

A plan of actions and measure shall be concluded for the implementation of the strategic forestry development objectives which shall include definite actions and means for the development of separate strategic objectives establishing the period for the implementation of these means and defining the executives in charge.

IN COMPLIANCE WITH

Minister of Economics of the Republic of Lithuania

Petras Čėsna, 2002

IN COMPLIANCE WITH

Minister of Agriculture of the Republic of Lithuania

Jeronimas Kraujelis, 2002

ANNEXES

AUTHORS OF CONTRIBUTIONS	178
PARTICIPANTS OF THE JAUNMOKAS-SYMPOSIUM	181
THE IUFRO RESEARCH GROUP 6.1300 FOREST LAW AND ENVIRONMENTAL LEGISLATION	185
IUFRO RESEARCH GROUP 6.1300 RESEARCH PUBLICATIONS	186

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D6**Social, Economic, Information and Policy Sciences****IUFRO UNIT 6.13.00****4th International Symposium on "Experiences with New Forest and Environmental Laws in European Countries with Economies in Transition"**

Latvia
8 - 10 August, 2002

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THE IUFRO RESEARCH GROUP 6.13.00 FOREST LAW AND ENVIRONMENTAL LEGISLATION

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Research Papers may be submitted and are printed in English, French, German and Spanish.

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