



**First meeting
of the MCPFE Working Group on exploring
the potential added value of and possible options for a
legally binding agreement on forests in the pan-European region**

27 -28 November, 2008, Athens, Greece

Minutes of the meeting

The first meeting of the MCPFE Working Group (WG) on exploring the potential added value of and possible options for a legally binding agreement on forests in the pan-European region took place in Athens, Greece on 27-28 November, 2008. The meeting was attended by 31 delegates representing 17 European countries and the European Commission and 13 participants representing observer countries and organisations and the Liaison Unit Oslo.

The meeting was co-chaired jointly by Ms. Irini Nikolaou, Greece and Mr. Ingwald Gschwandtl, Austria.

Opening of the meeting

H. E. Mr. Konstantinos Kiltidis, Deputy Minister of the Hellenic Ministry of Rural Development and Food opened the meeting and welcomed participants on behalf of the Hellenic government. Mr. Kiltidis underlined the importance of the work of the MCPFE Working Group and he expressed the need for a more concrete forest strategy and action in Europe and European Union. He stressed that although Greece has a favorable opinion on the establishment of an LBA in Europe his will was only to offer the best place for a constructive meeting on the forest dialogue among European countries.

Mr. Arne Ivar Sletnes welcomed the participants on behalf of the MCPFE Liaison Unit Oslo. He underlined that at the Warsaw Ministerial conference (2007) several ministers and heads of delegations, by referring to the important achievements of the MCPFE, argued that it is time to consider new and innovative forms for future cooperation in order to meet challenges ahead and to progress towards the long-term objectives. He referred to the proposal addressed in Warsaw by Austria on exploring the potential for a legally binding agreement on forests in Europe. This proposal gained support from other countries, including those of the General Coordinating Committee of the MCPFE. Mr. Sletnes referred also to the Terms of Reference for the Working Group as agreed at the ELM in May 2008 and he underlined that the task of this Working Group is one of the basic element for the elaboration of the strategic direction of the MCPFE, which was agreed to work on as a part of the Work Programme adopted by the MCPFE Expert Level Meeting in May 2008. He encouraged participants to have a long term and strategic perspective when starting the work of the WG in order to bring results to the ELM to be held on 24-25

November 2009, and in the future to facilitate discussion on procedures towards elaborating possible concrete deliverables for the next Ministerial Conference.

Adoption of the agenda

The agenda was adopted without amendments. The agenda is attached as **Annex 1**.

Introduction of the purpose, scope and Road Map for the work of the WG

Mr. Ingwald Gschwandtl introduced the purpose and the scope of work of the WG. He stressed that according to the Terms of Reference, the WG is expected to deliver results at the latest by the end of 2009. He presented a Road Map, including a work plan for four meetings of the WG (including one optional), expected outputs of each meeting as well as plans for intersessional work. Mr. Gschwandtl also stressed that the work of the WG shall be coordinated closely with the ELM in 2009 and other MCPFE meetings, in particular the MCPFE review process, which is carried out in parallel, in order to allow cross-fertilizing.

Mr. Gschwandtl explained that the Road Map had been developed by the process facilitators (Austria, Norway and Greece, according to the WG's Terms of Reference) in cooperation with an informal group of experts (friends of the facilitators).

The Road Map is annexed to these minutes as **Annex 2**.

Participants agreed to the proposed Road Map and welcomed approach to revisit and adjust the Road Map after each of the WG meeting, if needed.

Key Note Presentation

Dr. Ewald Rametsteiner, International Institute for Applied System Analyses, Luxemburg/Austria delivered a key note presentation on "*Challenges and emerging issues concerning forests - nationally, regionally, globally – relevant to any type of forest arrangement for the pan-European region*". The key note presentation provided a basis for further considerations by the Working Group on challenges that a legal agreement on forests should tackle and have a positive impact on (see below).

Presentation of scientific and technical background

Dr. Helga Puelz and Dr. Doris Wydra, University of Salzburg and Dr. Christoph Wildburger, from Wildburger Consultancy Vienna, presented an overview and basic information on existing international and multilateral agreements relevant to the tasks of the Working Group. Dr. Doris Wydra presented possible options for a legally binding agreement on forests from a juridical point of view. She explained structures, core elements, procedures, including rights, obligations and exceptions, as well as related bodies and financing mechanisms of three possible prototypes: single instrument, framework agreement and protocol.

In the subsequent discussion, participants welcomed the presented information. The Working Group discussed briefly the presented prototypes, focusing on differences

and similarities between a single instrument, a framework convention and a protocol. Also possible relations to relevant EU directives were discussed.

Identification of the challenges and issues that a legal agreement on forests should tackle and have a positive impact on (content) and developing a reasonable number of options for a legally binding agreement on forests in Europe for further analysis

Based on the key note presentation and the presentation of scientific and technical background, the participants worked in two break out groups chaired respectively by Mr. Christoph Duerr, Switzerland and Mr. Heikki Granholm, Finland. The discussions in both groups were guided by the following questions:

- *What are the challenges and issues a legal agreement on forests should tackle and have a positive impact on? What kind of impact at the national level, regional / EU / global of the LBA can be expected?*
- *What type of commitment should be aimed at (specific targets or general provisions) for the issues identified?*
- *Which prototypes of a legal format should be explored further?*
- *How would a legal agreement be structured?*

Additional to the above questions, a document on possible structural elements of an LBA was provided for the break out group's discussion (see **Annex 3.1**).

The participants identified several challenges and issues that a legal agreement on forests should tackle. Among the issues highlighted was a long term coherent and predictable framework for sustainable forest management; visibility of the forest sector; recognition of sustainable forest management and forest sector in other fora; credibility of the forest sector to respond to societies and international expectation. It was also underlined that an LBA on forests could play a role in addressing several environmental challenges, such as climate change, forest fires, insects outbreaks, biodiversity conservation, desertification, droughts and water, forest protection and rehabilitation, silvicultural issues and others. As for socio – economic challenges participants identified the following: lack of resources allocation dedicated to forest issues (at national level); competitiveness of the forest sector (national, regional and global levels); weak role of forestry in rural development policies; lack of legal definition of sustainable forest management, as well as governance and trade issues.

The full lists of challenges and issues that a legal agreement on forests should tackle as worked out by the break out groups are presented in **Annex 3**.

On the issue of what type of commitments an LBA should aim at (specific targets or general provisions) the Working Group was of the view that more time and discussions are needed for this task. However, some participants expressed that „*form should follow the function*” and that challenges and content should determine the level of commitment.

Regarding developing a reasonable number of options for a legally binding agreement on forests in Europe for further analysis, participants referred to the earlier presentations of the prototypes (single instrument, framework agreement and protocol) and suggested to take it as a starting point for further work. Some pointed

out that reinventing the wheel should be avoided and the work on possible options should not jeopardize the credibility of the forest sector and commitments already made.

The discussion led to the general understanding that two prototypes of agreements (single instrument, framework agreement) should be used as architectural framework for developing options for analyses. It was also proposed by some participants to consider “MCPFE +” when developing options, which would be based on existing MCPFE commitments and arrangements combined with a legal element.

On basis of the proposals and discussions the Co-chairs presented examples on how to structure options of an LBA on forests in Europe (**Annex 4**) for further analyses according to the WG’s ToR.

The Co-chairs proposal was generally welcomed by participants and agreed to be used as basis for further work.

The relation of a potential LBA with the EU legislation was also briefly discussed. Dr. Doris Wydra presented a number of examples of multilateral treaties concluded by the European Community and explained the legal nature of mixed treaties and mixed competences in this context. It was recommended to clarify these aspects within the EU in preparation for the next WG meeting.

Developing a systematic approach for evaluating the selected options of legally binding agreements on forests in Europe

Dr. Christoph Wildburger and Dr. Doris Wydra introduced an open ended list of factors for evaluating the potential added value of international and multilateral agreements. He proposed to consider (1) content-related, (2) structure-related and (3) procedure related factors. Following, participants worked in the two break out groups chaired by Mr. Christoph Duerr, Switzerland and Mr. Heikki Granholm, Finland. The discussions in both break out groups were guided by the following questions:

- *What aspects of an LBA would add value (e.g. politically, content wise, procedurally, structure, outreach)?*
- *What methodology can be used for analysing the potential added value, pros and cons, implications etc. of selected options for LBA?*
- and additionally:*
 - *How can the interrelations of a legal agreement to other relevant agreements, bodies and processes be assessed?*
 - *Can national – level case studies/examples help to illustrate the impact of a legal agreement?*

After subsequent discussions in the break out groups participants suggested the following guidance for developing a methodological approach for analysing the potential added value and pros and cons of selected options for a legally binding agreement on forests in Europe:

- The assessment of added value and pros and cons should be carried out at different levels (national, regional and global);

- It was suggested to develop a matrix analysis and to use qualitative assessment (assess differences between what we have now and LBA);
- Gradient (and form of description) for evaluation should be considered once the content is developed;
- Interest from some countries for developing assessment at national level (case studies) was expressed by some participants, but reservations were expressed by other on comparability and methods that could be applied ;
- Interrelations between an LBA and other relevant agreements, bodies, processes and the EU in particular should be assessed, case by case.

It was also proposed to make use of the list of factors (content-related, structure-related, procedure-related) presented by the scientists as well as to include politically/status-related factors as a basis for developing a methodological approach for the evaluation.

The full list of proposals for methodological approach as worked out by the break out groups is presented in **Annex 5**.

Information on the Canadian Initiative

Mr. Shawn Morton from Foreign Affairs and International Trade Canada informed participants on “the state of art” of the process on a Legally-Binding Agreement on Sustainable Forest Management at the global level, led by Canada. Mr. Morton referred to the background of the initiative, as well as a scope of a non-paper which was developed as a draft for discussion purposes and to provide a possible model for a sustainable forest management agreement. He also provided information on the planned negotiation process, which is scheduled to start in March 2009.

Participants received the information with great interest and recognized the clear distinction between the Canadian initiative on a global convention and the work of the WG with regard to a European agreement. While the Canadian initiative is carried out with likeminded countries only outside and parallel to existing institutions (UNFF) the European process is conducted with all signatories of the MCPFE under the MCPFE umbrella.

Conclusions of the meeting and next steps

- It was generally agreed that two prototypes of agreements, single instrument and framework agreement should be used as architectural framework for developing options for analyses.
- It was agreed to take the general ideas presented by the Co-chairs (Annex 4) on how to structure options of an LBA on forests in Europe for further analyses, as starting point when developing options.
- It was proposed by the Co-chairs and generally agreed to develop a reasonable number, three to maximum five options for further analyses by the WG at its second session.

- It was further suggested to take the “*MCPFE +*” proposal into consideration when developing options; it would be based on existing MCPFE commitments and arrangements, combined with a legal element.
- It was decided by the WG that on the above basis, the facilitators (Austria, Norway and Greece) together with legal experts and the friends of the facilitators should elaborate draft options during the inter-sessional period. The drafts should be refined in cooperation with the members of the WG through email consultation, and be finalised and brought to the attention of the MCPFE national focal points in due time before the second meeting of the WG.
- It was also suggested by the WG participants to continue working on the possible content of an LBA during the intersessional period. This work should be carried out in connection with the development of the options.
- Participants discussed possible links between the work of the Working Group on LBA and the MCPFE review process. It was agreed that the Liaison Unit Oslo will facilitate coordination and information between those two processes.
- Common understanding was reached that the approach for the systematic evaluation of the selected options of legally binding agreements on forests in Europe should be pragmatic and not complicated. It was decided that the process facilitators, together with experts and the friends of the facilitator’s shall elaborate a methodology based on the outcome of this meeting and the requirements of the ToR. The methodology shall be presented to the WG before its 2nd meeting.
- It was confirmed that the 2nd meeting of the WG will take place 19-20 May, 2009 in Oslo, Norway.

Closure of the meeting

Mr. Arne Ivar Sletnes, Liaison Unit Oslo, thanked the Hellenic Ministry of Rural Development and Food for hosting the meeting. The Co-chairs Ms. Irini Nikolaou, Greece and Mr. Ingwald Gschwandtl, Austria thanked the participants for their active participation and closed the meeting.