The Role of Forest Policy and Law in Managing the Natural Renewable Resource Base

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Summary

Forests are the basis for an important sector of the economy, a significant element of natural landscapes and biodiversity, and a valuable infrastructure asset allowing and facilitating other land management activities. International, national and local policies and regulations, addressing forest protection and management, change over time. Driving factors for change are new economic needs and new political demands resulting from a transformation of social values. Relevant combinations of policy domains and laws in a determined society depend on the stage of socio-economic development; the multiple demands for goods and services; the prevailing cultural values; the extent of forest area and its biodiversity; and on the productivity and fragility of ecosystems. There is need for a development framework which provides subsistence and well-being through technology, research and education. To promote programmes enhancing the productivity of land and efficient uses of natural resources is, both at national level as well as for the international community, one of the important goals to preserve a liveable planet for present and future generations. National and international regimes addressing protection of the environment and sustainable land management have an increasing impact on forest and environmental policies.

These trends are occurring in all continents and are the expression of public concerns on man’s relationship with his physical environment. It is a political necessity to built a more permeable science-policy interface and to develop innovate and more comprehensive interdisciplinary research networks that are able to determine the long-term impacts of human interventions, to assess individual and collective opportunities from more sustainable production and consumption patterns, and to evaluate the risks that result from human-induced changes in the environment. It is essential to show what concrete measures can be taken to increase benefits and to avoid or reduce risks in managing the natural renewable resource base.

Key Words: Sustainable land management; Forest Policy; Environmental Law; Human-Environment Systems; Forest Research
1. Maintaining the Natural Resource Base

Maintaining the natural resource base is today one of the prominent demands to governments and the international community. This implies that international political decisions, as for instance the framework convention on climate change and the biodiversity conventions, as well as national policy making have to consider systematically the role and contributions from forests and the forest sector within a broader policy framework. It means to implement strategies which protect forest ecosystems and wild flora and fauna; balance economic, social and environmental needs of people and society; and create a firm institutional basis through effective forest and environmental management (FAO, 2003a; FAO, 2005). The range of issues which need to be addressed is wide and refers, for instance, to public and private protected forest areas, to watershed and water management, to prevention and combating forest fires, and to sustainable forestry development in a comprehensive understanding. All this requires a solid policy framework supporting involvement of the urban and rural population, effective acknowledgement of ownership and forest user rights, and reliable land tenure regulations. It requires concerted policy measures stimulating private and public investment for generating multiple benefits from the available forest resource and for establishing new forests where they are needed.

The decisions of the World Summit on Sustainable Development held in Johannesburg in 2002 place forests into the broad context of sustainable development by referring to them as a substantial element of the natural resource base for economic and social advancement (WSSD, 2002). The decisions of the Conference acknowledge the multiple and varying functions of forests for poverty alleviation, as raw material and energy sources, and as natural habitats and environment. The implementation plan highlights the role of forests in several policy domains such as natural resources management (Section 24), agriculture (Section 40d), desertification (Section 41d), mountains (Section 42b) and sustainable development for Africa (Section 62n). It points to the fact that forest protection and forestry developments are closely linked to policy measures addressing climate change (Section 38), biodiversity (Section 44) and the institutional framework for sustainable development (Section 137 ff.).

The provisions on forests (Section 45) stress sustainable forest management (SFM) of both natural and planted forests for timber and non-timber products as essential to achieve economic and social progress. Sustainable forest management is seen as a critical means to eradicate poverty, to reduce significantly deforestation and to halt the loss of forest biodiversity and land and resource degradation. Its role in improving food security and access to safe drinking water and affordable energy is specifically mentioned. Sustainable forestry practices provide multiple benefits of both natural and planted forests and trees, and contribute to the well-being of the planet and of humanity. They need to be achieved, nationally and globally, through partnerships among interested governments the private
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sector, and stakeholders, indigenous and local communities, and non-governmental organisations (NGOs).

An expression of the global political context in which forests are placed is the emerging international forest regime which is based on five pillars:

- International legal instruments such as conventions, agreements and declarations addressing forests and forestry directly or indirectly;
- World-wide political processes involving governments, non-governmental organisations, the private sector and indigenous and local communities within the United Nations System;
- Regional forest-related initiatives which operate in several continents and develop their own political agenda on forests and the forest sector;
- International Criteria and Indicator Processes which provide eco-region specific standards for sustainable forest management certification systems;
- National Forest Programs based on stakeholder concertation allowing to concretize international commitments as agreed to by each country.

At national level the public framework for maintaining the natural resource base is determined by the prevailing socio-economic and political conditions, and by the natural endowment of a country. Most issues in managing the natural resource base in a sustainable manner cannot be tackled by one single public policy domain or one body of specific legislation alone. Environmental and natural resources policies are in fact complementary and have a considerable number of linkages among each other (FAO, 2003b: Thoroe et al., 2004). This has far-reaching consequences for the way in which governments, the private sector, non-governmental organisations and local communities need to steer political decision and implementation processes. Policy domains that are of particular relevance relate to environmental protection, nature and landscape conservation, land use planning and regional development. Policies addressing specific sectors of the economy such as agricultural, water protection and water management, and fishery, hunting and wildlife conservation are of great importance in this context (Schmithüsen, 2003a). New legislation addresses foremost environmental protection, sustainable use of natural resources, national and sub-national systems of protected natural areas, and protection of wild flora and fauna. Sustainable management of soil and water resources and protection of indigenous knowledge on biological resources and medicinal plants are other interesting aspects of new legislation.

To be effective forest policies and laws have to be conceived and implemented in conjunction with other policies and laws that regulate and foster economic uses, sustainable management, and preservation of the natural resource base. Public policies concerned with economic growth, employment and social affairs; and with energy and industry set the pace for wood
production and processing. Policies related to research and education, technology development; infrastructure and communication provide an innovative basis for the development of the forest and wood industry sector. Policies and laws addressing agriculture and rural development, natural resource utilization and environmental protection have substantial positive or negative effects on the specific forestry goals. They foster or impede the efforts to maintain forest areas, to promote sustained wood production, and to establish national systems for the protection of remarkable ecosystems, wild flora and fauna.

Solutions for most societal problems have to be found through different agencies and actors as well by an effective co-ordination among the goals and instruments set out in different policy areas. Key questions to be asked in assessing the effectiveness and efficiency of policy and law regulating sustainable use of the natural resource base are (FAO, 2002):

- Do public policies and legislation provide an appropriate positive regulatory environment for activities in support of sustainable natural resources development?

- Are policies and law relatively free of unnecessary regulatory constraints that could inhibit activities that are essential for achieving the goals of sustainable development?

- Are the mandates for different institutional actors of the public and private sector clear, co-ordinated and desirable?

- Does the policy and legal framework provide mechanisms by which people may obtain meaningful and secure rights to the assets essential for their pursuit of sustainable livelihood?

- Do policies and law enable the formation and empowerment of appropriate stakeholder organizations?

2. Trends in European National Forest Policies and Legislation

According to recent statistics from the Food and Agriculture Organization the total forest area in Europe is over a billion hectares or slightly more than a quarter of the world’s forests (FAO, 2001). More than 80% of this area is situated in Russia, respectively in the countries of the Commonwealth of Independent States sub-region (CIS countries). The forests of the countries in the Western and Eastern European sub-regions extend over an area of 170 million hectares. Differences between countries are high, both with regard to the actual and potential wood production as well as to the economic and social conditions which determine forest management and the development opportunities of the forest sector ((UN-ECE/FAO, 2000; UN-ECE/FAO, 2005).

Looking at the long history of forest development in Europe four decisive stages may be distinguished (Schmithüsen, 2003b; Schmithüsen 2004a). There was a change from forest uses mainly for subsistence and as a complement in agricultural production to large scale pre-industrial wood exploitation as a source of energy and as construction material which took
place from the 15th to the 17th century. The 18th and 19th centuries were a period of transition from forest exploitation and devastation to sustainable wood production, and to the foundation of a modern forestry sector economy. After World War II forestry expanded from focusing largely on sustained wood production to the broader objectives of multifunctional forest management in increasingly urbanized societies. During the last 20 years another change has taken place moving from societies in which forests were mainly looked at as national and local domains, to a European and world-wide perspective with multi-level and multi-sector political implications. The present political perspective in which European forests and forestry to be seen are well expressed by the declaration and resolutions of the Ministerial Conference on the Protection of Forests in Europe which took place in 2003 in Vienna (MCPFE, 2003).

A modernization of forest policy and law occurs at present in many European countries (Cirelli and Schmithüsen, 2000; Schmithüsen et al., 2000; Mekouar and Castelein, 2002; Thoroe et al., 2004). It is induced by rapid changes in politics and of national constitutions, by an internationalisation of economy and trade, and by serious concerns of people on protecting environment, landscape and nature. If we look at the broad trends of policy and law development, we find in particular provision which relate to environmental functions of forests, local forest tenure, more socially oriented management planning, and delegation of competences to sub-national authorities and to the private sector. National forest policy reflects more explicitly the environmental importance and the need to protect more systematically the biodiversity of forest ecosystems. This is apparent in the preamble or in the statement of the objectives of forest laws which refer to protection and preservation objectives, multifunctional forest management and the country’s international commitments. More specific provisions relate to inventories, planning procedures and classification regulations which allow a more integrative use of forest resources balancing economic and environmental requirements (Bauer et al., 2004). Recent forest laws allow for more flexible land classifications including the designation of forest nature reserves, watershed forests and protection forests. Environmental impact assessment is an important tool, either by explicit reference in forest legislation or through general environmental law regulations.

The goals of good governance are driving policy, legal and institutional reforms. Principles which influence increasingly policy and law design in many sectors are participation in decision-making, access to information, transparency and accountability. Governments interact with civil society on matters such as awarding forestry concessions, setting food control standards, or monitoring environmental compliance. There is a growing move in many countries towards decentralisation and devolution of government powers. Institutional frameworks are being changed to reflect policies promoting local decision-making and community-based initiatives in a wide variety of fields. Decentralisation gains importance as a strategy for reform of the public sector. The promotion of community initiatives and contractual engagements among stakeholders figures prominently in current thinking about
environmental and natural resource management. In forestry, water management, fisheries, land use, wildlife and other areas the emphasis is on moving away from more or less exclusive state competencies to stronger management responsibilities and property rights vested in private individuals and companies, sub-national governments and local cooperatives and municipalities.

Forest policy and law objectives are becoming more diversified and comprehensive and acknowledge both the importance of wood production as well as biodiversity conservation. Their goals refer to the role of forests as multifunctional resources, their economic potential and their importance in the environment. They address a variety of ecosystems, the need to maintain biodiversity and the preservation of forest lands for reasons of nature and landscape protection. Policies stipulate increasingly the need to balance timber production, recreational uses and the protection of forests for soil and water protection and against impacts from natural calamities. Moving from a perspective, which focused largely on wood as a sustainable resource, they now address a wide range of private and public goods and values and acknowledge the equal importance of production and conservation. Policy goals have become incremental and refer to the role of forests as multifunctional resources. Increasingly they address the variety of ecosystems, the need to maintain biodiversity and the development potential of forestry in rural and urban areas. Altogether, modern national policies and forest laws consider sustainable wood production, infrastructure protection, recreational use, nature and landscape protection and spiritual and aesthetic values as of equal importance and in a more comprehensive perspective.

Recent forest policy reforms give a great deal of attention to the promotion of local management arrangements. First, mechanisms for the devolution of forest management to local communities, user groups or family households are established in order to facilitate co-management agreements, community forestry leases and the delineation and titling of communal or co-operative forest tenure. Second, new forest legislation shows increased recognition of historical land or territorial claims of local people including specific provisions which allow the restitution of natural forests and commercial plantations to cooperatives, communities and individuals. Besides economic criteria new regulations oblige public and private planners to consider a range of ecological and social requirements. Plans for local management units need to be consistent with regional and national land use planning and with nature and landscape protection programmes. An important aspect in making the legal provisions more effective is the need to determine the legal status of management plans.

The principle that sustainable land use and management of the available natural resource base must be politically organized in an integrated manner leads to new approaches in regulating forest uses, management requirements and current forestry practices. Environmental as well as nature and landscape policy and law, for instance, provide increasingly that forest management be subject to review and assessment with regard to ecological criteria and
establish a de facto, and in some countries a formal, participation of conservation and user groups in political decisional processes. It follows that forest owners and managers as well as public forest services have to consider ecological and protection aspects more intensively than in the past. This encourages consultation processes among public and private stakeholders. It also calls for more explicit co-ordination among governmental agencies that have competencies in forestry matters, environmental protection, land use planning and rural development.

An important aspect in recent forest policy reforms are changes in the range of competences of national, regional and local authorities. There is a trend to shift or delegate constitutional competencies in forestry matters to regional governments or local entities. If the national level remains responsible for forest conservation and development, sub-national entities become more strongly involved in policy formulation and implementation. The move towards decentralised competences to the sub-national and local level provides more opportunities for participatory political decisions and for the negotiation of locally adapted solutions. Revised management regulations facilitate consultation with and direct involvement of local communities and the public. Transfer or delegation of competencies allows for more participation of people in democratic decision-making processes in which they can express their specific interests and values associated with forest management and utilisation.

There is a dynamic shift from forest policies largely based on state control to policies which stimulate and foster joint management responsibilities involving land owners, the private sector, NGOs and public authorities. This leads to a new public framework in regulating use and management of the natural resource base. Significant elements of this change are the following ones:

- Policies and laws have to set performance standards for all parties concerned instead of relying on to detailed and cumbersome regulations.
- Procedural arrangements which support co-operative forms of decision-making and contractual arrangements with third parties become important.
- Guidelines for best management practices, procedures for mediation and exchange of information must be institutionalised by legislation.
- Public authorities have to get involved in implementing more comprehensive programmes of land management as this has been the case in the past.
- Negotiated activities on a contractual basis replace to a considerable degree direct governmental intervention.
- With more attention given to collaborative policies, informational and persuasive instruments gain considerable weight in legislation.

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• Forest and land management laws have to provide for monitoring and evaluation of concrete results. Free access to such information is a indispensable legal requirement in order to ensure involvement of citizens and stakeholder groups in public decision-making processes on natural resources management.

While considerable efforts have been made to adjust forest laws to a widening range of economic, social and environmental demands, the most important problem at present is to overcome the discrepancy between the content of law and its implementation on the ground. Effective legal reforms need to be commensurate with the capacity of private and public actors to implement new legal commitments. In order to make progress on the long road towards more effective implementation the laws and public policies have to become proactive and rely more consistently on incentive and monitoring measures. They have to confirm forest owner rights, set minimum requirements and performance standards, use increasingly services offered by the private sector, and promote contractual arrangements with third parties. Guidelines for best management practices may be used in order to formulate precise demands on the services to be provided for by administrations and public entities. The allocation of financial resources in relation to specific targets has to be based on global budgeting and/or service contracts and necessitates well defined criteria for financial controlling.

On the whole new and revised forest policy and legislation are directed more clearly towards the full economic, social and environmental value of forests. They establish a combination of protection and preservation regulations, land use regulations, and multifunctional forest management rules.

• Protection regulations refer to environment protection, maintaining biodiversity, protection of nature and natural landscapes, and to the preservation of cultural and spiritual values associated with trees and forests.

• Land-use regulations provide for zoning of forest land, control of forest clearing, protection of a permanent forest estate, and for the establishment of new forest resources through afforestation.

• Utilisation and management regulations determine responsibilities of forest owners with regard to sustainable production of wood and non-wood products, the protection of soil and water resources as well as public access to forests and recreational uses.

It is interesting to note that similar changes as we experience them on the European continent with regard to a new orientation of forest policy and law occur in the North American region (Schmithüsen and Siegel, 1997; Le Master and Schmithüsen, 2005).
3. Understanding Human-Environment Systems Interactions

The options which individuals and societies have and the choices they make in land uses and land management practices depend on complex interactions between demographic, socio-economic, political and institutional, physical and biogeochemical, and biological factors. With regard to forests one has to understand the interactions between society and forest ecosystems, their social and cultural meaning, their potential for providing different combinations of goods and services, and their stability and biodiversity under alternative management systems. This is in fact the central theme of wise use of forests and ecosystem management that builds on the legacy of the past and provides opportunities for the future (Farrel et al., 2000; Führer, 2000; Piussi and Farrel, 2000). The development of an integrative perspective to gain more knowledge about the interactions among social systems and human behaviour, ecosystem processes and environmental change is essential in order to understand more closely the impacts and feedbacks between man and his natural resource base. This requires a multidisciplinary research approach identifying the effects and dynamics of human-environment system interactions that has its own disciplinary and methodological basis (Scholz and Tietje 2002).

One of the significant challenges to applied research is the need to explain the reciprocal links between environmental changes and different land use systems and to analyse the implications for appropriate choices and land management decisions in ecosystem and landscape management (Schmithüsen, 2004b). An analysis of this kind investigates in quantitative and qualitative terms the characteristics, dynamics and vulnerability of human-environment systems in a global and regional context, as well as at the level of landscapes, distinct land-use categories, and varying ownership and land management units.

*Figure 1* indicates different dimensions of a systematic approach in order to understand the relationship between socio-economic demands in changing societies, political and decisional processes, and human environment system interactions at different geographical and land management scales. It relates dynamics and change as constituting elements in all societies to the impacts on and feedbacks from the renewable natural resource base. It considers land use objectives, technologies, legal instruments, and political outcomes and feedbacks as key elements in policy development and private and collective decision making processes. On the basis of such an analysis substantive proposals for improvements in land management practices can be made which are commensurate with the demands of landowners, land users and society as a whole.

The *first dimension* deals with change in societies. Cultural values expressed, for instance, in personal life styles and spiritual convictions, and social demands relating to individual freedom, democratic participation and political organization are important driving factors that induce and reflect dimensions of societal change. Economic needs and opportunities to
produce multiple goods and services determine individual and collective decision-making processes in natural resources utilization and management with landowners and land users as important primary agents. Together they initiate changes and innovations in the constitutional framework of a country and in the prevailing political and legal systems.

Figure 1: Human Environment System Interactions Related to Land Management at Ecosystem, Landscape and Ecosphere Levels

The second dimension addresses present and likely future interactions between human interventions and the renewable natural resources base. This includes global and regional environmental interactions; interactions at the level of landscapes, ecosystems or watersheds; interactions that result from alternative or combined land use systems; and interactions at the level of individual or corporative ownership and land management units.

Significant elements of the third dimension are the relationship between private and public interests and objectives; existing and new technologies in land management; and available tools such as effective and cost efficient political and economic instruments, and the feedbacks and outcomes from individual decisions and public policy processes. Feedbacks and outcomes are important signals to land managers, stakeholders and policy makers that
show whether the taken course of action leads to satisfying results or requires corrections and further intervention.

Together the three dimensions form a framework allowing the structuring of human-environment system interactions at ecosphere and landscape levels. One is able to identify a critical path of socio-economic conditions, regulating mechanisms, and tools of intervention which determine a sustainable utilization of the renewable natural resources base. As a result one can construct analytical action oriented models showing critical positive and negative feedbacks between human and physical regulation systems. Such relationships may be analyzed at the scale of ownership and management units, at different landscape scales, or with regard to their regional or global importance. A selective approach focusing on key points in public and private decision-making processes increases the practical relevance of the frameworks and models.

A comprehensive understanding of human environment system interactions implies to acknowledge the cultural, social, economic and political dimensions respectively underlying the societal norms and values. There is an obvious need for research combining social and cultural sciences, political and economic sciences, and decision making sciences:

- **Socio-empirical and cultural research** is required in order to gain an understanding of the attitudes, perceptions and levels of acceptance of individuals, stakeholders, and societal groups; to show the variety of personal and collective values and their dynamics of change, or to identify motives and objectives in making concrete decisions in land management.

- **Policy and decision making research** refers contributes insights on the political context such as participatory mechanisms and stakeholder involvement; different forms of governance and political organisation; distribution of competences at different levels of government; decentralisation and political process steering; cross-sector policy effects, and appropriate forms of political coordination.

- **Inputs from economic disciplines** and in particular from environmental and natural resource economics investigate positive and negative external effects in quantitative and monetary terms. They allow determining ways and means for an effective internalisation of positive and negative effects, to identify trade offs between different categories of land use and forest conversion, to assess cost-benefits and cost-effectiveness of alternative land use management systems, and to quantify transaction costs that result from different land tenure systems.
4. Conclusions

As for other land management sectors, sustainable development is today the overarching political principle and the benchmark for judging to what extent the forest sector and forest policies contribute to economic and social welfare and to a safe environment that benefit present and future generations. The essential content of this principle is that economic growth, social integration and caring for a liveable environment are on an equal footing. Economic growth, social integration and protection of the environment depend on each other, cannot be substituted for, and are fundamental to social progress and common welfare. The principal of sustainable development and the more specific political commitments of countries and the international community set the task for research and science.

The diagnosis of new trends in forest policy and law developments shows a growing complexity of forestry issues and political processes relevant to forests. The changing conditions for sustainable forest management are to be seen in the overall perspective of maintaining the natural resource base, in a holistic understanding of forests and landscapes, and as part of the overall goal to protect environment and improve quality of life for present and future generations. Research addressing relevant issues of forest policy development is today part of interdisciplinary scientific collaboration on ecosystem and landscape management. Significant policy research issues are:

- What are the driving factors for policy adaptation and change, and to what extent do present policies and legislation take up the challenge of change and innovation?

- What are the implications of policies and laws on multifunctional and sustainable land-use practices and what are the ways and means to foster such practices?

- Which positive and negative linkages exist between forestry policies and other public policies addressing environmental protection and natural resources utilization and what are the ways and means to built comprehensive and consistent policy networks?

- To what extent do policy regulations address the value of forests in a comprehensive manner and allow for reasonable balance between public and private interests?

- What are the conditions for building consensus among stakeholders involved in land management and what are appropriate instruments to foster participation and to develop agreed solutions?

- What are appropriate political and institutional requirements and what policy instruments can be selected in order to promote and support locally adapted land management solutions?

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