

Joint statement

Can a legally binding agreement for forests make a difference?

September 2004

The global forest crisis continues unabated despite more than ten years of global forest policy dialogue in the Intergovernmental Panel on Forests (IPF, 1995-1997), followed by the Intergovernmental Forum on Forests (IFF, 1997-2000) and finally the UN Forum on Forests (UNFF, 2000-ongoing). Much of the forest policy dialogue in these fora has been dominated by either discussing the need for an international, legally binding instrument – like a forest convention - or *preparing* to discuss the need for such an agreement, to the detriment of concise and committed government action to halt the crisis.

2004 and 2005 will again be dominated by process discussions as intergovernmental forest policy makers once more prepare to discuss the need or otherwise for a legally binding agreement. Governments are no closer to implementing concise means to address the crisis than they were ten years ago, and it remains unclear how such an agreement, whose contents remain undefined, would be successful in addressing those issues that would need to be tackled, where the UNFF and its predecessors have failed to reverse the devastating trend. A number of agreements already exist, which provide guidance on the steps required to halt the crisis: The Expanded Work Programme on Forest Biological Diversity of the Convention on Biological Diversity, the IPF Proposals for Action, which governments pledged to implement several years ago, the Rio Declaration on Environment and Development, the Statement of Forest Principles, Chapter 11 of Agenda 21. The question thus arises: Is there anything a (new) intergovernmental body or agreement could do to reverse the forest crisis that is not taken on by these already existing initiatives? And if there are gaps, what are the prospects that these issues would be addressed in a new legally binding instrument. If they were not, how would a new legally binding instrument avoid becoming an empty talk shop like the UNFF?

Without providing answers to these obvious questions, proponents instead of the forest convention maintain that an international, legally binding instrument in the form of a convention specifically focused on forests is necessary to implement existing commitments and to generate additional funds and political will required to halt forest loss. In the past NGOs have presented their fears that negotiation of a forest convention could easily mean another lost decade without decisive action to stop and reverse forest loss. Worse, if such a convention would fail to consider the underlying causes of forest loss – lack of recognition of Indigenous Peoples' rights, unsustainable consumption and production patterns and unsustainable financial and timber trade flows - it could entrench rather than alleviate the driving forces of deforestation and forest degradation.

In addition, many Indigenous Peoples and local communities fear that a legally binding instrument in the form of a forest convention would further entrench narrow and potentially harmful interpretations of national sovereignty over natural resources. The undersigned NGOs, IPOs (Indigenous Peoples Organisations) and individuals believe that a stricter control and redirection of financial flows, the securing of land and user rights of Indigenous Peoples and local communities, respect for human rights and a reduction of consumption of forest and agricultural products are among the essential measures to reverse the forest crisis.

The undersigned NGOs, IPOs and individuals fear that a new legally binding instrument in the form of a forest convention would not address these fundamental issues given that the same governments now promoting a legally binding instrument have in the past argued that negotiations on pricing of forest products and financial flows fall within the mandate of the World Trade Organisation and could hence not be addressed within the forest policy dialogue, and that the issue of Indigenous Peoples' rights is a matter of national sovereignty, thus equally outside the remit of a forest convention.¹

The undersigned NGOs, IPOs and individuals do not share the view that these two crucial issues at the heart of the forest crisis cannot be addressed in the international forest policy debate – in fact, we maintain that these critical issues *must* be addressed if effective action is to result from this dialogue.

However, the undersigned NGOs, IPOs and individuals believe it is premature to negotiate a forest convention now, as it is clear that most governments will not ensure that such an instrument

- is consonant with international human rights;
- recognises, respects and supports implementation of customary rights of Indigenous Peoples and communities who live in and depend on forests;
- addresses the underlying causes of deforestation and forest degradation, including the need for readjustment of financial flows and reduction of consumption;
- promotes genuine community based forest management that empowers forest peoples.

The undersigned NGO, IPOs and individuals therefore call on governments to refrain from supporting a forest convention. Without seriously addressing the above issues, a new legally binding instrument on forests risks perpetuating the current unsustainable forest regime that impoverishes local people and damages forests.

At the same time, if the UNFF is to continue it needs to be drastically reformed, in line with different demands repeatedly put forward by the undersigned NGOs; they include, inter alia, reform and improvement of the participatory processes and modes of major group engagement and a focus on monitoring and reporting on the implementation of IPF/IFF Proposals for Action.

Throughout the past ten years of international forest policy dialogue process, the debate on a global forest convention has prevented progress on the issues listed above and others. It is unacceptable that this fruitless dialogue, now regarding the merits or otherwise of a legally binding instrument without further specification of the nature of such an instrument, should continue to divert attention from actions and activities that tackle the root causes and effects of deforestation and forest degradation.

¹ For more information on the issue of State Sovereignty and Multilateral Environmental Agreements see McKay, Fergus: *Indigenous Peoples, State Sovereignty and the CBD*; Forest Peoples Programme 2004; available at www.forestpeoples.org

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