

ROADMAP

Title of the initiative: **Negotiation mandate for a Legally-Binding Agreement (LBA) on forests in Europe** (a recommendation for a Council decision on authorisation and negotiation directives for the proposal for an LBA on forests in the pan-European region).
Type of initiative (CWP/Catalogue/Comitology): Catalogue
Lead DG/contact person/details: DG AGRI
Expected date of adoption of the initiative (month/year): 2nd quarter 2011
Date of modification: 15/07/2010
Version No: 2

Initial IA screening & planning of further work

A. Context and problem definition

What is the political context of the initiative?

The Forest Europe – Ministerial Conference on the Protection of Forests in Europe (FE) is an inter-governmental process promoting sustainable forest management in the pan-European region. 46 European countries, including all EU Member States and the EU, represented by the Commission, are signatories of the FE. Work of the FE is based on voluntary commitments adopted in the form of declarations and resolutions by the signatory countries at ministerial conferences every 4-5 years. The EU has been a signatory of the FE since the 1st ministerial conference in 1990. The EU has so far been represented by the Commissioner for agriculture, who has been authorised by the Council to sign the declarations and resolutions.

Following the last ministerial conference in 2007 a group of FE signatories took an initiative to explore the possibility for establishing a Legally Binding Agreement (LBA) on forests in the pan-European region. A working group set up by the FE is currently preparing options for the LBA with the aim to provide a basis for a decision to be taken by the ministers of FE signatory countries on entering into negotiations in the next ministerial conference in Oslo in June 2011.

How does this initiative relate to past and possible future initiatives, and to other EU policies?

The EU does not have specific competence in forest policy. However, policy areas with either exclusive or shared EU competence, such as agriculture and rural development, environment, trade, energy, climate, industry, plant health and research can be impacted by the possible LBA on forests. If a negotiation process will be opened, a coordinated representation of the EU will therefore be necessary.

What are the main problems identified?

As the FE is a voluntary process, the EU Member States and other signatories have so far been represented individually and the issue of division of competences between the MS and the EU has not been addressed. The situation has now changed as the FE has initiated a process that may lead to the negotiation, conclusion and adoption of an instrument that is likely to have legal effects in matters where an EU competence exists. As the LBA process may enter into a negotiation stage in June 2011, a co-ordinated EU position will be necessary as regards the desirability of opening negotiations as well as a decision on the role of the Commission in such negotiations. Therefore a Council decision on authorising and negotiation directives, in accordance with Art. 218(3) of the TFEU will be required.

The most appropriate timing for presenting the Commission proposal for the negotiation mandate depends on the how work in the FE working group and subsequent decisions in the Expert Level Meeting (ELM / decision making body of the FE between the ministerial conferences) evolves. If the ELM in December 2010 decides to propose to the ministerial conference of June 2011 to open

negotiations, the Commission's proposal should be presented in the beginning of 2011 to allow time for discussions in the Council ahead of the June conference.

Who is affected?

1) If the LBA process leads to a formal negotiation of an international agreement the responsibilities of the Commission and the Council presidency will have to be defined.

2) The possible LBA itself will influence EU Member States forest administrations and forest sectors, as well as those of all signatory countries that will ratify the agreement. The range of concerned policy areas and sectors includes: agriculture and rural development, environment, energy, industry, internal market, trade.

Is EU action justified on grounds of subsidiarity? Why can the objectives of the proposed action not be achieved sufficiently by Member States (necessity test)? As a result of this, can objectives be better achieved by action by the Community (test of EU Value Added)?

Even if the EU does not have a specific competence in forestry, the likely content of the LBA concerns a number of policy areas where an EU competence exists (e.g. agriculture and rural development, environment, energy, industry, internal market, trade, etc.). A coordinated EU position is therefore necessary, and should the process lead to a decision on opening negotiations a Decision on authorizing and negotiation directives in accordance with Art. 218, para. 3 of the TFEU is required.

As regards EU value added of the LBA itself, in this case a group of Member States together with non-EU countries have taken an initiative to establish an international agreement. Commission services in the framework of the Inter-Service Group on forestry are carrying out an analysis of possible risks that the initiative could imply for EU policies, and of the interests that the Commission could have as regards its content. As the content of the LBA is still evolving, this work has not been finalised.

B. Objectives of EU initiative

What are the main policy objectives?

The authorisation and negotiation directives will define the roles of the Presidency and the Commission in the negotiations on the LBA and provide orientations for the EU position to be pursued as regards its content.

The overall objective of a possible LBA is to provide a legal framework for sustainable forest management. It aims at achieving a balance of economic, environmental and social forest functions and on securing long term provisions of goods and services from forests. The LBA should enhance the co-operation on forests in Europe and strengthen the contribution to the international goals on sustainable development.

Do the objectives imply developing EU policy in new areas or in areas of strategic importance?

No

C. Options

What are the policy options? What legislative or 'soft law' instruments could be considered?

Not applicable. If a proposal for opening negotiations will be made, a negotiation mandate is the instrument necessary to empower the Commission to represent the EU for points under EU competence.

Would any legislative initiatives go beyond routine up-date of existing legislation?

Not applicable. The negotiation mandate itself will not create new legislation.

The possible LBA itself may lead to a need to develop EU legislation in line with the content of the agreement. As this content is still evolving and at a preparatory stage, the assessment of its possible consequences on EU legislation has not been finalised.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

The LBA initiative may deal with matters related to the competences of DGs AGRI, ENV, ENTR, ENER, CLIMA, TRADE, DEV and RTD, depending on the content of the possible LBA. This list may change according to the evolution of the LBA proposal.

Explain how the options respect the proportionality principle

Not applicable.

D. Initial assessment of impacts

What are the significant impacts likely to result from each policy option (cf. list of impacts in the Impact Assessment Guidelines pages 32-37), even if these impacts would materialise only after subsequent Commission initiatives?

Commission services in the framework of the Inter-Service Group on Forestry are carrying out work to clarify the possible implications of the LBA on EU legislation and policies. This work has not been finalised yet as the content of the LBA is still evolving.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No

Could the options have significant impacts on (i) simplification, (ii) administrative burden or on (iii) relations with third countries?

(i) and (ii) No impacts on simplification and administrative burden.

(iii) The proposed negotiation mandate will provide orientations for the EU's position in negotiations on an international agreement. Relations with the 19 non-EU signatory countries of the FE will be influenced.

E. Planning of further impact assessment work

When will the impact assessment work start?

Given the nature of the initiative, no impact assessment has been envisaged. The decision on the negotiation mandate itself has no direct economic, social or environmental impacts. The analysis of the possible implications of the future LBA on EU legislation and policies is still ongoing and evolves along the negotiation process.

(i) What information and data are already available? (ii) Will this impact assessment build on already existing impact assessment work or evaluations carried out? (iii) What further information needs to be gathered? (iv) How will this be done (e.g. internally or by an external contractor) and by when? (v) What type and level of analysis will be carried out (cf.

principle of proportionate analysis)?

Commission services participating in the Inter-Service Group on Forestry are working on an analysis of the possible impacts of the (still open) LBA content on EU legislation and policies in order to facilitate the formulation of a Commission position of the desirability of the instrument and on orientations for its content. This work aims at identifying existing or planned EU legislation that could be impacted by the LBA and the risks and interests that the Commission may have as regards its content. As the LBA content is still evolving, this work is still in process.

Which stakeholders & experts have been/will be consulted, how and at what stage?

The FE process is open for participation of stakeholders and its meetings are regularly attended by a wide number of NGOs and other stakeholders which can obtain an observer status. In result numerous stakeholders participate in the process of developing options for the LBA as FE observers.