

# Working Paper

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WP-95-45

May 1995



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# RUSSIAN FOREST LEGISLATION

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## Foreword

IIASA, the Russian Academy of Sciences, and Russian governmental organizations initiated the Siberian Forest Study in 1992, with the overall objectives of the study being

- Identification of possible future sustainable development options for the Siberian forest sector (assess the biosphere role of Siberian forests, and identify suitable strategies for sustainable development of forest resources, the industry, the infrastructure, and the society).
- Identification of policies for the different options to be implemented by Russian and international agencies.

The first phase of the study built relevant and consistent databases for the upcoming analyses of the Siberian forest sector (Phase II). Nine cornerstone areas have been identified for the assessment analyses, namely, further development of the databases, greenhouse gas balances, forest resources and forest utilization, biodiversity and landscapes, non-wood functions, environmental status, forest industry and markets, transportation infrastructure, and socioeconomics.

The work presented in this paper deals with the development and current status of forest legislation in Russia. The forest legislation sets the framework for all management aspects of the Russian forests and influences all the cornerstone areas to be analyzed in Phase II of the study.

## 1. Introduction

The Russian forest sector is currently in turmoil. Over the last few years, production has decreased by more than half the harvest output. There are concerns in the international community that there has been, and continues to be, overharvesting at subregional levels and that sustainable forest management is nonexistent. A related concern is that the forest operations do not consider environmental and global change aspects or other non-wood functions of the Russian forests. There is intense debate concerning involvement of and operations by international and foreign companies in Russia. The fear is that these companies will erode the forest resources in Russia. Much of the mismanagement of the Russian forest resources has been blamed on Russian forest legislation. In order to understand the current state of the forest legislation in Russia, the historical development of this legislation must be understood.

## 2. Forest Regulation before Perestroika

The Soviet Union's first forestry law was the Forest Decree of 1918, which declared all the forests to be common national property (Polyanskaia, 1959). Between 1923 and 1925, the republics of the Soviet Union adopted forest codes. At this time, the forest management system was kept much as it was before the Revolution: the forests were divided into forest management units, which were subordinated to provincial forest departments, which in turn were subordinated to a federal forest department.

In the late 1920s these forest codes were declared obsolete, and the task of forest management was subsequently divided among several federal and nonfederal departments (Krasov, 1985). In 1947 a resolution was adopted by the USSR Council of Ministers, which resulted in a unified forest management system for the whole Soviet Union. This system existed practically unchanged until *perestroika* occurred, with the exception of the so-called Khrushchev epoch (1960–1964) when economic management was completely decentralized.

From the late 1920s until 1977, forest management was practiced without any special forestry laws. The laws were replaced by resolutions of the Communist Party of the Soviet Union (CPSU) Central Committee, the USSR Council of Ministers, and the Republics' councils of ministers, as well as by those of individual departments within the administration. During this period, 92% of the resolutions (a total of 65 documents) were approved at the Union level and only 8% were approved at the republic level, which indicates the extent of the centralization of the forest policies. In 1960 the Russian Soviet Federal Socialist Republic (RSFSR) National Protection Law was introduced. It included a number of forest clauses concerning regulation of logging activities but did not deal with the forest management system as a whole.

In 1977, the introduction of the Basics of Forest Legislation in the USSR and Union Republics law (Ministry of Forestry of the USSR, 1977) put forestry issues into a legislative framework. The adoption of republic forest codes followed in 1978 (Supreme Soviet of Russian Federation, 1978). These republic codes were more or less copies of the Union codes. They did not change the way forests were managed, they merely consolidated the practices that had evolved over time through normative resolutions. The administrative structure of the forest legislation was divided into three levels: legislative, general executive, and department levels. Legislative actions were set into effect by People's Republics Soviets (councils). General executive actions were implemented by the USSR Council of Ministers, by the Union and autonomous republics, and by provincial and municipal executive committees. Action was most often taken at the department level, including actions implemented by the USSR State Committee of Forestry (all-Union *gosleskhoz*), the RSFSR Ministry of Forestry (republic *minleslokoz*), the Ministry of Forestry (provincial *minleslokoz*), and the forest management of *krais* and *oblasts* and by forest units (municipal *leskhoz*es).

A distinctive feature of the system was the hierarchical top-down order. The system required coordination between the legislative, general executive, and department levels, which was difficult to achieve. A fourth group of actors, the Communist Party, intervened in the system, leading to the guarantee of production output at any cost, the depletion of forest resources, and the neglect of environmental impacts. Another feature of the system was the large number of actions taken by legal collectives with respect to the forest law. The courts could only deal with the legal issues of a violation of the forest law (and other laws dealing with nature) if the violation could be linked to the criminal code (Dubovik, 1984).

The highest legislative body was the USSR Supreme Soviet. The 1977 Basics of Forest Legislation law (Ministry of Forestry of the USSR, 1977) attributed some responsibilities to the Union level:

- Determination of main forest management principles.
- Establishment of trends and creation of plans for forest utilization (setting annual allowable cut) and similar assignments.
- Reclassification and transfer of forest areas between forest groups (the Russian forests are classified into groups with respect to the degree of protection; for definitions of the groups see Nilsson *et al.*, 1992).
- Establishment of standards for the forest inventory system.
- Control of forest utilization.

The RSFSR forest codes, valid at the republic level, duplicate the Union's responsibilities, except for the setting of annual allowable cut, the reclassification of and transfers between forest areas, and the setting of standards for the inventory. Neither the 1977 law nor the forest codes clearly defined which responsibilities belonged to legislative bodies and which belonged to other authorities.

The responsibilities of the executive authority were identified in the 1977 law, which envisaged that forest utilization, regeneration, control, and protection would be carried out from the USSR Council of Ministers down to the local People's Republic Soviets. In many cases there was no executive authority at the provincial level; this role was often taken over by departmental bodies (for example, forest management of *krais* or *oblasts*). This resulted in a situation where departmental bodies reported back to a central department and to an executive committee of the provincial soviet. Therefore, the executive body was, in reality, the authority enabling actual decisions: the real legislative management was in the hands of the departmental structures.

Most of the clauses of the 1977 law delegated power to the departmental authorities, which in legislative acts were called "forestry state bodies." Departmental authority was much greater than legislative or executive authority, because it pierced forest management from the highest to the lowest levels. The forestry state bodies played determining roles; in many cases the departmental bodies made decisions they were not qualified to make. The most significant drawback of the 1977 law was the lack of a mechanism for implementing the legislative decisions made by executive and departmental authorities. Another serious problem was that those in the upper levels of the system were ignorant of the local forest specifics, mainly due to a lack of information about and understanding of the local forestry conditions.

This legislative system was incomplete and inefficient – there was no mechanism for implementation of the legislation, the management was strictly centralized, and departmental sub-laws played an exaggerated role.

### **3. The Perestroika and Post-perestroika Period, 1988–1992**

In 1988 the Central Committee of the Communist Party and the USSR Council of Ministers adopted a policy concerning new forest legislation and management organization. The forest reform, implemented by Mikhail Gorbachev and Andrei Ryzhkov, resulted in significant changes in the management paradigms of the forest resources. This period preceded the political and economic *perestroika* in the former Soviet Union that resulted in the establishment of Russia as an independent state in September 1991. The period ended in 1993 with the adoption of a new law, Basics of Forest Legislation in the Russian Federation (Supreme Soviet of the Russian

Federation, 1993a). *Perestroika* generated a demobilization process that required general local independence. One of the effects was that authorities at all levels had the right to use the natural resources. *Glasnost*, which ended censorship of the mass media, made previously classified information on the state of the forest resources available to the public. This information illustrated the mismanagement of the resources and, together with other new information on the status of the environment and other natural resources, caused an increase in ecological interest that had a strong political resonance. The public and various nongovernmental organizations formulated environmental requirements that were not backed up by any actual forest legislation. This development also resulted in an increased distrust of specialists, professionals, and environmentalists. Thus, the trend in forestry shifted from an interest in the economic aspects of wood supply to an interest in the forests' general functions as a support of livelihood. Simultaneously, during the last months of the former Soviet Union another development took place, namely, the dissemination of the idea that "the forests need a single master." The first development, represented mainly by local soviets, started to destroy the total centralization of the forest management; the second development, represented mainly by the USSR Ministry of Forest Industry (Minlespron), tried to preserve the old centralized structure. The Gorbachev-Ryzhkov government tried to achieve a compromise between the two camps.

The 1988 decree of the CPSU Central Committee and the USSR Council of Ministers was designed to reorganize the structure of the forest administration; however, it did not destroy the old system, it conserved the old management structure. By the decree on reorganization, the USSR State Committee of Forestry (Gosleskhoz) was transformed into the USSR State Forest Committee (Goskomles). Goskomles was made responsible for the general management and control of all the Forest Fund areas, its status was increased, and it was staffed with leading forestry specialists. Goskomles was supposed to implement policies geared to sustainable forestry. However, the reform of 1988 actually brought forest management back to the situation that existed between 1959 and 1964, with a forest authority controlling the forest industry units that managed forest utilization. Even during its first implementation (1959–1964) this system proved insufficient for achieving sustainable forest management.

The idea of forest leases, taken from the Canadian tenure system, was introduced in the 1988 resolution of the CPSU Central Committee and the USSR Council of Ministers. This resolution did not identify any lease mechanisms or any system for payment of the lease. Although this resolution is still in place in 1995, an all-Russian regulation on forest leases was adopted in 1994. In 1989 the USSR State Nature Protection Committee was established, the responsibilities of which were the general control of forest utilization and approval of the annual allowable cut. This committee was established to improve control of forest utilization, among other things.

However, in reality it created parallelism and competition between different committees and administrative authorities.

According to the original resolution of 1988, the forests belonging to the USSR Ministry of the Forest Industry (Minlespron) were transferred to logging units (*lespromkhoz*es), which had the same responsibilities as the traditional forest units (*leskhoz*es). A resolution in 1991 by the RSFSR Council of Ministers regulated the *leskhoz*e system for all of the Russian state forests. The Russian Federation management reform after the breakup of the USSR (September 1991) resulted in the liquidation of Goskomles and the RSFSR Ministry of Forestry. They were replaced by the forest department within the Russian Federal Ministry of Ecology and National Resources. In September 1992, this forest department was transformed into the independent Russian Federal Service of Forestry by a decree from the president of the Russian Federation. With this reorganization, the forest administration was down to the fourth and lowest level of the Russian administration hierarchy. The administration of forest industry was transferred at the same time, first to the Ministry of Industry and later to the Ministry of Economy of the Russian Federation.

Between 1988 and 1991 Goskomles pursued a policy of strict centralization similar to that of the pre-*perestroika* USSR State Committee of Forestry (Gosleskhoz). Goskomles did not manage to introduce an efficient mechanism for implementation of the forest legislation, it mainly worked using departmental sub-laws. In 1991, the newly elected local soviets immediately began to insist on the sovereignty of many territories concerning the management of the natural resources. The local soviets established provincial administrations because they regarded the existing Union and Russian forest laws as being inefficient for the following reasons:

- They were normative and not concrete, and they had no executive mechanisms.
- They did not take regional and local characteristics into account.
- They took into account only certain aspects of forest management (mainly wood supply).
- They stemmed from the old centralized society and did not reflect the new values of an environmentally and market-oriented society.
- They did not deal with the question of ownership.

Therefore, the local authorities, mainly the soviets, created new administrative structures for the management of the forest sector, and developed their own codes, which neglected forest utilization.

During the period from 1988 to 1992 the national central organizations only addressed direct forest policy issues, some of which are discussed above (e.g., the forestry reorganization resolution in 1988 and the nature protection resolution in 1989). However, a number of important laws

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**Box 1. Central and Local Resolutions, 1988 to 1992**

- Urgent measures for ecological improvement of the country (banned harvesting of Siberian cedar, among other things) (Supreme Soviet of the USSR, 1989)
- Land Code for the RSFSR (Supreme Soviet of the Russian Federation, 1991a)
- Payment for Land (Supreme Soviet of the Russian Federation, 1991c)
- Local Self-government (Supreme Soviet of the Russian Federation, 1991b)
- Protection of Natural Environment (Supreme Soviet of the Russian Federation, 1992b)
- Krai, Oblast People's Republics Soviet, and Krai and Oblast Administration (Supreme Soviet of the Russian Federation, 1992a)
- State Property Differentiation in the Russian Federation (on exclusivity of federal property for protected or specific natural sites and federal property definitions for the Forest Fund of Russia according to legislative acts of the Russian Federation) (Supreme Soviet of the Russian Federation, 1991d)

The above acts were hastily implemented and were inconsistent with one another; to varying degrees they are still in operation. Forest resources were not identified as property in a strict legal sense. The forest property rights were not straightened out, and therefore the responsibilities for the forest administration were still unclear.

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or resolutions that influenced the administration and management of the forest resources were also passed. These are presented in Box 1. The resolution on the Protection of the Natural Environment (Supreme Soviet of the Russian Federation, 1992b) is, to some extent, more clear on the management of natural resources (and the forests); it is summarized in Box 2.

During this period many normative acts were adopted by local self-governing authorities. These acts varied widely from region to region. Many that contradict the new constitution of the Russian Federation (Supreme Soviet of the Russian Federation, 1993b) and the Basics of Forest Legislation in the Russian Federation law adopted in 1993 are still in place. As an example of these local acts, the Legislation on Forest Utilization in the Khabarovsk Krai Territory (Priamurian News, 1992a–1992c) is illustrated in Box 3.

The overall conclusion concerning the development of forest legislation during this period is that a consistent legislative framework for the natural resources and the forests was missing. Many of the enforced resolutions and acts directly contradicted one another. However, this period was important because it created the platform for the new Basics of Forest Legislation in the Russian Federation (Supreme Soviet of the Russian Federation, 1993a).

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**Box 2. Responsibilities for Protection of the Natural Environment from the Resolution on the Protection of the Natural Environment (Supreme Soviet of the Russian Federation, 1992b)**

*Federal Russian Supreme Soviet*

- Define main policies for environmental protection
- Approve state environmental programs
- Define legislation measures for environmental protection
- Define People's Deputies Soviets' responsibilities for environmental protection

*Russian Federal Government*

- Implement environmental policies
- Provide programs for state and regional environmental development
- Determine natural resource utilization
- Set price for use of natural resources
- Make decisions on the organization of protection sites

*Ministry of Ecology and Natural Resources, and to some extent the Russian Federal Service*

- Develop scientific-technical policies on natural resource utilization
- Control use of natural resources and set up protection standards
- Approve standards
- Carry out ecological assessments
- Assign permits for natural resource use
- Develop ecological programs
- Evaluate inventories of natural resources

*Provinces*

- Approve, fund, and establish logistics for environmental programs
- Carry out inventory and exploitation of natural resources
- Manage the natural resource cadastre
- Plan utilization of natural resources
- Assign permits for forest use
- Define differentiated payments for natural resource use
- Make state ecological assessments
- Carry out state ecological control
- Make decisions on extending or reducing environmental protection

*Municipalities*

- Identical to the responsibilities of the provinces, which in effect makes the municipalities powerless
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**Box 3. Highlights of the Regulation on Forest Utilization in the Khabarovsk Krai Territory (Priamurian News, 1992a–1992c)**

- Forests and forest lands of Khabarovsk Krai are considered the property of its population and they constitute the economic basis for local social development.
- Privatization of *krai* forests is forbidden, at least during the ongoing economic transition.
- Forest utilization is regulated by special permissions, such as concessions, licenses, forest logging cards, and forest cards. All permissions must be paid for and are of limited duration. Concessions and licenses are allocated through market mechanisms like auctions and tenders. Forest logging and forest cards are allocated without a market mechanism.
- Permissions are available to any juridical or physical person, including foreigners.
- A concession is regarded as permission for overall utilization, and special permissions are given for specific activities.
- Another permission identified is lease of forest land with permission for the forest user to utilize lands and under canopy, but not the wood resources.
- A detailed system for the payment of forest utilization is described.
- The society in the *krai* has the right to use the forest for recreation and other non-wood functions.
- All loggers must get permits and must sign agreements with the local administration in order to use the forest resources. (However, since the liquidation of the People's Deputies Soviets in late 1993, the logging allocation is most often the result of a mutual agreement by the administrations of the province and the forestry administration, with no permits involved).

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#### **4. The Current Situation; 1993 and Onward**

The new Basics of Forest Legislation in the Russian Federation (Supreme Soviet of the Russian Federation, 1993a) was signed by the president of the Russian Federation on March 6, 1993. According to the new Constitution of the Russian Federation (Supreme Soviet of the Russian Federation, 1993b), both legislative and executive power flow down from the president of the Russian Federation to the Russian Federal Government, to the heads of the federal provinces, and then to the heads of the municipalities. The Constitution granted considerable power to the president and gave him legislative authority in the form of presidential decrees. Some of the

other laws influencing the forest production in the Russian Federation and its provinces concern the following:

- Ownership and utilization of land and other natural resources
- Differentiation of state property
- Natural resources utilization
- Environmental protection
- Land and forest legislation
- The superiority of federal legislation over provincial legislation

Thus, the power and administration is still concentrated with the central authorities. This is also reflected in the forest administration in the form of the centralized responsibilities of the Russian Federal Forest Service and its subordinated provincial units and *leskhoz*s. In this respect, among many others, the old structure of RSFSR is embedded in the legislation and the only change from the situation before 1988 is that the Federal Russian Forest Service, not the former USSR State Committee of Forestry, has the centralized power. As before, on paper there is limited local power in the administrative system; however, in reality the rights taken by the regional and local authorities exceed what is defined by the federal legislation.

An example of this centralization is a special federal fund assigned to forest regeneration, which is allocated to the provinces by the Russian Federal Forest Service. The earlier requirement that the forest administration coordinate decisions with the provincial committees of the Ministry of Ecology and Natural Resources is still there, but the power of the Ministry has decreased significantly compared with 1991–1992. The Basics of Forest Legislation of the Russian Federation law of 1993 practically repeats the structure of the law from the 1970s; the only new section concerns the payment for utilization of the forest resources. The wording in the 1993 law is a mixture of old propositions and passages taken directly from the 1970s law. Moreover, the law's wording brings back a situation where forest utilization equals forest harvesting. Many of the non-wood functions are not considered. Unlike the law of 1977, the law of 1993 acknowledges the legislative power of the federal, provincial, and municipal authorities; and for the provincial and municipal levels there is a separation between legislative and executive power.

Concerning the ownership of the forest resources, the forests belong to the state and the law directly prohibits the purchase, granting, leasing, or transfer of forest utilization rights. The classification and definition of the forest groups and the production level are decided by the government, and the rights for implementation are delegated down the line in the same manner as in the 1977 law. The decisions on suitable harvest age and rotation periods for different forest types are made only at the top level by the Russian Federal Forest Service. A complicated

procedure involving the Russian Federal Forest Service, different provincial authorities, and the Ministry of Ecology and Natural Resources is recommended for estimating the annual allowable cut. However, the methodology for the calculation of the annual allowable cut is not determined by the law, even if the law gives guidelines. The forest utilization rights are divided into two groups: short-term (1 year) and long-term (1 to 50 years). A new clause is that potential forest users can be both juridical and physical persons. However, foreign utilization is only possible for juridical persons. The introduction of licenses for long-term leases is also new, but the license must be combined with permits through logging or forest cards, as referred to earlier. The assignments of the leases can be carried out through

- Closed bidding
- Open auctions
- Direct negotiations with the authorities

Direct negotiations with the authorities can lead to serious corruption in the allocation of license assignments. These negotiations are in the hands of the municipal authorities, who often have little knowledge of the forest. The law is unclear on whether a leaseholder has the exclusive right to forest utilization. The law defines the obligations on reforestation, productivity improvement, and forest fire and pest controls; these obligations are allocated to the forest authorities, but most of them are specifically addressed to the logging organizations.

The payment system for the forest utilization includes

- Assignment for forest reproduction, control, and protection
- Forest dues
- Rent

The assignments are paid to a special state fund as a percentage of the selling price of the harvested timber. According to the law these assignments are obligatory for *all kinds* of forest users: a big question is how users will be charged for the non-wood functions. The forest dues include the following payments:

- Stumpage fees.
- Fees for by-products (tapping of trees, picking of berries or mushrooms, hunting, cattle grazing, etc.). Thus, this payment combines direct and indirect uses.
- Fees for hunting rights and tourist and recreation activities, which again are payments for an indirect resource utilization.

The forest dues are calculated as a rate per unit of product or land and are regulated by legislative authorities; however, the concrete rates are set by municipal organizations. The rent regulation is based on the same principle as the dues.

The subject of violation of the forest legislation is only vaguely described in the act, and there is no concrete mechanism identified for solving legislative disputes and violations. The federal authority follow-up document to the legislation of 1993 is the resolution on Regulation of Leases of Russian Federal Forest Fund Lots (1993), approved by the Russian Federal Government on July 23, 1993. This resolution differs from the Basics of Forest Legislation law of 1993 with respect to the procedure of leases. The regulation of 1993 recommends direct negotiations and competitions for leases, not auctions. State companies are given leases through direct negotiations, which opens the way for corruption. In the process of establishing local legislation, the People's Deputies Soviets were very active for almost six months after the law's adoption concerning natural environment and forest resources; however, after October 1993, they more or less stopped their activities. In December 1993, new representatives, called Dumas, were elected in most provinces. The Dumas are still under establishment and have so far paid little attention to the environment, to natural resources, or to forests. All provinces were forced to develop local forest lease propositions and to determine forest payment rules. This procedure was greatly simplified. The acts were developed by forest and natural services staff and were approved by the provincial administration head.

## **5. Links between the Legislative Procedure and the Process of Economic Reforms**

The so-called economic decrees, issued by the president of the Russian Federation to stimulate the economic reform, also influence natural resources and forest utilization. The president's 1992 decree, Order of Selling Land Lots (Decree of the Russian Federation President, 1992b), was intended to deal with the sale of buildings and factories; however, the formulation of the decree is so vague that total forest resources can easily be read into it. The Regulation of Land Relations decree (Decree of the Russian Federation President, 1993) indicates that virtually any kind of deal with land lots is allowed; it also states that institutions can sell land lots and that there is a possibility for transfer of property rights. This decree directly violates the Basics of Forest Legislation law of 1993, which prohibits these kinds of acts. The issues of property rights are clarified in the presidential decree on the State Privatization Program (1994), which says that the Forest Fund is the property of the federation and cannot be privatized. However, it is not clear if this resolution includes Forest Fund areas jointly owned by the Federation and the provinces. According to a resolution by the Russian State Property Committee (Decree of the President of the Russian Federation, 1994), the non-wood functions of the Forest Fund, such as

hunting, mushroom picking, etc., may be privatized if it is coordinated with the departmental levels (*Economics of the Far East*, 1994).

## 6. Conclusions

A number of conclusions can be made from the overview presented above:

- The current legislative framework and current forest legislation are still largely based on the centrally planned administrative and economic paradigms.
- Under current forest legislation (1993), the legal framework has, to a large extent, reverted to its state in the 1970s.
- The current system, in the form of a matrix of legislative and executive bodies, is extremely complex and difficult to administer and implement.
- The forest legislation is, to a large extent, normative and descriptive, and it lacks an efficient mechanism for implementation.
- The current forest legislation framework is not built as a framework based on existing ecological, forest sector, or economic problems in Russia; it is built on a centralized device for control.
- The current legislation does not cover all of the functions of the natural and forest resources, and in many areas it does not take the ownership aspects into account.
- The current legislation does not completely cover all the Russian forests.
- There are many loopholes (mainly due to a lack of mechanisms for implementation of legislation), which opens the way for large-scale corruption.
- The current legislation lacks a consistent, clear definition of property rights concerning the forest resources.
- Severe contradictions that influence the administration of the natural and the forest resources exist within the overall Russian legislative framework, including
  - contradictions between the Constitution and the legislation
  - contradictions between introduced regulations and laws
  - contradictions between regulations on natural resources and on the forest resources
  - contradictions between the presidential decrees and the legislation
- The overall Russian legislative framework is a mixture of the interests of the old and new society, of totalitarian and democratic systems, of centrally planned and market economies, and of exploitation of the natural and forest resources versus their sustainable utilization.

- The goals of the economic reform in Russia are not reflected in the legislative framework on natural and forest resources in a consistent way [the exception is the Economic Mechanism for Natural Environmental Protection (Supreme Soviet of the Russian Federation, 1992b)].
- In the current forest legislation there are clauses directing participation by the people in the implementation of the laws, but no mechanism exists for their doing so.

Thus, it can be concluded that the overall current legislative framework is inefficient and that satisfactory legislation on the natural and forest resources is not likely to be achieved unless the overall legislative framework is changed. It is obvious that current legislation does not take the market reform or ecological and socioeconomic problems into account. Until this is changed, the possibilities for the introduction of an efficient market economy and market mechanism into the Russian forest sector will be limited, if not nonexistent. A key question arising after this overview is how closely is the current forest legislation followed in practice? We do not know the extent, but based on the above description there are reasons to conclude that many violations are taking place. This is further illustrated in Boxes 4 to 9, which concern case studies from the Far East.

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**Box 4. Implementation of Basics of Forest Legislation in the Russian Federation of 1993 and Regulation on Lease of the Russian Federal Forest Fund Lots of 1993 in Khabarovsky Krai**

Two *krai* documents were created based on federal regulations: the Resolution on the Establishment of the Krai Commission on the Forest Utilization of March 25, 1994, and the Regulation on Forest Fund Lease in Khabarovsky Krai and Principles for the Rate of Forest Dues and Rent for Forest Utilization of April 6, 1994. In spite of these newly adopted regulations, the following questions remain at the local level:

- When, where, and in what form is the forest utilization assignment made?
- Who sets the forest dues and the forest rent?
- Who provides the special existing privileges?
- In which ways are the legislative and executive decisions by different administrative bodies carried out?

These uncertainties bring back the vagueness and centralization of the original federal laws.

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**Box 5. Distribution of Forest Logging Rights**

The new forest legislation of 1993 (Supreme Soviet of the Russian Federation, 1993a) identified the following options for allocation of logging rights:

- Competition (closed bidding)
- Haggles (auctions)
- Direct negotiations

The legislation emphasizes that the logging rights should be allocated by the municipal authorities, taking the “protection interests of the local population into serious consideration.” However, in the same clause (26) it is stressed that “the rights for logging are given to timber harvesting organizations which have had activities in the actual area for a long time.” Thus, the same law both proposes and undermines the idea of open competition for logging rights. The Regulation on Lease of the Russian Federal Forest Fund Laws approved July 23, 1993, suggests that the primary mode of forest utilization should rely on competition (closed bidding) and direct negotiations. However, in the same clause it is stated that “Forest Fund land previously being at the disposal of state timber harvesting units, ministries and departments should be allocated to the same organizations without any competition.” Thus, the spirit of democracy and markets that is expressed in the new forest legislation is devoid any real meaning.

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**Box 6. Establishment of the Joint Russian–South Korean Logging Unit “Svetlaya”**

The establishment of the Russian–South Korean long-term joint venture (two 10-year periods) was based on the USSR Supreme Soviet Presidium Decree of January 13, 1987, on Issues Related to the Establishment and Activities in the Territory of USSR of Forest Ventures, International Amalgamations and Units with Participation of Both Soviet and Foreign Units, Firms and Management Bodies, and on Resolution No. 49, 1987 by the USSR Council of Ministers. Later, the joint venture was also influenced by the USSR presidential decree on Foreign Investments in the USSR in October 1990; by the Basics of Legislation on Investment Activities in the USSR, adopted by the USSR Supreme Soviet in December 1990; and by the RSFSR law on Foreign Investments in the RSFSR, approved by the RSFSR Supreme Soviet on July 4, 1991. The established joint venture stipulated clear cuts and removal of standing dead trees (in these areas 30 to 40% of the growing stock of the forests consists of dead trees); over time the forest exploitation would shift from spruce-fir to larch-spruce forests. Such actions were in violation of clauses 12, 35, and 45 of the Basics of Forest Legislation of 1993 (Supreme Soviet of the Russian Federation, 1993a), which ultimately stopped these activities.

Similarly, a number of resolutions were made that influenced the Svetlaya operation: the resolution of People’s Deputies Congress of the Russian Federation on the Socio-Economic Situation in the North Regions of April 21, 1992; the decree of the Russian Federal President on Pressing Measures on Protection of Dwellings and Areas of Minor Nationalities of the North, dated April 22, 1992 (Decree of the Russian Federation President, 1992a); the resolution of the Council of Nationalities of the Russian Federation Supreme Soviet on Preservation of the Natural Complexes of Utege, Namai, and Orochi Peoples’ Habitat in the Pozharsky District of Primorsky Krai, dated February 24, 1993; and the resolution of Small Soviet of Primorsky Krai People’s Republics Deputies Soviet on Protection of the Habitat and Commercial Activities of Minor Nationalities of Primorsky Krai, dated August 25, 1993.

By these resolutions, the Bikin territory of the joint venture was declared the property of “minor nationalities”; without agreement by the minorities, the forests could not be used for industry or for any other development. This illustrates that long-term activities sanctioned during a certain period but in accordance with the existing legislation can very easily be overruled by new laws that completely contradict the old ones.

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### Box 7. Vanino Forest Production Plan

In 1993 the Weyerhaeuser company of the USA presented a joint economic and ecological plan involving a group of Russian forest industries, the Koppinsky *lescombine*. The plan was based on a document called Temporary Regulation, which was developed by the Far Eastern Forestry Research Institute. This document was more or less copied from the 1993 regulation Rules for Timber Harvest in the Far Eastern Forests (Federal Forest Service of Russia, 1993). However, there was a section in the Temporary Regulation document called Allowed Deviations from the Norms and Rules in the Forest Utilization. The deviations permitted were rather substantial. They were considered acceptable because joint ventures were viewed as an experimental way to encourage economic development, and, as such, a certain number of deviations were to be expected. The joint venture plan was submitted to the Khabarovsky Krai Forest Management Unit and the Khabarovsky Krai Committee on Ecology and Natural Resources. In the RSFSR Forest Code of 1978 and in the new forest legislation (Supreme Soviet of the Russian Federation, 1993a) no assessment of a joint venture plan is required; however, an assessment is required by the law on Protection of Nature Environment of 1992 (clauses 35 and 36). Therefore, a special assessment department was established within the Khabarovsky Krai Committee on Ecology and Nature Resources and the Khabarovsky Krai Council of the State Ecological Assessment. The following are the results of the assessment:

- The plan contradicts Russian norms and standards.
- The plan has too many normative descriptions without any quantifications.
- The plan contains a number of disputable suggestions.
- The total ecological consequences and measures are not evaluated.
- The plan does not guarantee that the joint venture will be ecologically sustainable.

This resulted in the closure of the planned joint venture. This example illustrates the need for forest legislation to mandate assessment, which should be coordinated with the assessment required according to the 1992 law on Protection of the Natural Environment.

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**Box 8. Timber Harvesting in Khabarovsky Krai and Amurskaya Oblast with Manpower from the Korean People's Democratic Republic**

By the early 1960s there were agreements between the USSR and other socialist countries concerning the harvest of timber using foreign manpower. In 1961 the first agreement with the Korean People's Democratic Republic was signed concerning timber harvest in the Far East. The USSR used Korean manpower and North Korea got a portion of the harvested timber, as well as other wood products. This agreement has been maintained to date. The original agreement was signed as an intergovernmental agreement and the text was kept secret. The Basics of Forest Legislation in the USSR and Union Republics law (1977) and the RSFSR Forest Code (1978) state that international agreements take precedence over the forest legislation. The new forest legislation (Supreme Soviet of the Russian Federation, 1993a) states that international agreements have to follow the propositions stated in the forest legislation; however, later in the same clause it is stated that the international agreement will prevail if it was signed before the new legislation was put into force. The basic idea of the agreement was that the *lespromkhozes* established were not joint enterprises, but were Soviet and Russian enterprises. Thus, the operations were automatically under the jurisdiction of the Soviet and Russian legislations, respectively. The operations were carried out in poorly developed areas of the Far East, and the several thousand North Korean workers were left more or less to themselves. This resulted in a number of violations of the existing forest legislation by the North Koreans. In a recent agreement with North Korea (Government of the Russian Federation, 1992), harvesting practices were accepted that are not accepted in the Russian legislation. The harvesting practices employed resulted in total mining of the resources, and in some cases also desertification.

Thus, the more than 30 years of cooperation between USSR/Russia and North Korea on forest harvesting actually had no legitimate basis. The established *lespromkhozes* continuously broke the clauses of former and current laws by overharvesting, by careless land utilization, and by insufficient replanting.

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### **Box 9. Harvest of Cedar in Cedar-Broadleaved Forests of Khabarovsky Krai**

The cedar-broadleaved forests (*Pinus Koraiensis Sib. et Zure*), along with the coniferous broadleaved forests of the Caucasus and the Carpathian Mountains, are the most complex and unique forests of the former Soviet Union. They contain 20 to 40 species per hectare and have a complex structure of vegetational layers. These forests host unique plants and animals. Commercial logging of these forests started some 130 years ago, with a selective cutting regime and a utilization intensity of 20 to 30%. Since the 1930s the utilization intensity has increased to 70 to 80%. Cedar timber export provides the highest foreign currency income per cubic meter in the Far East. Cedar-dominating stands constitute some 3.5 million ha. Second-generation cedar-broadleaved stands cover 1.5 to 2 million ha.

During the period from 1966 to 1988 the area of forests with cedar as the dominant species decreased in the state forests by some 0.5 million ha. This situation caused public demand for a restriction of cedar-broadleaved harvests. The Law on Nature Protection in the RSFSR (1961) prohibited "logging in cedar stands with methods which do not provide natural reproduction." This formulation was too vague and had a limited impact. More efficient regulations were achieved by two resolutions, both called Improvement of Complex Use and Protection of Cedar Forests (CPSU Central Committee and the USSR Council of Ministers Resolution of August 8, 1978, and the RSFSR Council of Ministers Resolution of August 18, 1978). The ban in the resolutions, however, was not too successful. All species in the mixed forest other than cedar could be harvested according to the resolutions, which resulted in decline and death of those cedar trees left after harvesting. On November 27, 1989, the USSR Supreme Soviet adopted the resolution Urgent Measures for Ecological Improvement of the Country, which prohibited logging in cedar-broadleaved forests with a share of cedar of more than 26%. The resolution also prohibited total harvest of the cedar stands. This formulation was also adopted by sub-acts of the legislation. The implementation of this ban was adopted in resolutions by the USSR Council of Ministers on December 30, 1989, and by the RSFSR Council of Ministers on January 17, 1990. It was also implemented in the Guidelines on Organization and Management of Cedar-Broadleaved Forests of the Far East (Korean Cedar) (State Committee of Forests of the USSR, 1990). According to these documents commercial logging of cedar was allowed in stands with a share of 25% cedar or less. This latter group comprised mainly stands composed of a second generation of cedar, and with this regulation that second generation of cedar was lost. Therefore, the executive committee of Khabarovsky Krai People's Republic Soviet adopted local decrees prohibiting cedar harvest in any stand (February 12, 1990).

In 1993 the head of the Chukotsky district administration applied to the administration of Khabarovsk Krai to provide 300 m<sup>3</sup> of cedar timber for the construction of fishing (whale) boats to the Chukchi population (an indigenous people). This construction requires high-quality wood (so-called ship timber of grade 0). The *krai* administration delegated the decision to the Khabarovsk Forest Management Unit, which found it possible to supply the requested wood according to the Guidelines on Management of Cedar-Broadleaved Forests of the Far East (1990). During the harvesting it was concluded that only about 5% of the harvested wood met the quality requirements. Therefore, the harvest had to be 6,000 m<sup>3</sup> instead of 300 m<sup>3</sup>. At this time the Khabarovsk Krai Committee on Ecology and Natural Resources appealed against the decision by the *krai* administration based on the above-mentioned decree of February 12, 1990, on a general ban on cedar logging. The case was taken to court. The Krai Forest Management Unit argued that the Krai Executive Committee decision of February 12, 1990, was not strictly in line with the RSFSR Council of Ministers resolution of January 17, 1990, concerning the ban of cedar harvest. Therefore, the head of the *krai* administration had the right to ignore the decree of February 12, 1990. The Krai Administration Department on Natural Resources Use responded in court that it was necessary to support the Chukchi fishing population with reference to the Russian Federal Presidential Decree on Pressing Measures for Protection of Dwellings and Areas of Minor Nationalities of the North of April 22, 1992. Meanwhile, it was found that the original buyer of the timber was not able to pay for the ordered wood, which was then transferred to Khabarovsk for barter trade. This example shows how the depth of contradictions between different legislations and contradictions between central and regional resolutions result in a violation of the legislation and sustainability of the forests.

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<sup>1</sup> *General-gubernatorstvo* is an old name for *oblast* in the Russian Empire.

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