TERMS OF REFERENCE

1. POSITION: REGIONAL FOREST LEGISLATION ANALYST

Project title: “Improving Forest Law Enforcement and Governance (FLEG) in the European Neighbourhood Policy East Countries and Russia”

Regional activity: Comparative legal analysis and recommendations for improved forest governance

2. REPORTING RESPONSIBILITIES¹:

<table>
<thead>
<tr>
<th>Direct Reporting Line</th>
<th>Reporting Area</th>
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</thead>
<tbody>
<tr>
<td>ENPI/FLEG IUCN Program Consultant – Moldova</td>
<td>Issues pertaining to the IUCN ENPI-FLEG regional program implementation, with respect establishing baseline data relating to public awareness about Forest Law Enforcement and Governance that addresses issues such as stakeholder awareness and commitment, national ownership and capacity, and knowledge sharing. All administrative issues pertaining to these Terms of Reference.</td>
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3. LOCATION – Chisinau, Moldova (with possible travels)

4. DURATION – 7 months (with possible extension)

5. STARTING – December 2010

6. BACKGROUND

This European Commission financed European Neighbourhood and Partnership Instrument – Forest Law Enforcement and Governance (ENPI-FLEG) program will promote the development of improved forest law enforcement and governance arrangements in seven targeted countries: Armenia, Georgia, Azerbaijan, Moldova, Ukraine, Belarus and Russia. The program’s core funding is provided through a grant agreement from the European Commission to the World Bank. The program is being undertaken as a partnership among the World Bank, IUCN and WWF. Each of the three partnered program implementation

¹ Direct reporting lines indicate those staff members providing direct supervision. Additional reporting lines indicate accountability for particular functions or areas of work. Consultation, information sharing and other relationship lines are not indicated, as they are likely to be numerous.
organizations will be responsible for its own set of specified activities and deliverables. Three broad categories of stakeholder groups will be targeted by the program: government (line departments, parliamentarians, local authorities and the judiciary); civil society (NGOs, community organizations and forest-dependent communities); and the private sector (particularly timber companies). The program will define the policy, legal, institutional and economic obstacles to improved forest governance (including the control of illegal logging); test pilot innovative approaches to overcoming these obstacles; enhance the capacity of key stakeholders to implement forest governance reforms; and disseminate the lessons learned at national, regional and global levels. The program will also support the other regional Forest Law Enforcement and Governance official processes being organised by the World Bank and will contribute to the EU FLEGT Action Plan.

The program’s purpose is to contribute to ensuring that improved forest governance arrangements are in place in the forest sector and closely linked sectors through effective implementation of the ENA FLEG Ministerial Declaration (St. Petersburg Declaration 2005), involving governments, civil society and the private sector.

The program’s specific objective is to contribute to legal and sustainable forest management and utilization practices and improved local livelihoods in the six ENPI East countries plus Russia.

The program’s results will be:

Result 1: Increased awareness and commitment of key stakeholders on FLEG

Result 2: Effective national and regional FLEG action processes in place

Result 3: National ownership and capacity increased

Result 4: Improved regional and sub-regional collaboration and knowledge sharing

Result 5: Effective engagement of key trading partners

Result 6: Continuation of the formal official ENA FLEG process

Result 7: Sustainable forest management practices implemented

7. TASKS

7.1 General

Under the direct supervision of the ENPI-FLEG IUCN Program Consultant in Moldova, the Regional Forest Legislation Analyst will be responsible for:

• Implementation within the ENPI-FLEG of the regional activity “Comparative legal analysis and recommendations for an improved forest governance”;

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• Conducting a regional comparative analysis of existing legal framework, namely the Forest Code, in the seven countries covered by the ENPI-FLEG project: Armenia, Georgia, Azerbaijan, Moldova, Ukraine, Belarus and Russia;
• Providing recommendations for the improvement of the existing forest legislation (e.g. the Forest Code) for the east-European countries covered by ENPI-FLEG Programme;
• Cooperate with the Regional Forest legislation Analyst, conducting similar legal analysis in the associated CARs countries (Kazakhstan, Kyrgyzstan Tadzhikistan, Turkmenistan and Uzbekistan), to ensure the complementarity of work and functionality of the unified methodology of the analysis carried out are met;
• Ensuring that the legal comparative analysis and recommendations related to the ENPI-FLEG regional activity are implemented in a timely and effective manner, contributing to the achievements of the projects’ objectives;

All these activities aim to increase FLEG understanding, awareness and commitment among the three broad categories of stakeholder groups targeted by the program: government (line departments, departmental forest enterprises/units, parliamentarians, local authorities and the judiciary); civil society (NGOs, community organizations and forest-dependent communities); and the private sector (particularly timber companies).

7.2 Specific tasks

- Regional participation and implementation
  • Work with the Program Consultant and the other IUCN Consultants to clearly communicate on the implementation of regional activity, results and success stories;
  • Close cooperate with other legislation / legal consultants in the countries involved in the project;
  • Effective communication to IUCN’s Regional Office for Europe and other officials of the ENPI-FLEG Programme

- Regional analysis of the forest relations and existing forestry legislation
  The history of establishment of the forestry legislation is associated with various regimes and periods of forest exploitations. The conditions of forests and their management can be different; however, the forest legislation shall be based on the sustainability usage of forest resources. The aim of a regional comparative analysis should tackle on:
  • delivering a comprehensive state-of-the-art of the forest legislation (the Forest Code in particular);
  • revealing forest management practices covered by the legislation and their sustainability for forests ecosystems;
  • Raising ecological values of forests;
  • Enhancing forest protection and abilities to meet emergency situations (e.g. wildfires, desertification, climate changing etc.);
  • Creation of high-quality forest environments for population;
  • Opportunities for utilization or resources (wood / non-wood products, recreation / leisure, cultural activities);
  • Enhancing biodiversity and their habitats;
- **Preparations for climate change**;
- **Access and rights of population**;
- **Economic and social development**.

**The Forest Code: its regional assessment and ways of improvement**

As main regulatory act in the countries, the Forest Code establishes legal bases of forest relations and use of forest resources. The Consultant should give a regional assessment of the current state of the Forest Code, including:

- Levels of forest relations and resources utilization strategies (forest resource use, timber / non-timber trends, expansion / limitation of use and development, livelihoods opportunities, e.g. wood fuel / construction, industrial use etc.);
- Ownership and land tenure (state/federal, regional/local, community, private etc.), including plantation/extension and privatization of forestlands;
- Conditions of forest vegetation (including types and functions) and forest protected areas;
- Ecological values of forests and environmental impact evaluation;
- Public access to resources and rights of communities, including public participation in taking decisions for the improvement of forest heritage;
- Leasing forestlands practices and comparative assessment of the impact (including obligations, rights, conditions, impact on ecosystems and local communities, contribution to diversity preservation and enhance of wildlife, habitat maintenance etc.);
- Issues related to illegal logging and timber / non-timber products harvesting (shape of logging, trade trends, forest reduction, losing forest quality, poor forest governance etc.);
- Business activity related to forests and resources use (auctions / bidding practices, involvement of various companies into forests economic activities, impact on ecosystems, social impact etc.).

**Community forest legislation and perspectives for local communities**

Community forest sector has become an important and growing opportunity for communities, supporting livelihoods, wildlife management and conservation. In the countries with low income per families, harvesting operations can be an important source of revenue for locals and contribute to development of communities, which can become more nature-friendly by owning local resources. This is rather new domain for many countries and its development can produce new horizons for local populations. A regional cooperation seems to be very useful for strengthening the community partnership and developing new approaches to sustainable use of forests at local level.

**Private forest sector: legal basis, necessities and trends**

The amount of private forests is traditionally low in the countries involved in the project as well as in the CARs countries. However, growing populations and economies are creating increased demands for forest products and services. There is a growing demand and interest in owning forests by the private sector - a fact that should, undoubtedly, used by the forest bodies in the countries. A regional cooperation in this context shall be a priority for the development of legislation designed to regulate private forests. Through a proper
regulatory basis, landowners and the private agents ought to be provided with legal-based information about management and conservation of forests.

- **Analysing current situation and legislative support for forest certification system as a way to improve the quality of forest management and timber market in the region**

  Forest certification can provide evidence on the quality of management of forests and can serve as a tool of quality-market relationships. The certified timber products could pose a great challenge to illegal logging operations and unsustainable forest management. Legal premises of national standards for forest certification of natural and planted forests should be analysed and recommendations provided.

- **Avoiding overlapping and contradictions of the Forest Legislation (namely the Forest Code) to other legislation, such as Penal Code, Administrative Code, Protected Areas legislation etc.**

  It is essential to examine in-depth the existing forest and nature conservation legislation related to forests in order to remove contradictions, inconsistencies and overlapping. Also, the overlap of forest regulations between national and local authorities can cause uncertainties in forest management. As a result, illegal loggers can use the gaps in legislation. Forest law enforcement should be rationalized to identify gaps and optimize the legislation by excluding overlaps.

- **Cooperation with implementing organizations of ENPI-FLEG programme (WB, IUCN, WWW), in particular with the experts involved in the legislation analysis**

  It is essential to be able to work closely with representatives of implementing organizations within the ENPI-FLEG programme in each participating country. Information on forest legislation shall be provided by each country’s responsible for legislative framework and analysis.

- **Consultation with regional multi-stakeholder audience**

  - Opinions of various stakeholders (ministries, departments, agencies, NGO, local communities, private sector, locals) should be taken into consideration
  - Able to actively participate in regional consultations over the FLEG issues

- **Providing recommendations for improving forest governance through strengthening the framework for forest and environmental legislation**

  Legislative and regulatory frameworks should meet internationally accepted forest management standards and provide support for multi-stakeholder participatory processes for development of legislation, for reviewing and reforming policies. The following should be taken into consideration:

  - improved access to forests for dependent communities
  - improve revenue collection for local population;
  - increased transparency for improved forest market and/or efficient business environment;
  - improved evidence of forest crimes and other contraventions, and building legal cases against those who transgress;
  - building cooperation between the forest sector and the police, public prosecution authorities and the judiciary sector;
• public and political involvement to fight corruption engaged in illegal forest activities;
• strengthen the on-the ground legislation applicability;

- Preparation of a Report on regional comparative legal analysis (the Forest Code) and recommendations for an improved forest governance

Based on research carried out and analysis of the regional legislative framework, a report shall be provided in both English and Russian languages, including background, area and method of analysis, results, conclusions and ways to improve the situation. The report will be published.

- Building network(s) and relations
• Give support to preparations and development of strategies and networks;
• Assess communication results and lessons learned and help ensure their deliverance;
• Facilitate the effective presentations of legislation products and experiences gained by the countries;
• Contribute to the strengthening of the regional alliances with project partners in the countries involved in the project activities;
• Ensure circulation of the information and contribute to the exchange of opinions, achievements and products.

- Other
• As instructed by the Program Consultant, carry out any other appropriate associated work that may be requested to effectively perform the program activities.

8. PRODUCTS AND DELIVERABLES

• Preparation of a Report on regional comparative legal analysis (based on the Forest Code) and recommendations for an improved forest governance;
• The report shall be provided in both Russian and English languages, including background, area and method of analysis, results, conclusions and ways to improve the situation;
• Provide accurate information and advice to the Program Consultant in a timely fashion so that all required technical and financial reports can be submitted.

9. QUALIFICATIONS

The position requires an individual or an organization (NGO, legal company etc.) with proven experience in forestry and/or nature conservation legislation and with the ability to actively cooperate with various stakeholders over the analytical analysis of existing legislation and provision of recommendations to the actual forest legislation in a regional context.

Intuitive abilities and excellent analytical capacities of working with forest legislation are strongly required.
Minimum qualifications should be met:

- High education in forestry, natural sciences, environmental law or governance;
- Excellent knowledge of local (national) and regional legislation related to forestry and/or nature conservation;
- At least 5 years of professional experience with technical information and issues related to forest governance and/or forestry legislation;
- Proven participation in regional projects related to forest resources management;
- Extensive knowledge of the current forest management in east-European countries;
- Familiar with the Forest Code, at least in one of the countries covered by ENPI-FLEG program;
- Proven experience in developing and designing legislation (acts, rules, directives, policies etc.);
- Ability to write high technical reports and official documentation;
- Familiar with FLEG issues locally and regionally;
- Knowledge of IUCN’s work globally and regionally;
- Computer literacy;
- Fluency in Russian, knowledge of one or several national languages desirable; English an asset.