

Illegal Logging in Ukraine

Diagnostic audit



Illegal Logging in Ukraine

(Governance, Implementation and Enforcement)

Diagnostic audit

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Acknowledgements	5
Project background	5
Chapter 1: Introduction	7
Chapter 2: Policy and Legal Framework	9
Overall Forest Policy	9
Overview of the Legal Framework	11
Chapter 3: Institutional Framework	13
State Management in the Forestry Sphere	13
Monitoring, Control and Enforcement	15
Institutional Coordination Mechanisms	16
Chapter 4: Shortcomings of the Present System and Recommendations for Improvement	17
Annex: List of Legislation	17
Notes	21

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Project background

Forestry in Eastern Europe is an important economic sector, and is also crucial from an environmental point of view. Illegal logging is often accompanied by transnational organised crime, breakdowns in institutional controls and ineffective institutions and it can increase tensions across borders and with the international community. The effects of illegal logging range from loss of habitat and biodiversity to erosion and land degradation, desertification and climate change, as well as social disruption, economic impacts and weakened governance structures.

The project “Illegal Logging in Ukraine: Governance, Implementation and Enforcement”, implemented under the Environment and Security (ENVSEC) Initiative, aims to identify concrete actions to be taken by key actors to address the existing legal, policy, implementation and enforcement gaps in order to reduce or eliminate illegal logging in Ukraine.

The project is financed by the Canadian International Development Agency (CIDA) under the ENVSEC Initiative.

The current report provides an overview of the policy, legal and institutional set-up in Ukraine and was undertaken in order to evaluate the country’s capacity to address the issue of illegal logging. It should be read in conjunction with the Fact-Finding Assessment, produced under the same project, which describes the state of play in the forestry sector as regards the scope and extent of illegal logging activities in the country.

Chapter 1: Introduction

Forest cover in Ukraine varies greatly from region to region, although the total proportion, at 15.7 percent of the country's territory, is relatively low. The majority of forest lands are concentrated in the western (Carpathians) and northern parts of the country.

Forest ownership has not changed greatly since the previous regime: the state owns more than 99 percent of forests, the remainder being owned by municipalities and private companies or small private owners. Forest privatisation has been regulated by the Forest Code of Ukraine since 2006 and is still at an early stage.

The vast majority of these forests are managed directly by the State Forestry Committee (SFC) as the main body of executive power in the sphere of forestry and hunting. Many other authorities share competencies in forestry management, including the Ministry of Agrarian Policy, the Ministry of Defence, the Ministry of Emergencies, the Ministry of Environmental Protection, and the Ministry of Transport and Communications.

Forests can be found in protected areas, ranging from small preserved sites (*zapovidni urochyshcha*) to nature reserves. However, protected areas cover less than 5 percent of the national territory and some types of forestry practice, such as clear sanitary cuts and final felling¹ as well as illegal human occupation of the land, constitute a serious threat to them.

Forestry and related industry play an important role in the economic development of certain regions of Ukraine. The volume of products, works and services linked to forestry represented UAH 3,382.7 million and 83,000 employees in 2008.² In the Carpathian region, the forestry cluster is the fourth major branch of the economy.³

Illegal logging has been acknowledged by all key actors in Ukraine, including governmental authorities, businesses and NGOs. However, estimations of the volume of illegal logging differ from one source to another. According to the SFC, the total volume of illegal logging in Ukraine in 2008 was about 20,000 cubic metres of wood, while according to experts from the Swiss-Ukrainian Forest Development Project in Zakarpattya (FORZA), financed by the Swiss Agency for Development and Cooperation, the average annual volume of illegal logging in Ukraine is approximately 1.25 million cubic metres of wood.

The present regional assessment analyses the legal, policy and institutional frameworks in Ukraine with respect to forestry management, forest protection and enforcement. The aim of the audit is to assess these frameworks in order to identify strengths and weaknesses as well as priority areas of action to overcome existing problems, with a special focus on combating illegal logging.

Chapter 2: Policy and Legal Framework

Overall Forest Policy

In Ukraine, state policy in the sphere of forestry and forest protection, including state programmes, instructions and regulations, is established by the adoption of legal acts such as laws and by-laws. These legal acts usually introduce general provisions addressing directions of development, principles, main issues and tasks. They sometimes enumerate concrete indices, necessary resources and pre-conditions for reaching defined objectives, as well as responsible authorities and organisations. The main national policy documents are:

- the Forest Code of Ukraine;
- the Concept for the Reform and Development of Forestry;
- the State Specific Programme for the Forests of Ukraine for the Years 2010-2015;
- the Regulation of Verkhovna Rada of Ukraine on the Main Directions of the State Policy of Ukraine on Environmental Protection, Use of Natural Resources and Ecological Safety; and
- the State Programme for the Development of the Natural Environmental Network of Ukraine for the Years 2000-2015.

The State Specific Programme for the Forests of Ukraine deals with forestry and is more specific than other documents. It introduces necessary improvements in the forestry sector and lists areas to be focused on, while taking into account the ecological, social and economic functions of forests. The State-Specific Programme for the Forests of Ukraine for the Years 2010-2015 aims to:

- increase forest cover;
- increase the resources and ecological potential of forests and ensure that forest activities are carried out according to the principles of sustainable forest development;

- improve the resistance of forest ecosystems and forest protection;
- ensure the reproduction, protection and rational use of game fauna;
- ensure the rational use of forest resources;
- increase the efficiency of forest management; and
- improve the scientific and professional background for forestry development.

The programme includes specific figures and a timeframe for achievements, as well as corresponding financial allocations.

Another policy document that determines the main issues and directions of forestry reform and development in Ukraine is the Instruction of the Cabinet of Ministers of Ukraine on the Approval of the Concept for the Reform and Development of Forestry (2006). According to this document, the main reasons for the unsolved problems in the forestry sector are:

- the shortcomings of the financial and economic system of forestry development and the taxation system that does not take into consideration the long period of forest growth;
- the fact that forests are managed by several authorities;
- the combining of forestry and wood processing functions at forestry enterprises;
- the absence of economic incentives for the introduction of nature-friendly technologies;
- the considerable volumes of illegal cutting and the illegal redistribution of forest lands; and
- the increase in anthropogenic impacts on forest ecosystems.

The main reforms listed as necessary are:

- the development of criteria (indicators) for the efficient management of forests;

- an increase in forest coverage of territories up to a scientifically grounded level;
- an increase in the resource and ecological capacity of forests;
- the preservation of biodiversity within forest ecosystems;
- an increase in the resistance of forest ecosystems to adverse factors such as increasing anthropogenic impacts on the environment and climate change;
- the efficient use of forest resources in the market economy;
- an improvement to financial and economic tools;
- self-supportive and profitable forestry in the most forested regions;
- assistance in solving social and economic problems in local communities; and
- an improvement in the legal protection of forest guards.

There are several issues specific to forestry in Ukraine that are essential in understanding the current situation:

- the continuing reform of forestry that aims at achieving better adaptation to existing market conditions;
- the establishment of institutes for private and municipal forest ownership;
- the leasing of forests (long-term forest use);
- the elimination of existing contradictions between environmental protection (e.g. the preservation of biological diversity), and increased profitability;
- the concentration of state forest management functions in one centralised executive authority (the SFC);
- the development of extended wood and waste wood processing (for fuel, chipboard production etc.);
- the need to increase forest cover in specific territories and the country as a whole;
- the enlargement of existing protective areas on forest lands, and the establishment of new ones;
- the variety of geographical locations of forests (Polissya zone, forest steppe, steppe, the Ukrainian Carpathians and mountains of the Crimea), which have different silvicultural conditions, different forest management methods and different forest use;
- the ecological importance of the forests and the high percentage (up to 50 percent) of forests with ecologically limited forest management;
- the extent of forests located in a zone polluted by radionuclides; and
- the fact that half of Ukrainian forests are artificial and require intensive care.

All Ukrainian authorities recognise that illegal logging is a serious issue for Ukraine. In June 2010, Prime Minister Mykola Azarov stated that forest cutting would be prohibited in areas where such cutting exacerbates the problem of flooding.⁴ However, despite national efforts towards forest protection and common strategic directions for forestry development on the part of political leaders, several trends can be seen as having an impact on forestry activities, the condition of the forests, and the preservation of biodiversity. For instance, the increased use of waste wood is supposed to improve the economic efficiency of forestry and lessen the risk of fire, reduce dependence on imported fuel, and therefore decrease greenhouse gas emissions. However, in some cases, especially when employed on a massive scale, it can adversely affect species that depend on standing or lying dead wood in forests. Another example is the plan to extend the network of forest roads, which may lead to the intensification of cutting in territories that are preserved in virgin condition and that are important for the protection of rare and endangered species. In its comments to the current report, the SFC specified that the density of the existing forest road network in Ukraine per 1,000 ha of forests is three to six times lower than in other countries of Central Europe. The density of forest roads in Carpathian forests (which represent 40 percent of Ukraine's wood stock) is between 5 and 6 km per 1,000 ha. The further construction of forest roads is expected to contribute to nature protection, to the use of environmentally friendly silviculture methods as specified in the Carpathian Convention, to better forest management, and to the use of wood damaged by insects and diseases. In southern and eastern regions of Ukraine, it will ease access for fire-fighting equipment to the most valuable forests.

Changes in market conditions have led to the flourishing of small private sawmills operating without permits, a rise in market outlets for illegal wood to domestic consumers, and illegal wood exports. This also includes cases where the value of the wood sold in Ukraine and abroad is understated.

In order to improve forest management efficiency, Ukraine launched forest management certification under the Forest Stewardship Council (FSC) in 1999. The following year, Teterivske Experiment and Pro-

duction Forestry Enterprise and three state forestry enterprises in Zhytomyr region were certified. According to the SFC, an additional incentive for the introduction of forest certification was the accession of Poland, Slovakia and Hungary – traditional importers of Ukrainian wood products – to the European Union in 2004. The demand for certified wood increased exponentially in these countries.

Forest management certification has been complemented by chain of custody certification, which was recently launched in Ukraine. This concerns the certification of wood supply from producer to consumer.

A national task force for the elaboration of national standards for voluntary certification, matching FSC principles and criteria, was established in 2004. The task force has developed national standards that have been finalised and tested in the field but not yet officially approved.

The total area of certified forests in Ukraine is now around 1 million ha. According to the SFC, this level of certification demonstrates that Ukrainian forest management is sustainable and corresponds to international requirements. On the other hand, investigations have been carried out in Zakarpattya region, where large areas of certified forests are apparently combined with high volumes of illegal logging. Violations of the regime for the protection of lakes and endangered species have also been observed in a few cases. However, these violations, as well as violations of FSC principles, were considered to be “not essential” by experts responsible for certification. It should be noted that a certificate can only be annulled by the experts who approved certification in the case of a proven violation of the principles or the non-payment of fees. It was underlined by the SFC that no annulled certificates appear in the SFC system, and that only partial suspension could be expected.

Overview of the Legal Framework

Forest management is regulated mainly by the Constitution of Ukraine, the Forest Code of Ukraine and the Law of Ukraine on the Protection of the Natural Environment. The various measures contained in other pieces of legislation sometimes create unfavourable conditions for forestry development and for combating illegal activities linked to forest management. The legislation in force includes international law and national legal acts issued by the Parliament of Ukraine

(Verkhovna Rada), the president of Ukraine, the Cabinet of Ministers of Ukraine (the Government of Ukraine), specific ministries, the SFC and other authorities.

International obligations of Ukraine regarding forestry

Ukraine has signed and ratified a number of international legal acts. These international acts are considered as part of Ukrainian national legislation and directly affect its territory. In case of a contradiction between national and international legislation, the latter takes precedence. The main international legal acts dealing with forests and their protection include the Convention on Biological Diversity, the United Nations Framework Convention on Climate Change, the Kyoto Protocol, the Convention on the Protection and Sustainable Development of the Carpathians and its Protocol on the Conservation and Sustainable Use of Biological and Landscape Diversity. Negotiations are ongoing with regard to the signature of the Protocol on Sustainable Forest Management to the Carpathian Convention. The full list of multilateral environmental agreements to which Ukraine is a party can be found in the Fact-Finding Assessment.

The obligations of Ukraine encompass:

- the protection of biodiversity and rare species;
- the sustainable management and conservation of forests, with special attention to the protection and sustainable use of forests in the Carpathian region;
- the protection of forests as habitats for wild animals; and
- the protection of forests from fires and as a tool to combat desertification.

In addition, Ukraine signed the St. Petersburg Declaration, adopted at the Ministerial Conference on Forest Law Enforcement and Governance in 2005. By endorsing this declarative document, Ukraine committed itself to take action to address the issues of illegal logging, the associated illegal trade in wood and corruption. The goal is to improve the livelihoods of forest-dependent communities while avoiding revenue losses and forest depletion as well as negative impacts on habitats and endangered species.

National legislation related to forestry

The Forest Code of Ukraine aims specifically to regulate forestry management. Another important legisla-

tive act is the Law of Ukraine on the Protection of the Environment. A detailed list of forest-related national legislation can be found in the Fact-Finding Assessment.

Ukraine has been quite diligent in adopting new pieces of legislation in recent years. In 2006 and 2009, for example, considerable changes were made to the Forest Code, and many by-laws were adopted during this time, some of which were more effective than others. While the adoption and implementation of some pieces of legislation have produced swift and positive changes (e.g. awarding the status of law enforcement authority to the Forest Guard by the adoption of the Regulation on the State Forest Guard by the Order of the Cabinet of Ministers of Ukraine dated September 16, 2009, N976), in other cases the regulations and rules governing the same areas/forests are in conflict.

One of the most sensitive areas of legislation is criminal and civil law, since it is essential to prosecute infringements and provide compensation for affected parties.

The legal status and definition of the Forest Guards' competence in forest control are not made sufficiently clear in the relevant legislation, providing yet another reason for weak law enforcement in Ukrainian forests.

The lack of clear laws and the absence of an efficient enforcement body are linked to the existence of clear cutting even inside national parks (with the exception of areas completely closed to the public). Timber harvested in this way is used for commercial purposes, and some forestry officials have expressed off-the-record suspicions that cutting in some national parks may even exceed that taking place in adjoining commercial forests. Unnecessary sanitary cuts have also been observed in both protective and commercial forests.

Another problem is the status of the forest guards of enterprises that are subordinated to the Ministry of

Agricultural Policy of Ukraine and the Ministry of Defense. Although accomplishing the same work as the state Forest Guard, they do not have the same status and authority confirmed in legislation.

Although the Forest Code of Ukraine establishes the existence of municipal⁵ and private forests, implementation is still at starting point. In fact, the number of private forests is so small that they are not even identified within the forest structure. Private ownership of existing forests is limited in the Forest Code of Ukraine to 5 ha and to certain types of land plot (i.e. only isolated forest plots within farmlands) in order to increase the efficiency of the use of forests that are surrounded by non-forested lands. There are no area limits for private forests created by legal entities and natural persons on private plots of degraded and poor land (Article 12, Part 2 of the Forest Code). However, there is a strong refusal to accept the private ownership of forests in Ukrainian society.⁶

Although there is no direct definition of illegal logging in Ukrainian legislation, illegal activities linked to forestry are dealt with in the national legislation. For example, the illegal cutting of trees and bushes in the forest, carried out in protected areas or in forests under special protection and resulting in serious damage, is punishable under the Criminal Code of Ukraine and the Code of Ukraine on Administrative Violations of Law. According to some legal studies, Ukrainian legislation needs to be improved by including a definition of illegal cutting (in, for example, the Criminal Code of Ukraine, the Code of Ukraine on Administrative Violations of Law and the Forest Code of Ukraine), as well as by developing rules for final felling depending on the category of the forests, and rules for the use of wood cut as a result of sanitary and improvement felling.⁷

Chapter 3: Institutional Framework

State Management in the Forestry Sphere

State management in the forestry sphere is carried out by a number of authorities, including the SFC and specialised government authorities (the Ministry of Agrarian Policy and the Ministry of Defence). Some functions, related mainly to environmental protection, are in the hands of the Ministry of Environmental Protection.

The forest management system in Ukraine has a vertical structure, comprising:

- national level – the SFC, the Ministry of Agrarian Policy’s Department of Licensing and Forestry, the Ministry of Defence and the Ministry of Environmental Protection;
 - regional level – the Committee of the Autonomous Republic of Crimea for Forestry and Hunting, 24 regional administrations for forestry and hunting, territorial bodies of the Ministry of Environmental Protection, and state agrarian forestry enterprises (in some regions);
 - local level – state forestry enterprises (230) and municipal agrarian forestry enterprises. State forestry enterprises are responsible for a wide range of forestry activities, from forest planting to final felling, while some are also engaged in milling.
- There are also natural reserves (6), national parks (4), hunting entities (15), entities for forestry and hunting (51) managed by the SFC or other institutions under the authority of the SFC. The smallest, basic structural unit of the SFC is the forest ranger station. There are also scientific and research and development institutions (6) and educational institutions (8), which are enterprises managed by the SFC.
- The SFC is the main executive body in the sphere of forestry and hunting. Its main tasks are:
- implementing state policy on forestry and hunting, on the protection, efficient use and reproduction of forest resources and game animals, and on improving the efficiency of forestry and hunting;
 - carrying out state management, regulation and control in the sphere of forestry and hunting;
 - developing and implementing state (national), international and regional programmes for the protection, increased efficiency, efficient use and reproduction of forests, participating in the elaboration and implementation of programmes on the use and reproduction of game animals, developing hunting, and organising forest management;
 - carrying out the state management and coordination of actions in the sphere of forestry;
 - submitting proposals for the development and implementation of state policy in the sphere of forestry;
 - developing and implementing national and regional (local) programmes for the protection, use and reproduction of forests;
 - developing and approving legal acts for forestry according to the established procedure;
 - carrying out state control over compliance with regulations, rules and other regulatory legal acts on forestry;
 - organising forest management and forest inventories, maintaining the State Forest Cadastre and monitoring forests;
 - carrying out forest management and ensuring the efficient use of forest resources;
 - arranging the work of the State Forest Guard, and coordinating the activities of the forest guards of other permanent forest users and forest owners;
 - coordinating measures for the protection of forests from fires, insects and diseases;

TABLE 1: Functions of authorities in the sphere of forestry management

FUNCTION	AUTHORITY DEALING WITH THE FUNCTION
General policy making	<ul style="list-style-type: none"> • The Parliament of Ukraine (Verkhovna Rada) • the Cabinet of Ministers of Ukraine (Government of Ukraine) • the SFC • and the Ministry of Environmental Protection of Ukraine.
Law enforcement and control	<ul style="list-style-type: none"> • The State Ecological Inspection of the Ministry of Environmental Protection of Ukraine • the SFC (via the Forest Guard) • the Nature Protection Prosecutor's Office • the Ministry of Internal Affairs of Ukraine • the State Customs Service of Ukraine • the Security Service of Ukraine • and the State Committee of Land Resources.
Forest protection	<ul style="list-style-type: none"> • The SFC (through state forestry enterprises and other subordinated institutions) • the State Conservation Service • the Ministry of Agrarian Policy of Ukraine (in forests managed by it) • the Ministry of Defence (in forests managed by it) • other authorities in the forests managed by them.
Protection of forests from fire and emergencies	<ul style="list-style-type: none"> • The SFC • the Ministry of Emergencies of Ukraine; • other authorities in forests managed by them.

- coordinating the work of the scientific and research institutions that it manages;
- issuing licences according to the law;
- submitting proposals on the limitation or suspension of the work of enterprises, institutions and organisations, regardless of who oversees them and their form of ownership, in case of the violation of nature protection and forest laws;
- participating in training, retraining and improving the qualifications of forestry personnel; and
- ensuring international forestry cooperation.⁸

In addition, the SFC is authorised to control whether the activities of forestry units managed by the Ministry of Agrarian Policy, the Ministry of Defence and other authorities are in compliance with forest legislation.

The forest management structure is relatively closed. The SFC develops and adopts by-laws in the sphere of forestry and, partly, in the sphere of forest protection in coordination with the Ministry of Environmental Protection of Ukraine. Its enterprises carry out economic activity in its forests. The SFC is the main commissioner of scientific research in the sphere of forestry and forest protection, its forests serving as a basis for researchers.

The concentration of functions (management, business, control, forest science and law enforcement) and the strict vertical management system have been criticised for creating a high risk of corruption. On the other hand, such concentration ensures the rapid execution of instructions and allows for efficient management and coordination in the event of emergencies. In some regions (mostly in northern Ukraine and the Carpathians), forestry enterprises play a key role in the economic and social spheres (employment, support to social infrastructure) and actively cooperate with local authorities. In addition, the conservative nature of the existing system of forest management helped to prevent the plundering of forests during the privatisation process. It also provides for the transfer of forest management and forest protection experience, and the concentration of resources on the main directions of development.

Human forestry capital: Education and trainings

Ukraine has a developed system of forestry education, including eight specific higher education institutions. More than 7,000 students are enrolled in higher education institutions with levels I and II accreditation of the SFC.

Around 1,500 professionals are graduates of higher education institutions with levels II to IV accreditation (i.e. the highest level), including the National Agrarian University, the National Forest Technical University of Ukraine, Kharkiv V. Dokuchayev National Agrarian University and Zhytomyr State Agroecological University.

Personnel training, re-education and professional development for managers and specialists are offered by Ukecentrkadrylis, the Ukrainian Centre for the Training and Professional Development of Forestry Personnel. Almost 1,500 managers and forestry employees in Ukraine were educated or trained at this centre.

Education and professional development for the regular labour force are offered by educational institutions, vocational schools or directly at the workplace. Other authorities that are responsible for combating environmental crime have their own system of professional development, although not focusing specifically on illegal logging.

Some international projects, such as the Swiss-Ukrainian Forest Development Project in Zakarpattya (FORZA), include training for the responsible authorities.

Monitoring, Control and Enforcement

Ukraine has a number of permanent government bodies dealing with preventing, investigating and combating illegal logging, and with the enforcement of environmental and forest legislation.

Authorities involved in combating illegal logging

- State Forestry Committee of Ukraine
- Ministry of Environmental Protection (State Ecological Inspection)
- Ministry of Agrarian Policy (in the forests it manages)
- Ministry of Defence (in the forests it manages)

Law enforcement authorities:

- State Forest Guard of the State Forestry Committee of Ukraine
- Ministry of Internal Affairs
- Security Service
- Prosecutor's Office
- Customs Service

- State Border Service
- State Tax Administration

Other authorities

- Main Control and Revision Office
- Accounting Chamber

Cases of illegal logging and timber smuggling are usually dealt with by the SFC, the Ministry of Internal Affairs, the Prosecutor's Office, the Main Control and Revision Office, the Security Service and the State Ecological Inspection, which have limited capacities and experience in this sphere. Inspections to detect illegal cuts are carried out only if the authorities receive information about illegal logging – often from NGOs – or if relevant facts arise during the investigation of other cases or during routine inspections.

With the powers and specific resources allocated to it, the SFC benefits from a privileged status in comparison with other authorities that are responsible for forest management (e.g. the Ministry of Agrarian Policy).⁹ This can partly be explained by the passivity of other authorities that manage forests. The SCF has relatively large capacities in terms of human resources, but the combination of economic, licensing and control functions in one authority is unfavourable with respect to the investigation of illegal logging. The character of illegal forest activities, and the fact that they are generally carried out by individuals, makes them generally very difficult to investigate.

The authorities are planning to establish an electronic accounting system in order to help address the problems of illegal cutting and timber smuggling; support the efficient monitoring of cutting; improve control over forest protection and recovery; and ensure that those violating forest legislation are dealt with in a timely manner. The Concept for the Creation of a State System for the Electronic Accounting of Timber, which was adopted by the Regulation of the Cabinet of Ministers of Ukraine on September 16, 2009, aims at the establishment of a single state system for the electronic accounting of timber. The system is undergoing field trials, and initial results indicate that the technical tools currently in use are obsolete, expensive, ineffective and not compatible with modern software. The necessary measures are expected to be undertaken in order to overcome the barriers that have been identified.¹⁰

The wide range of law enforcement authorities dealing with forest crime and infringements inevitably leads to coordination problems. Officials have acknowledged

the low number and poor quality of investigations into cases of illegal logging, as well as the low number of cases that are brought before the court. This can be explained by the lack of experience on the part of law enforcement authorities in investigating such cases; the inefficient coordination of activities; and corruption.

Institutional Coordination Mechanisms

In Ukraine, inter-agency or inter-ministerial commissions are used as coordination mechanisms to address a variety of problems, including environment-related issues. Such commissions comprise representatives of various bodies, organisations, and sometimes NGOs. They usually work on specific issues or coordinate the work of different bodies to obtain common results.

In August 2008, the president of Ukraine established the Commission for the Study of the State of the Use, Preservation, Reproduction and Organisation of the Protection of Forests in Vinnytsya, Ivano-Frankivsk, Zakarpattia, Lviv, Ternopil and Chernivtsi

Regions. Those participating were representatives of the General Prosecutor's Office; the regional administrations of the involved regions; the Ministry of Environmental Protection; the National Academy of Science; the SFC; and the Council of National Safety and Defence. The aim of the commission was to evaluate compliance with forest legislation, the condition of forestry, the use of forest lands and forest surveys in the involved regions, as well as the efficiency of forest protection, including protection from illegal logging. After months of work, recommendations were developed covering improvements in forest practice and the prevention of violations of forest legislation. The need for enforcement, and particularly for bringing to account those who break the law, was also reinforced.

Similar commissions could be established to address forestry issues at the national, regional and local levels. The establishment of such commissions is common practice (especially at regional and local level) and their conclusions are more balanced than those prepared by individual organisations, since they include representatives of a variety of organisations and authorities.

Chapter 4: Shortcomings of the Present System and Recommendations for Improvement

The current situation with respect to illegal logging in Ukraine is the result of a number of social and economic factors, shortcomings in policy and legislation, as well as forest management practice.

Social factors include:

- unemployment and poverty in rural areas; and
- the absence of an ecological and forestry culture, since members of the local population consider forests as a traditional unlimited source of free wood.

Contributing economic factors are:

- the low salaries paid to officials and employees of state forestry enterprises (forest rangers and others);
- the underdevelopment of other branches of the economy in forested areas (tourism, green agriculture, deep wood processing etc.);
- the absence of a system of state support for household wood consumption (except fire-wood);
- the desire on the part of some organised groups and entrepreneurs for quick profits;
- the desire for increased profits on the part of regular forest users; and
- the greater profitability of some sanitary cuttings and some other types of cuttings relative to final felling.

The shortcomings of the present system, as identified in this audit, include:

- the combination of policy-making, regulatory, management, economic and control functions in one authority, the State Forestry Committee of Ukraine¹¹;
- a lack of reliable scientific studies;
- an inefficient judiciary system, which allows law breakers to evade punishment;
- the low level of legal protection for forest rangers and of practical protection for members of the Forest Guard;
- the lack of transparency of the SFC;

- the high level of corruption in the authorities;
- the poor quality of forest legislation in relation to preventing illegal cuttings;
- the complicated nature and lack of clarity of legal aspects of forestry procedures, and the gaps in legislation;
- the lack of an information centre or authority responsible for collecting and publishing data on volumes of illegal logging;
- the lack of skills and experience on the part of the law enforcement authorities dealing with illegal logging; and
- the lack of tools to control the legality of wood imported to Ukraine.

Based on the foregoing analysis of the existing situation, the following recommendations can be made.

- The policy-making, regulation and control functions of the SFC should be separated from its management and economic functions. This can be done by establishing a separate authority to control forestry, under a law enforcement body or under the Council of National Security and Defence.
- The forest inventory system should improve its data collection methods and the way it provides information to the authorities. This will allow authorities to make decisions on improving the structure, ecological functions, biodiversity protection and economic efficiency of forests.
- Alternative spheres of employment should be developed for populations living near forest areas (tourism, recreation, green agriculture etc.).
- Control over exports of wood and the wood market in general should be improved.
- The licensing system, including permits for cuttings, should be made more transparent, guaranteeing the provision of public information and public participation in the process of issuing felling permits.

- Environmental impact assessment should be incorporated into the licensing process (with a legal provision on public participation), as an additional safeguard against false scientific conclusions prepared on the basis of bribery.
- Periodical remote sensing of Ukrainian forests should be carried out (using satellites) in order to assess forest cover, age structure, logging areas etc. The data gathered in this way can be compared with existing databases created using forest surveys, thus providing more reliable information on the condition of Ukrainian forests and volumes of illegal logging.
- A forest inventory should be carried out in Ukrainian forests to obtain verified data on their current condition.
- The problem of managing forests growing on reserve lands and on lands for which authorities other than the SFC are responsible should be addressed.
- A register of issued licences and cutting areas should be compiled and made available to the public. The register should specify the type of cutting and the total area of cutting, and provide geographical information.
- Information should be displayed on notice boards near the cutting area, including the type of logging; the enterprise carrying out the logging; and the total area subject to logging. Similar information should be supplied to the local authorities. The contact details of the control authorities should be included on the notice boards, allowing people to check the accuracy of the information and the legality of the activity.
- Trainings on illegal logging should be organised for the law enforcement authorities, focusing on how to investigate cases of illegal logging, with the provision of the necessary technical and legal details.
- A certificate of the origin of wood and sawn wood should be developed for the national timber market and implemented in practice.
- Local communities should participate in planning forestry measures and in distributing the benefits of forest use.
- A system should be established for gathering, analysing, elaborating and disseminating information on illegal logging and other types of infringement of forest law; and a commission should be established to take responsibility for such operations.
- Tools should be created to control the legality of the wood imported into Ukraine, in order to prevent future illegal imports.
- A handbook on establishing and controlling protected areas should be produced, containing a detailed description of the legal and scientific requirements, legislation, methodology and tools.
- A handbook should be produced for law enforcement authorities on identifying illegal forest activities and investigating cases of illegal logging.
- An electronic library on forestry and forest protection should be created and made available to the public.
- Ecological expertise procedures should be applied to afforestation projects.

Annex: List of Legislation

The following pieces of legislation are listed according to their legal force.

- Constitution of Ukraine, 1996
- Convention on Biological Diversity, 1992
- Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, 1998
- Convention on the Protection and Sustainable Development of the Carpathians, 2003
- Protocol on the Conservation and Sustainable Use of Biological and Landscape Diversity to the Convention on the Protection and Sustainable Development of the Carpathians, 2003
- United Nations Convention to Combat Desertification in Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, 1994
- St. Petersburg Declaration, adopted at the Ministerial Conference on Forest Law Enforcement and Governance, 2005
- Forest Code of Ukraine, 1994
- Land Code of Ukraine, 2001
- Criminal Code of Ukraine, 2001
- Code of Ukraine on Administrative Violations of Law, 1984
- Law of Ukraine on Protection of Natural Environment, 1991
- Law of Ukraine On Moratorium On Clear-cuttings On Mountain Slopes In Fir-Beech Forests of Carpathian Region, 2000
- Law of Ukraine On Animals, 2001
- Law of Ukraine On Plants, 1999
- Law of Ukraine on Natural Protected Areas of Ukraine, 1992
- Law of Ukraine On State Programme of Development of Natural Environmental Network of Ukraine for the Years 2000 – 2015, 2000
- Regulation of Verkhovna Rada of Ukraine On Main Directions of State Policy of Ukraine on Environmental Protection, Use of Natural Resources and Ecological Safety, 1998
- State Specific Programme Forests of Ukraine for the years 2010-2015, Adopted by Order of Cabinet of Ministers of Ukraine No. 977, dated 16.09.2009
- Order of Cabinet of Ministers of Ukraine On Adoption of Rules of Final Felling in the Forests of Ukraine, No 559 dates 27.08.1995
- Order of Cabinet of Ministers of Ukraine On Adoption of Rules of Final Felling in the Mountain Forest of the Carpathians, No. 929, dated 22.10.2008
- Order of Cabinet of Ministers of Ukraine on Adoption of Sanitary Rules in the Forests of Ukraine, No. 555, dated 27.08.1995
- Order of State Committee of Forestry of Ukraine On Approval of Exploitability Age of Secondary Spruce Forests, No. 269, dated 15.10.2009
- Order of Cabinet of Ministers of Ukraine On Approval of Concept of National Environmental Policy of Ukraine for the Period until 2020, No. 880, dated 17.10.2007
- Instruction of Cabinet of Ministers of Ukraine On Approval of Concept of Reforms and Development of Forestry, No. 208, dated 18.04.2006
- Order of Cabinet of Ministers of Ukraine On Payment for Use of Forest Resources, No. 174, dated 21.02.2006
- Order for Special Use of Forest Resources. Adopted by Order of Cabinet of Ministers of Ukraine No. 761, dated 23 May 2007.
- Order of Cabinet of Minister of Ukraine On Adoption of Rules of Improvement of Quality Composition of Forest, No. 724. dated 12.05.2007
- Regulation of Cabinet of Minister of Ukraine On Approval of Conception of Creation of State System for Electronic Accounting of Timber, No. 1090-p, dated 16.09.2009
- Order of Cabinet of Ministers of Ukraine On Approval of Regulation On State Committee of Forestry of Ukraine, No.883, dated 27.06.2007
- Order of State Committee of Forestry of Ukraine On Approval of Regulation On Regional Administrations of Forestry and Hunt, No. 223, dated 04.07.2007

Notes

1. Authorised in wildlife reserves, the economic zones of national parks and regional landscape parks.
2. Державний комітет статистики України. Україна у цифрах у 2008 році. Статистичний збірник. / За ред. Осауленка О. Г. — Київ: Інформаційно-аналітичне агентство, 2009 — с. 106
3. <http://www.mukachevo.net/readnews.php?nid=19389>
4. <http://www.derevo.info/news/detail/5714>
5. Municipal forests, according to the Forest Code, are those within the boundaries of communities, except for private and/or state forests.
6. [http://fleg.org.ua/index.php?id=13&tx_ttnews\[tt_news\]=43&tx_ttnews\[backPID\]=8&no_cache=1](http://fleg.org.ua/index.php?id=13&tx_ttnews[tt_news]=43&tx_ttnews[backPID]=8&no_cache=1)
7. [http://fleg.org.ua/index.php?id=6&no_cache=1&tx_ttnews\[tt_news\]=48&cHash=9d05fe6e03405d93955c7de8818a324f](http://fleg.org.ua/index.php?id=6&no_cache=1&tx_ttnews[tt_news]=48&cHash=9d05fe6e03405d93955c7de8818a324f)
8. Forest Code of Ukraine. <http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=3852-12>
9. <http://www.lesovod.org.ua/node/4965>
10. <http://www.lesovod.org.ua/node/6854>
11. The SFC commented that the combination of its functions does not contribute to illegal logging. On the contrary, it contributes to counteracting the problem more efficiently. The combination or separation of functions is controversial and each country takes its own decision. Alongside countries where the control function is separated from management, there are countries where these functions are centralised in one authority (e.g. Germany, Denmark, Belgium, Greece, Poland, Cyprus and Turkey).

THE REGIONAL ENVIRONMENTAL CENTER FOR CENTRAL AND EASTERN EUROPE (REC) is an international organisation with a mission to assist in solving environmental problems. The REC fulfils this mission by promoting cooperation among governments, non-governmental organisations, businesses and other environmental stakeholders, and by supporting the free exchange of information and public participation in environmental decision making.

The REC was established in 1990 by the United States, the European Commission and Hungary. Today, the REC is legally based on a charter signed by the governments of 31 countries and the European Commission. The REC has its head office in Szentendre, Hungary, and country offices and field offices in 17 beneficiary countries: Albania, Bosnia and Herzegovina, Bulgaria, Croatia, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, the former Yugoslav Republic of Macedonia, Montenegro, Poland, Romania, Serbia, Slovakia, Slovenia and Turkey.

The REC actively participates in key global, regional and local processes and contributes to environmental and sustainability solutions within and beyond its country office network, transferring transitional knowledge and experience to countries and regions.

Recent donors are the European Commission and the governments of Albania, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, the Czech Republic, Estonia, Finland, Germany, Hungary, Italy, Japan, Latvia, the former Yugoslav Republic of Macedonia, Malta, Montenegro, the Netherlands, Norway, Poland, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the United Kingdom and the United States, as well as other inter-governmental and private institutions.