# International Law Framework for Forest Protection

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### Table of contents



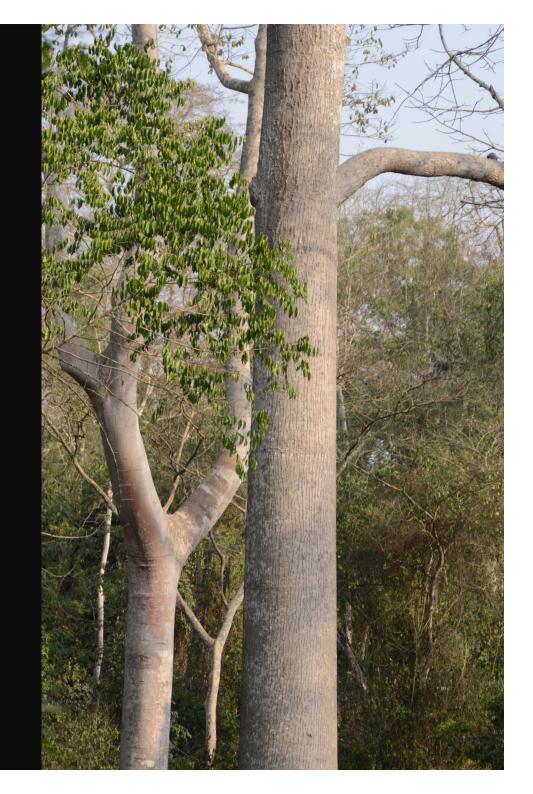
I. Introductory comments



II. Sources of international law aiming at forest conservation

## I. Introductory comments

- Scientific/legal definitions of a forest, an ecosystem, a habitat, a species
- Main forest habitats
- Ecosystem services provided by forests
- Drivers of deforestation and forest degradation



# Scientific definitions of a forest

« Complex ecological system in which trees are the dominant life-form. A forest is nature's most efficient ecosystem, with a high rate of photosynthesis affecting both plant and animal systems in a series of complex organic relationships. Forests can develop under various conditions, and the kind of soil, plant, and animal life differs according to the extremes of environmental influences. »

Encyclopedia Britannica(Britannica com)

«Communauté vivante. constituée par un certain nombre de population végétales et animales liées par relations des intra-et interspécifiques. Cet ensemble structuré et fonctionnel constitue un écosystème. »

Encyclopedia universalis.
 Dictionnaire de l'écologie,
 Paris, Albin-Michel, 604



### What is an ecosystem?



An **ecosystem** is a community of living organisms (plants, animals and microbes) in conjunction with the non-living components of their environment (things like air, water and mineral soil), interacting as a system.



**1992 Convention on Biological Diversity** (CBD): the ecosystem is defined as "a dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit".

### Main forest habitats

- **Tropical forest**: The natural and semi-natural tropical or subtropical forest ecosystems, whether primary or secondary, whether closed or open forests, in both dry and humid areas. The areas concerned are those found within the tropics and subtropics delimited by the 30th northern and southern parallels.
- **Temperate forest**: Mixed forest of conifers and broad-leaf deciduous trees, or mixed conifer and broad-leaf evergreen trees, or entirely broad-leaf deciduous, or entirely broad-leaf evergreen trees, found in temperate regions across the world; characterized by high rainfall, warm summers, cold winters occasionally subzero, seasonality; typically with dense canopies, understorey saplings and tall shrubs, large animals, carnivores dominant, very rich in bird species.
- **Boreal forest**: The northern hemisphere, circumpolar, tundra forest type consisting primarily of black spruce and white spruce with balsam fir, birch and aspen.
- **Mangrove forest**: A community of salt-tolerant trees and shrubs, with many other associated organisms, that grows on some tropical and sub-tropical coasts in a zone roughly coinciding with the intertidal zone.

(European Environment Agency's online glossary)

Mountain Forest Mount Elgon National Park





### Acacia forest habitat Pian Upe Game Reserve



### What is a habitat?

Article 2 CBD: "Habitat" means the place or type of site where an organism or population naturally occurs.



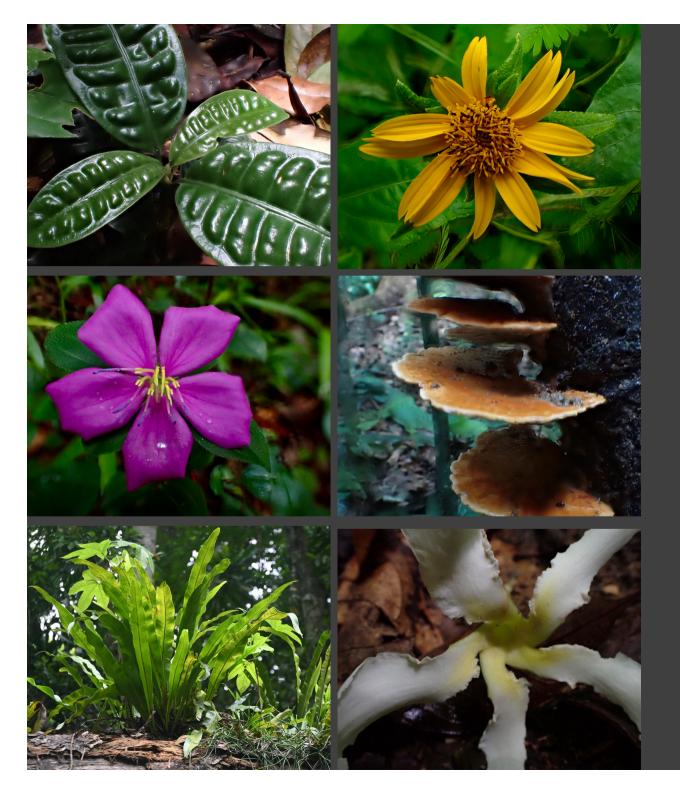
Article 1(b) Habitats Directive: "Natural habitat means terrestrial or aquatic areas distinguished by geographic, abiotic and biotic features, whether entirely natural or semi-natural."

**Article 1(f)**: "Habitat of a species means an environment defined by specific abiotic and biotic factors, in which the species lives at any stage of its biological cycle."

## Forest habitats under Annex I of the 1992 Habitats Directive

"(Sub)natural woodland vegetation comprising native species forming forests of tall trees, with typical undergrowth, and meeting the following criteria: rare or residual, and/or hosting species of Community interest."

- 90. Forests of boreal Europe
- 91. Forests of temperate Europe
- 92. Mediterranean deciduous forests
- 93. Mediterranean sclerophyllous forests
- 94. Temperate mountainous coniferous forests
- 95. Mediterranean and Macaronesian mountainous coniferous forests



## What is a species?

# What is a species?

#### Art. 1(g) Habitats directive:

"Species of EU interest means species which (...) are:

- (i) endangered, except those species whose natural range is marginal in that territory and which are not endangered or vulnerable in the western palearctic region; or
- (ii) vulnerable, i.e. believed likely to move into the endangered category in the near future if the causal factors continue operating; or
- (iii) rare, i.e. with small populations that are not at present endangered or vulnerable, but are at risk.
- (iv) endemic, and requiring particular attention by reason of the specific nature of their habitat and/or the potential impact of their exploitation on their habitat and/or the potential impact of their exploitation on their conservation status."

### White-backed vulture (Gyps africanus) Critically Endangered





Fox's Weaver (endemic to Uganda)



Vachellia abyssinica (flat top acacia)

### Convention on International Trade in Endangered Species of Wild Fauna and Flora

Article I (a): "Species means any species, subspecies, or geographically separate population thereof."







## **Ecosystem services** provided by forests

Forests cover 30% of the Earth's land area (43% in the EU) and host 80% of its biodiversity

- food, fuel and fibre,
- purification of air and water,
- control floods and erosion,
- sustain biodiversity and genetic resources,
- noise reduction,
- carbon sequestration and storage,
- recreation, education, and cultural enrichment.













Ecosystem services provided by forests

Mitigate and adapt to the impacts of climate change,

### UN Sustainable Development Goals

Contribute to the Sustainable Development Goals (SDGs)

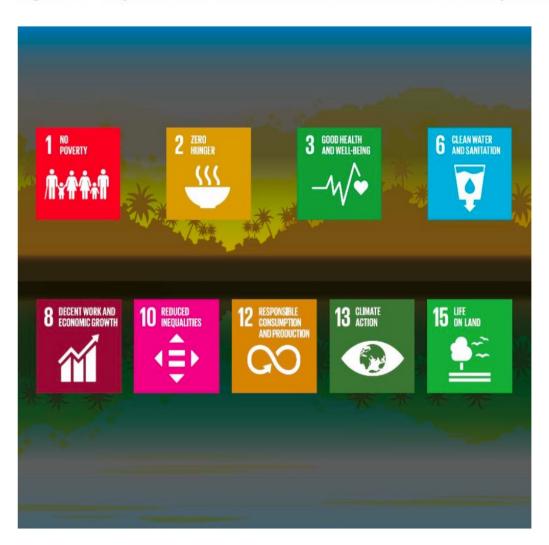
**SDG n. 15:** Sustainably manage forests, combat desertification, halt and reverse land degradation, halt biodiversity loss.

Figure 1 - Forest goods and services supporting the UN Sustainable Development Goals



- 1 Income from forest products
- 2 Nourishment from wild fruit and game
- 3 Medicinal plants
- **6** Freshwater for drinking and irrigation
- 8 Sustainable and inclusive economic growth and decent work for all
- 10 Reduced income inequality
- **12** Sustainable consumption and production patterns
- **13** Carbon capture and storage
- **15** Biodiversity

Figure 2 - Impacts of deforestation on Sustainable Development Goals



- 1 Increased vulnerability to extreme weather
- **2** Loss of rainfall and crop pollinators
- 3 Respiratory illness due to forest fires
- **6** Unsustainable management of water resources
- 8 Unsustainable economic growth and lack of decent work
- 10 Income inequality
- **12** Unsustainable consumption and production patterns
- 13 CO<sub>2</sub> emissions
- **15** Biodiversity loss

**FAO.** 20 million hectares of forest – about 10% of the world's remaining forests and an area larger than the European Union – have been lost worldwide between 1990 and 2020 (FAO (2020), Global Forest Resource Assessment 2020: Main Report, p. XII)

# Rate of deforestation and forest degradation

**2022.** Global gross deforestation reached 6.6 million hectares worldwide (21 % higher than needed to eliminate deforestation by 2030). The loss of primary tropical forests reached 4.1 million hectares (loss was 33 % higher than the needed trajectory to halt primary forest loss by 2030). 2023 *Forest Declaration Assessment* 

Between 1990 and 2016, 1.3 million km<sup>2</sup> of forest area has been lost

Destruction of Forests

Forest degradation accounts for roughly 12% of greenhouse gases (GhG) emissions





**Forest Degradation** 

Consequences of deforestation and forest degradation

Increase GHG emissions, inter alia through associated forest fires, thus permanently removing carbon sink capacities,

Decrease the climate change resilience of the affected areas,

Substantially reducing their biodiversity.

# Drivers of deforestation and forest degradation

Agricultural expansion drives almost 90% of global deforestation, with more than half of forest loss due to conversion of forest into cropland, whereas livestock grazing is responsible for almost 40 % of forest loss



## II. Sources of international law aiming at forest conservation



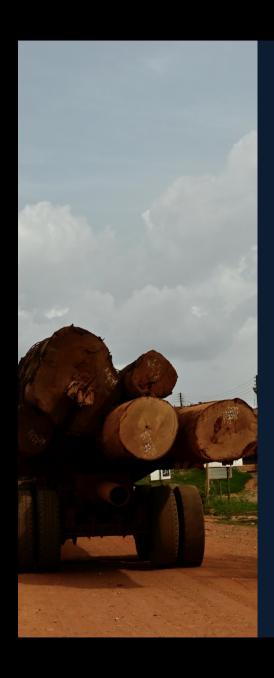
A. Treaty law



B. Soft law



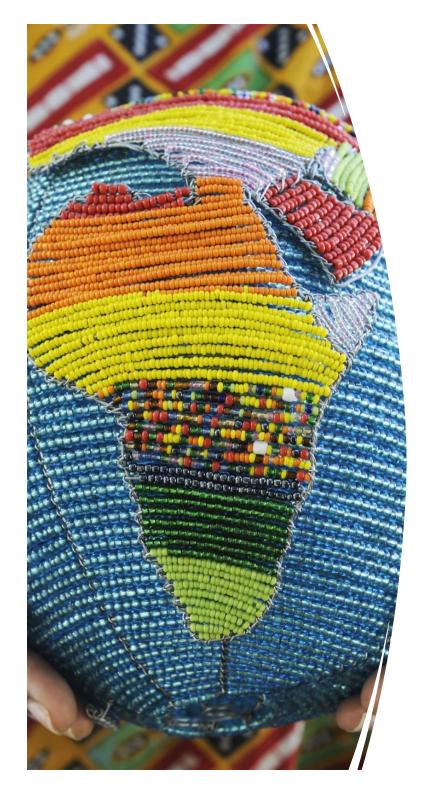
C. Institutional actors



### A. Sources of international law aiming aiming at forest conservation

"The question of protecting forests under an international binding convention has challenged nations like few other environmental issues and dominated much of the "United Nations Conference on Environment and Development" (UNCED) in 1992.

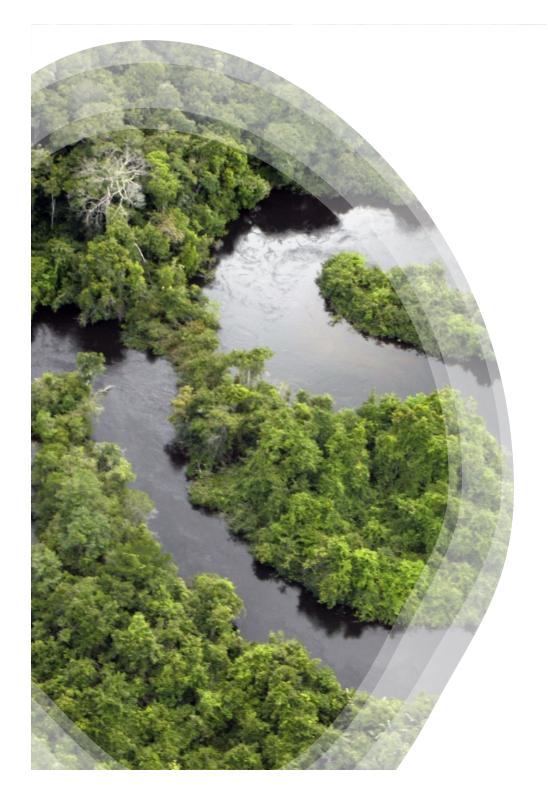




#### 1992 UN Conference on Environment and Development (Earth Summit, Rio de Janeiro, 3-14 June 1992)

- ✓ UN Framework Convention on Climate Change (UNFCCC)
- ✓ Convention on Biological Diversity (CBD)
- ✓ UN Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa (UNCCD)
- Convention on Forest Protection
  - Non-Legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of All Types of Forests (Rio Forest Principles), 14 June 1992, A/CONF.151/26 (vol. III), 14 August 1992.





### A. Treaty law

Environmental Multilateral Agreements applicable to forest ecosystems:

- 1972 UNESCO Convention concerning the Protection of World Cultural and Natural Heritage
- 1973 Washington Convention on International Trade in Endangered Species of Wild Fauna and Flora
- 1971 Ramsar Convention on Wetlands of International Importance Especially as Waterfowl Habitat
- 1992 Convention on Biological Diversity
- 1994 UN Convention to Combat Desertification

### **CITES**

Each Party must establish a Management Authority and at least one Scientific Authority, and trade is regulated by means of a permit system.

- Appendix I: trade is in principle prohibited;
- **Appendix II:** For a country to export a specimen of a species listed in Appendix II, which is the majority of tree species, the Management Authority has to confirm that the species has been harvested sustainably as well as in accordance with all relevant national legislation;
- Appendix III: Identified by a State party as being the subject of regulation within its jurisdiction for the purpose of preventing or restricting exploitation, and for which the control of trade requires cooperation from other Parties.





B. Soft law

### 1992 Rio Forest Principles and 2007 NLBI

- 1992 Non-legally Binding Authoritative Statement of Principles for a Global Consensus on Management, Conservation and Sustainable Development of All Types of Forests (**Rio Forest Principles**)
- 2007 UN general assembly 2007 Non-legally binding instrument on sustainable forest management of all types of forests (**NLBI**).

These two instruments are characterised by weakness and the absence of legally binding obligations.

### Forest Principles and NLBI

- Both the Forest Principles and the NLBI recognise State' sovereignty right to exploit their resources. They strike a balance between the States' sovereign rights to exploit their resources and sustainable forest management.
- The Forest Principles recognizes States' right to utilise forest in accordance with the environmental policies, development needs and level of social economic development (§ 1.a and 2.a.).
- The Forest Principles contemplate the conversions of forest for other uses such as cattle ranching and agriculture.
- NLBI includes the objective of significantly increasing the area of protected forest and sustainably managed forest worldwide (Global objective 3).

### **B.** Soft law

#### 1. International Soft law

UN Sustainable Development Goals adopted by UNGA Resolution 70/1 → SDG 15.2: promote the implementation of sustainable management of all types of forests, halt deforestation, restore degraded forests and substantially increase afforestation and reforestation globally



### Soft law

#### 1. International Soft law

- CBD's 2010 Aichi Targets for 2020 → Targets 5 and 7: NOT ACHIEVED
- CBD's 2022 Kunming-Montreal for 2030 → Target 10: 'Ensure that areas under agriculture, aquaculture, fisheries and forestry are managed sustainably, in particular through the sustainable use of biodiversity'
- UN Strategic Plan for Forests 2017-2030
- 2021 Glasgow Leaders' Declaration on Forests and Land Use

### **B.** Soft law

#### 2. EU Soft Law

- Stepping Up EU Action to Protect and Restore the World's Forests (COM(2019) 352 final)
- New EU Forest Strategy for 2030 (COM(2021) 572 final)
  - Point 2.1 Promoting sustainable forest bioeconomy for long-lived wood products: Within the boundaries of sustainable availability and supply of wood, the forest-based sector holds significant economic potential for improving its production of sustainable and legally harvested wood for circular and long-lived materials and products.





- Forest Stewardship Council, 1993, launched by business and NGOs (WWF, Greenpeace).
- Country-level certification schemes, promoted by forest companies.

Both certification schemes aim at promoting sustainable forest management, by enabling consumers to purchase sustainably produced forest products.



### C. Institutional actors

- United Nations Forum on Forests (UNFF; since 2000)
  - Intergovernmental Panel on Forests (IPF; 1995-1997)
  - Intergovernmental Forum on Forests (IFF; 1997-2000)
- Collaborative Partnership on Forests (CPF)
  - Successor to Interagency Task Force on Forests (ITFF)

Objective to support the UNFF and its member countries and to enhance cooperation and

coordination on forest issues.

Comprises 16 International Organisations: CIFOR, CBD, CITES, FAO, GEF, ITTO, IUCN, GCF. IUFRO. UNCCD, UNDP, UNEP, UNFF, UNFCCC, World Agroforestry, World Bank

















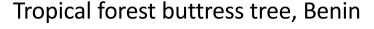












### **Conclusions**

- States have rejected proposals to negotiate international an allencompassing treaty on forest.
- They refuse to subject themselves to international scrutiny on how they manage their forest resources.
- International law is highly fragmented. It consists of a heterogeneous set of hard, and soft law instruments, that are vague and not legally binding.











