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A. Introduction

- 1 The issue of forests is related to the entire range of environmental and development issues, including the right to socio-economic development on a sustainable basis. All types of forests embody complex and unique ecological processes which are the basis for their present and potential capacity to provide resources to satisfy human needs as well as environmental values, and as such their sound management and conservation is of international concern for the protection and preservation of environment.
- 2 Forests play an important role in meeting energy requirements through the provision of a renewable source of bio-energy, particularly in developing countries, and the demands for fuel wood for household and industrial needs should be met through sustainable forest management, afforestation and reforestation. However, forests world wide are being threatened by uncontrolled degradation and conversion to other types of land uses, influenced by increasing human needs. The impacts of loss and degradation of forests are in the form of soil erosion; loss of biological diversity, damage to wildlife habitats and degradation of watershed areas, deterioration of the quality of life and reduction of the options for development. Therefore, there is a need to recognize the vital role of forests in maintaining the ecological processes and balance at the local, national, regional and global levels through, inter alia, their role in protecting fragile ecosystems, watersheds and freshwater resources and as rich storehouses of biodiversity and biological resources and sources of genetic material for biotechnology products, as well as photosynthesis.
- 3 The advocates of vigorous protection of forests on a global scale have long called for forests to be recognized as a global common good, thus subjecting them and their overall functions to the rule of international law. However, there are legal objections and political obstacles to this demand, for the present time at least, since recognition of forests as a common good is completely inconceivable for the countries of the South. In addition to offering economic value, forests perform functions that lend themselves to the rule of

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- 9 This is the context in which global forest-related issues have to be assessed. The advocates of stringent global forest regulations claim that forests belong to the category of global commons or common goods, and should therefore be regulated by a global regime. Sovereignty concerns still govern the international debate, and that it is clear from a legal point of view that forests are national goods and therefore do not belong to the global commons. The present concept of international law only recognizes global commons, if the area is beyond the jurisdiction and sovereignty of any State, and exists for the common benefit of all (such as part of *Antarctica*, the atmosphere [*Atmosphere, International Protection*], part of the oceans [*Marine Environment, International Protection*] and *outer space*). Forests, however, are physically located within national boundaries, and many of their functions are local or national in scope, such as wood production, while other functions possess regional or global dimensions, such as the protection of watersheds of rivers and carbon sequestration. Moreover, forests fall under domestic jurisdiction and are regulated by a complex set of national regulations. However; a common global concern regarding the global functions of forests, such as climate change, biodiversity and genetic resources, can be acknowledged. Accordingly, all the instruments generally available to public international law can be applied to global forest issues (treaties, international customary law and the possibilities of soft law such as declarations, resolutions and any other internationally agreed strategies). The instruments of soft law in particular have played an important role in the development of an international forest regime. Since conventions usually only contain a comprehensive framework, they often may not be adequate to regulate the complexity of forest sector issues, which call for concrete criteria and rather technical regulations. Furthermore, soft law is produced in a less complicated process.

2. International Tropical Timber Organization

- 10 Established in 1983 under the auspices of the UN Conference on Trade and Development (UNCTAD), the International Tropical Timber Organization (ITTO) is an intergovernmental organization promoting the conservation and sustainable management, use and trade of tropical forest resources. Its members represent about 80% of the world's tropical forests and 90% of the global tropical timber trade. It seems alike all commodity organizations, ITTO is concerned with trade and industry. However, like an environmental agreement, it also seems to pay attention to the sustainable management of natural resources. Its mandate includes developing an internationally agreed policy documents to promote sustainable forest management and forest conservation as well as assist tropical member countries to adopt policies that could be relevant to local circumstances. This is expected to be implemented in the field through projects. Apart from this, ITTO collects analyses and disseminates data on the production and trade of tropical timber. It also funds a range of projects and other action aimed at developing industries at both community and industrial scales.
- 11 The origin of the ITTO can be traced back to 1976 when the long series of negotiations that led to the first International Tropical Timber Agreement (ITTA) began at the fourth session of the UNCTAD as part of the Programme for Commodities. The eventual outcome of these negotiations was the 1983 ITTA. It governed the organization's work until 31 December 1996, when it was superseded by the 1994 ITTA. Negotiations for a

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Management, Conservation and Sustainable Development of All Types of Forests. It has come to be popularly known as the Forest Principles. The UNCED also saw insertion of a full Chapter 11

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support the work of the UNFF and enhance co-operation and co-ordination, the ECOSOC resolution also invited the Secretariats of the forest related Conventions as well as international organizations to form a Collaborative Partnership on Forests (CPF).

- 24 There are three main institutional differences between the UNFF and its predecessors, the IPF and the IFF. First, the UNFF has universal membership. Second, whereas its predecessors reported to the CSD, the UNFF reports directly to the ECOSOC. Third, unlike the IPF and IFF, the work of the UNFF involves, for some sessions, a ministerial segment. Within the UN system, therefore, the UNFF appears to occupy somewhat a higher status and can be said to have a greater political visibility as compared to the IPF and the IFF.
- 25 The establishment of the IAF and the concept of national forest programmes constitute an enormous progress in the development of favourable conditions for sustainable forest management at the national and global level. The work of the IAF arrangement is based on the Rio Declaration on Environment and Development, the Forest Principles, Chapter 11 of Agenda 21 and the IPF/IFF Proposals for Action in carrying out its principal functions. IAF is required to facilitate and promote the implementation of the IPF/IFF proposals for action and to provide a forum for continued policy development and dialogue to enhance co-operation as well as policy and programme co-ordination on forest related issues.
- 26 ECOSOC Working Paper E/2000/L32 also instructed the UNFF to establish a multi-year programme of work (MYPOW), drawing on the elements reflected in the aforementioned UNCED decisions and the IPF/IFF Proposals for Action. The multi-year programme of work of the UNFF draws elements from the Rio Declaration on Environment and Development (*Stockholm Declaration [1972] and Rio Declaration [1992]*), the Forest Principles, Chapter 11 of Agenda 21 and the IPF/IFF Proposals for Action. It was unanimously agreed that the MYPOW should contain an action-oriented approach and should focus on implementation of the IPF/IFF Proposals for Action and other actions.

7. Non-legally Binding Instrument on all Types of Forests

- 27 In 2007, at its seventh session, the UNFF adopted a Non-Legally Binding Instrument on All Types of Forests, following nearly three years of intense negotiations, starting from UNFF-5 and culminating at UNFF-7. The purpose of this instrument is to strengthen political commitment and action at all levels to effectively implement sustainable management of all types of forests so as to enhance the contribution of forests for the achievement of the internationally agreed development goals and to provide a framework for international and national action.

8. Forest Investment Program

- 28 Approved in July 2009, the Forest Investment Program (FIP) is a program within the Strategic Climate Fund (a multi-donor trust fund within the Climate Investment Funds). Administered by the World Bank, the FIP s overall objective is to mobilize significantly increased funds to reduce deforestation and forest degradation and to promote sustainable

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D. Prospects for the Current International Process

- 32 The dilemma of to treaty or not to treaty has in many respects dominated international forest policy discourse since the preparations for the UNCED commenced in 1990. There are some strong legal and political arguments why a forests convention could be negotiated, but there are also other equally compelling arguments that underscore as to why a convention is neither desirable nor feasible. However, it seems to be generally agreed upon that there could be an institutionalized international dialogue on forests within the UN system. The pattern since the UNCED has been to create institutions with a fixed life span, and this is likely to continue. As such a permanent UN institution for international protection of forests seems unlikely at the present juncture. It is possible that the type of temporary institutional arrangement that has prevailed since 1995, with the creation of the IPF, which then morphed into the IFF in 1997 and the UNFF in 2001, could continue for the foreseeable future. This type of arrangement has demonstrated several advantages: it has facilitated information and experience sharing; it has helped to establish trust and confidence between States; and it has added to the growing body of soft international law on forests in the form of the IPF and IFF proposals for action. Thus, it seems, any abandonment of international political co-operation on forests may not be desirable in the near future.

SELECT B

