Helsinki, 2 September 2013

Mr. Jit Peters
the Chair of the Meeting of the Parties
to the Aarhus Convention

Mr. Etienne Ballan
the Chair of the thematic session on promoting
the principles of the Aarhus Convention
in international forums

Information on the Intergovernmental Negotiating Committee (INC) for a Legally Binding Agreement on Forests in Europe

Dear Mr. Peters and Mr. Ballan,

Parties to the Intergovernmental Negotiating Committee (INC) for a Legally Binding Agreement on Forests in Europe have kindly brought the letter of 26 June from Mr. Sven Alkalaj of UNECE to you to my attention. In his letter, Mr. Alkalaj explained the relationship between UNECE and the INC clarifying that UNECE is not providing support to the negotiations. In so doing he provided information on the negotiation process, the work of the Committee, the Bureau and the secretariat, and he voiced concerns regarding “the matter in which the negotiating process is being carried out”.

I note that neither the INC Bureau nor myself was included in this communication on matters being our immediate concern. In my capacity as Chair of the Committee I wish to inform you on the current state of the negotiations and provide you with accurate information on the INC process, the role and mandate of the Chair, the Bureau and the secretariat, as well as on procedures of admission of observers to the INC, as governed by the Oslo Ministerial Mandate and the Rules of Procedure for the INC (RoP).

The INC process was launched by the Oslo Ministerial Mandate adopted at the 2011 Forest Europe Ministerial Conference on the Protection of Forests in Europe, held in Oslo, Norway. According to the Oslo Mandate, the Committee, basing its work on existing Forest Europe Resolutions and Declarations and relevant international commitments relating to forests, is to develop a holistic legally binding framework agreement on forests, to address, *inter alia*, the following possible subjects:

- to ensure sustainable forest management in Europe and the long-term provision of a broad range of goods and forest ecosystem services;
- to halt the loss of forest biodiversity in Europe and combat desertification;
- to enhance participation and cooperation on forests at local, national, regional and global levels; and others (the full list is contained in paragraph 23 of the Oslo Mandate).

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2 Forest Europe is a high-level political initiative, founded in 1990, to work towards the protection and sustainable management of forests throughout Europe. Forty-six European countries, the EU, and a range of international and regional organizations and NGO’s participate in Forest Europe.
In developing a legally binding framework agreement on forests, the Committee should also consider the importance of securing effective participation of stakeholders, as specified in paragraph 24 (d).

Currently there are 44 Parties to the INC. The Committee has been developing a Draft negotiating text for a legally binding agreement on forests in Europe with most of the substantive paragraphs agreed already *ad referendum*. There are other issues however, where Parties need to continue seeking consensus. The negotiations are expected to conclude later this year.

Allow me to turn to the NGO’s participation in the INC work, which is regulated by the Oslo Mandate and the RoP, Section XI. By paragraph 26 of the Oslo Mandate all FOREST EUROPE observer States, agencies and organizations, including non-governmental organizations are invited to participate in the work of the INC in accordance with the Rules of Procedure. It is important to note that Parties can also include in their delegations representatives of national NGOs.

According to Rule 11.1 and 11.3 of the RoP the INC is open to any state not signatory to FOREST EUROPE and any body or agency qualified in matters relevant to this agreement which is either: a) an international agency or body, either governmental or non-governmental, or a national governmental agency or body; or b) a national non-governmental agency or body which has been approved for this purpose by the State in which it is located; c) and which has informed the Secretariat of its desire to be represented at the Committee by observers. Any organization that falls under these criteria shall be permitted to be so represented unless one-third of the Representatives of parties present and voting object.

To date, 33 organizations hold an observer status to the INC (Annex 1), including science, non-governmental and inter-governmental organizations that work in the field of environment, social or economic issues.

Rule 11.4 specifies the procedure by which a proposal by an observer shall be discussed by the INC. You may wish to note that the INC has appropriate mechanisms for observers to contribute; nevertheless it is ultimately in the power of Parties to decide on how such contributions are to be taken into consideration.

In my capacity as Chair I have been paying due attention to facilitate Parties’ accessibility to observer submissions and to widening the range of information made available to the Parties and the public. All submissions from Parties and observers received by the secretariat in accordance with Rule 11.5 were made available.

To increase opportunities for regular access to information and for the sake of transparency, substantive information including letters from Parties, observers, NGOs,
Regarding participation in the future LBA, in the latest version of the Draft negotiating text, admission of observers (Article 12.6) is currently under negotiations and drafted as follows:

“The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State or regional economic integration organization which is a member thereof or an observer thereto not a Party to this Convention may be represented at sessions of the Conference of the Parties as observers. Any other [governmental,] intergovernmental or non-governmental organization, body or agency, that is qualified in matters of this Convention and has informed the Secretariat of its wish to be represented at a session of the Conference of the Parties as an observer, may be admitted [unless [one-third] of the Parties present object] / [on a non-objective basis (RU, RS)] / [on a non-objective basis (EU, CH, NO)]. The admission and participation of observers shall be subject to the Rules of Procedure adopted by the Conference of the Parties”.

I would like to mention another issue that has not been agreed upon by the Committee so far: the possibility of the agreement being brought under the United Nations umbrella, as requested by paragraph 24 (g) of the Oslo Ministerial Mandate.

At its third session the Committee recommended that the agreement be brought under the United Nations umbrella. However, the Committee did not complete its consideration of the two broad options, namely a treaty adopted under UN auspices/ UN System auspices, or a non-UN treaty serviced by an organ or an organization of the UN system, and where in the UN system the LBA should be placed. Several Parties prefer FAO for that purpose, others UNECE, while UNEP and EFI are considered for being invited to cooperate in servicing.\(^5\) This issue will be further considered by the INC.

Finally, let me point out that all actions taken by the Bureau, the Chair or the secretariat are driven by the decisions of the Committee and the provisions of the Rules of Procedure. In paragraph 27 of the Oslo Mandate the Forest Europe ministers requested the Liaison Unit and invited UNECE, FAO, UNEP and EFI to service jointly the negotiating process in accordance with the Annex to the Rules of Procedure and based upon the respective expertise of each organization and the resources that they can contribute within their mandates. In the Annex to the Rules of Procedure: Distribution of roles among the Liaison Unit, UNECE, FAO, UNEP and EFI\(^6\), the tasks assigned to each of these organizations are clearly defined.

**Footnotes:**

\(^5\) Annex B Draft negotiating text for a legally binding agreement on forests in Europe, Annex D. Draft elements of a document by which the final draft agreement would be presented to ministers at the Extraordinary FOREST EUROPE Ministerial Conference (http://www.forestnegotiations.org/INC/INC4/reports).

\(^6\) The Oslo Mandate. Annex to the Rules of Procedure: Distribution of roles among the Liaison Unit, UNECE, FAO, UNEP and EFI. Page 13
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since the very beginning. Neither the Bureau nor the INC have exercised their powers to reassign any task to organizations from outside the UN system (Liaison Unit or the European Forest Institute); therefore the provisions of the Rules of Procedure continue to apply.

I invite you to communicate this letter to the Parties of the Convention.

I remain at your disposal should you need any further information or clarification about the process.

Yours sincerely,

Jan Heino
Chair of the Committee

Copies to: INC Bureau, INC Parties

Jan Heino
Chair of the Intergovernmental Negotiating Committee
for a Legally Binding Agreement on Forests in Europe
E-mail: jan.heino@mmm.fi
GSM +358 40 771 4393

www.forestnegotiations.org
Intergovernmental Negotiating Committee
for a Legally Binding Agreement
on Forests in Europe

Annex 1.

Observer organizations to the Intergovernmental Negotiating Committee for a Legally Binding Agreement on Forests in Europe:

Alpine Convention
Bioversity International
BirdLife
BWI (Building and Wood Worker’s International)
CEF (Council of European Foresters)
CEI-Bois (European Confederation of Woodworking Industries)
CEPF (Confederation of European Forest Owners)
CEPI (Confederation of European Paper Industries)
Copa-Cogeca (European Farmers European agri-cooperatives)
Council of Europe
DKM Doğa Koruma Merkezi (Nature Conservation Centre, Turkey)
EAA (European Association of Archaeologists)
Economic Forestiere Suisse (Swiss Forest Owners Association)
EFBWW (European Federation of Building and Wood Workers)
EFI (European Forest Institute)
ELO (European Landowners' Organization)
EUSTAFOR (European State Forest Association)
FAO (Food and Agriculture Organization of the United Nations)
FOEE (Friends of the Earth Europe)
Forest Management Board, Kosovo
Friends of the Earth Switzerland – Pro Natura
FSC (Forest Stewardship Council)
German Forest Association
IFSA (International Forestry Students' Association)
IUFRO (International Union of Forest Research Organizations)
PEFC International (Programme for the Endorsement of Forest Certification)
REC (Regional Environmental Center for Central and Eastern Europe)
The Montréal Process
UEF (Union of European Foresters)
UNECE (United Nations Economic Commission for Europe
UNEP (United Nations Environment Programme)
University of Gottingen
USSE (Union of Southern European Forest Owners)

Observer countries to the Intergovernmental Negotiating Committee for a Legally Binding Agreement on Forests in Europe:

Japan