



Forests and the Biodiversity Convention

**Independent Monitoring of the
Implementation of the Expanded Programme
of Work
in Canada**



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Cover:

Boreal forest in Northern Ontario, a part of the only large intact forest type in Canada. Credits go to Canadian Parks and Wilderness Society Wildlands League.

Photos from British Columbia temperate rainforest and mountains were taken by Larry McCullough.

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1. INTRODUCTION

This report presents the findings of an assessment undertaken on behalf of Global Forest Coalition on Canada's progress in implementing its commitments to the CBD Programme of Work on Forest Biological Diversity (CBD/FPOW) in the 2002-2007 period. The assessment was carried out from June to November 2007 by Lynn Palmer on behalf of Global Forest Coalition.

2. MONITORING METHODOLOGY

Beginning in June 2007, an online survey with 49 questions developed by Global Forest Coalition and refined by Lynn Palmer was distributed to a wide range of stakeholders throughout Canada including the federal government departments responsible for the CBD/FPOW (Natural Resources Canada and Environment Canada), provincial and territorial governments, academics, industry and other forest-related organizations, non-governmental organizations (mostly environmental NGOs in addition to the Canadian Model Forest Network and Community Forest organizations), as well as Aboriginal organizations. A total of 49 responses were obtained to the survey from a range of interests (Appendix I contains a complete list of respondents) including the Canadian Forest Service/Natural Resources Canada who has the responsibility for meeting Canada's commitments to the FPOW. .

While the response to the survey was adequate, the response rate was likely limited to some extent because the survey was distributed during the summer months when many people were on holidays. Some concerns were raised about doing the survey. One NGO respondent requested to remain anonymous and a First Nations organization that was initially interested in responding declined after much discussion over a two month period.



*Boreal forest, Northern Ontario
Photo: CPAWS-Wildlands League*

The survey responses were compiled in mid-September and a follow-up consultation workshop was held on Oct. 1st in Toronto as an official side event to the Oct. 1-3rd International Forest Congress hosted by University of Toronto. The consultation involved 15 participants from various sectors (academia, government, NGO, First Nations (FNs), forestry cooperatives, general public) in addition to two representatives from Global Forest Coalition (Appendix II contains a list of the workshop participants). Most of the participants were those who had done the survey and were willing to participate in the follow-up consultation workshop. However the idea behind having the consultation as a side event at the International Forest Congress was to draw participation from others who had not done the survey but who were attending the Congress. In fact there were several such people who attended. In general it was difficult to obtain participation of many people in the workshop from those who had done the survey. To make it easier for those who were not able to travel to Toronto, the workshop was organized to allow participation by teleconference as well. Natural Resources Canada had originally indicated that they would likely provide a representative to participate, but declined just before the workshop. The time for the consultation was limited (2 hours) and was found to be inadequate to cover all that was required. However the consultation was kept to this time period because it was difficult to obtain participation even at that level of time commitment required. To obtain further input on issues that were not covered during the consultation, a summary was circulated to participants with a request for additional input.

Concern was expressed by many participants in the consultation that the survey was difficult was very difficult to do particularly because the assumption was made that respondents were

familiar with the FPOW which is not generally the case. It was felt that not enough background information was provided, even though the CBD FPOW documents, both in French and English, and an overview summary in English were all provided along with the survey. Yet many of the NGO, FNs and other participants felt that this was not enough background for those not familiar with the FPOW.

In addition to the survey and the follow-up consultation, additional information for this report was obtained from a variety of sources including reports and personal interviews with various organizations (e.g. National Aboriginal Forestry Association, Global Forest Watch, Sierra Club of Canada, Canadian Parks and Wilderness Society, Forest Stewardship Council).

This analysis is focused on the forest biodiversity conservation situation within Canada using the survey and follow-up consultation results as a guideline. It does not address issues relating to Canada's role in deforestation and forest conservation abroad or the role of international institutions (World Bank, FAO, UN Conference on Trade and Development, WTO) and other relevant regional ones in helping Canada implement the CBD Programme of Work on Forest Biological Diversity since these issues were not included in the initial survey nor discussed at the consultation. As this was perhaps an oversight with regard to development of the survey, an attempt was made to obtain this information as a follow-up to the survey and consultation. Questions relating to these issues were circulated to the consultation participants as well as to the Canadian International Development Agency. However as no feedback was provided for these questions, and time became limited, these topics could not be addressed in this analysis.

3. FOREST AND FOREST BIODIVERSITY IN CANADA

Canada's forests cover 417.6 million hectares, more than 40% of the territory and account for 10% of the world's total forest land, 25 percent of the world's natural forest, 30 percent of the world's boreal forest and 20 percent of the world's temperate rainforest (NFS 2003-2008). These forests include some of the world's largest intact forest ecosystems. As indicated by Global Forest Watch Canada's (2006) mapping of Canada's forests, more than half of Canada's forest area (and more than one third of the country's total land area) consists of large intact landscapes, with most of these found in northern Canada's boreal forest as well as at higher elevations in western Canada. The most biodiversity-rich and productive forests are located in southern Canada and have been the most extensively influenced by human activity. About a quarter of temperate forest area remains as large, intact forest landscapes with the majority of this area located in British Columbia and the remainder in Alberta. No large intact forest landscapes remain in the Mixedwood Plains and Atlantic Maritime Acadian forest ecozones (in New Brunswick, Nova Scotia and PEI). The amount of protected forest land ranges in the various jurisdictions from approximately 3 to 14%. Only a small portion of Canada's large, intact forest landscape occurs in protected areas. Canada's forests are home to a vast diversity of wildlife. Of the estimated 140,000 species in Canada, approximately two-thirds are thought to occur in forests.

Increasing forest fires in the Canadian boreal forest and a massive infestation of mountain pine beetle that has ravaged Rocky Mountain pine forests over the past several years are cited as examples of the result of increasing temperatures due to climate change. The effects of climate change in Canada are predicted to seriously impact forests and forest biodiversity within the next several decades, with expected effects being even more forest fires and pest infestations as well as shifts in forest tree species ranges northward, and associated impacts that may lead to extirpation and possibly extinction of especially vulnerable forest wildlife species (e.g. woodland caribou).

4. FOREST OWNERSHIP

The majority of forest land in Canada, nearly 94%, is publicly-owned: 71% by provincial governments and 23% by the Federal and territorial governments. The remaining 6% is privately owned.

The federal government is responsible for external affairs (trade, commerce, treaties and conventions related to forests and forest products) and has a clear mandate to promote trade of Canadian forest products and to monitor the implementation of international trade regulations. The federal government develops national forest policies, knowledge, tools, and technologies to manage Canada's forests and provides strategic advice to Canada's forest sector. The federal and provincial governments share responsibility for monitoring and reporting on the state of Canadian forests and forestry practices as it affects public and international debates.

Provincial constitutional authority over natural resources originates in the Constitution Act of 1867, which gives provinces authority over the management and sale of the provincial lands. The Constitution of Canada provides the provinces with the authority to make laws relating to the "development, conservation and management of forestry resources," including "laws in relation to the rate of primary production." These powers also include the ability to set stumpage fees and regulate exports to other areas in Canada. Every province has developed its own legislation, regulations, standards and programs for allocating harvesting rights and management responsibilities in its public forests. To manage forest lands, provincial governments have instituted forest policy in the form of tenure systems that regulate forest management practices, grant timber harvesting rights and delegate forest management responsibilities (for the most part to the private sector). In the Northwest Territories, the responsibility for management of forests and wildlife has been transferred from the federal government to the territorial government so that the Northwest Territories manage their own tenure system. The transfer of jurisdictional responsibility from the Federal Government to the Yukon Territorial Government is currently underway. Although most Canadian forests are publicly owned, the vast majority of commercially viable Crown forest land is licensed to forest industry. Most of Canada's commercial forest activity occurs on or near Aboriginal traditional territories that are subject to Aboriginal rights, title or treaty considerations. Most Aboriginal communities (80%) in Canada are located with commercial forest zones. First Nation historic treaty areas contain half (55 percent) of Canada's large, intact forest landscapes. About one quarter of large, intact forest landscapes are contained in modern land claim settlements. In some parts of Canada, an increasing amount of land is coming under Aboriginal jurisdiction as land issues are settled. Aboriginal and treaty rights are constitutionally recognized and affirmed under section 35 of the Constitution Act, 1982. Aboriginal rights refer to practices, traditions and customs practiced prior to European contact that distinguish the unique culture of aboriginal people. Treaty rights refer to rights that are set out and defined in a specific treaty. Canadian courts have recognized and affirmed that Aboriginal and treaty rights are part of Canadian law. All jurisdictions recognize that the Crown has a duty to consult with Aboriginal people where its actions may adversely affect an established or asserted Aboriginal or treaty right, and that Canadian courts continue to clarify the nature of this duty. The government's duty to consult with Aboriginal people is grounded in the honour of the Crown.

5. CURRENT SOCIOECONOMIC SITUATION

Canada's forests support more than 350 communities and fuel a multibillion-dollar economy based primarily on forest commodities (pulp, paper and lumber). Since the implementation of the CBD/FPOW, Canada's forest sector and forest-dependent communities have faced unprecedented challenges that have led to a crisis. The forest sector is struggling unlike never before due to the combination of a soaring Canadian dollar, rising energy costs, new international competition for forest commodities, rock-bottom U.S. lumber prices and a deteriorating U.S. housing market (Canada's primary market), and U.S. trade issues (the Softwood Lumber Agreement). Adding to these great challenges are the new impacts of climate change, such as the vast swaths of western pine forest that have been lost to the

ongoing mountain pine beetle epidemic. This staggering losses have already affected the forest sector and communities that depend upon it in that region. In an attempt to deal with many of these challenges, forest industries have responded by consolidating, leading to extensive mill closures throughout the country, a situation which is ongoing and predicted to continue for the foreseeable future. The communities that have depended on the forest sector are feeling the cumulative impact of these changes. There has been an associated loss of a substantial number of forest-related jobs together with a substantial decline in the population of many forest-based communities as residents are forced to relocate for economic purposes. Little change in the outlook for the forestry sector is expected any time soon. Solutions being put forward to address the current forestry crisis range from privatization of public (Crown) forest lands to increased community control (including Aboriginal control) of forest resources and diversification from the production of traditional forest commodities being produced by large forest industry since these products are no longer as competitive as in the past. Support to diversify to more value-added and smaller-scale production has been minimal to date. Billions of dollars have been invested by government over the past two or so years to help the forest sector adjust but the vast majority this funding has been in subsidies to support the existing commodity-based sector.

6. FEDERAL GOVERNMENT RESPONSE TO THE CBD/FPOW: THE NATIONAL FOREST STRATEGY

The Canadian federal government's (Natural Resources Canada) response to the CBD/FPOW is the Forested Areas section of the Canadian Biodiversity Strategy (CBS) which provides strategic directions in support of the goals and objectives of the CBD in Canada. Coordination of the CBD is done through the activities of a Federal-Provincial-Territorial Working Group, including members of the Federal government Canadian Forest Service. The strategic directions for implementing the FPOW are linked to Canada's fifth National Forest Strategy (2003-2008) – Sustainable Forests: A Canadian Commitment (<http://npsc.forest.ca/strategies/nfs5.pdf>), as well as in a number of provincial/territorial biodiversity strategies that have been developed.

The NFS was developed by a broad-based coalition made up of federal, territorial and provincial governments, industry, First Nations and NGOs and guides the Canadian forest community's efforts in sustainable forest management. The Strategy provides an overarching national vision, framework and commitment for action across the country in areas that meet with the objectives of the FPOW: ecosystem management, community resilience and capacity-building, rights and participation of Aboriginal peoples, forest industry products and market access, science and innovation for competitiveness, urban forestry and public outreach, private woodland contributions, and reporting and accountability. Activities carried out under the NFS are intended to influence and complement other national initiatives, such as the Invasive Alien Species Strategy (2004), for economic, environmental and social progress. Forest biodiversity is addressed in many of the Strategy's commitments, and the action plan stemming from these commitments contributes to delivering on FPOW activities. The conservation of biological diversity is also one of the six main components of the national criteria and indicators framework developed by the Canadian Council of Forest Ministers (CCFM) and most recently updated in 2003 (Appendix III). The CCFM is also involved with the Montréal Process, which has established and is reporting on criteria and indicators for the sustainable management of temperate and boreal forests.

In addition to the NFS and the biodiversity strategies that have been developed for some provinces and territories, governments consider that the legislation that regulates forestry activities in the provinces and territories contributes to conservation of forest biological diversity in support of the implementation of the FPOW activities. Examples of such legislation include the Northwest Territories Forest Policy, the British Columbia Forest Code of Practices and Forest Renewal Plan, Ontario's Policy Framework for Sustainable Forests and Crown Forest Sustainability Act, new objectives to ensure Québec's public forests resources development and protection and amendments to the Quebec Forestry Act. Governments also consider

strategies such as the Alberta Forest Conservation Strategy to be making a contribution to forest biodiversity conservation.

It is important to note that though the federal government has outlined the actions taken to conserve forest biodiversity in Canada, the 2005 audit of the Canadian Biodiversity Strategy by the Canadian Commissioner of the Environment and Sustainable Development has indicated that the federal government's progress in implementing key aspects of the Canadian Biodiversity Strategy is unsatisfactory and that momentum has stalled on several fronts. Problems identified two previous audits of the strategy were noted to still persist, and several commitments to deliver on biodiversity priority areas (i.e. coherent implementation plan, capacity, comprehensive report on state of biodiversity in Canada) have not been met. Furthermore, the March 2008 Status Report of the Commissioner of the Environment and Sustainable Development found unsatisfactory progress in managing federal protected areas for wildlife, protecting species at risk, reporting on international environmental agreements, and developing guidelines for listing species at risk.

Because the NFS is Canada's main response to the forests component of the CBS, this analysis of Canada's progress in meeting commitments to the CBD/FPOW considers the progress that has been achieved in implementation of the NFS in Canada in the 2002-2007 period. Despite the truly multi-stakeholder process and good intentions of the most recent National Forest Strategy, it has been severely criticized for not achieving its objectives by the Sierra Club of



Boreal forest, Northern Ontario
Photo: CPAWS-Wildlands League

Canada, whose involvement in the development of the 2003-2008 NFS marked the first time that any campaign-based ENGO actively participated in the NFS development process. Their 2006 report National Forest Strategy 2003-2008: An assessment in 2006 – is it making a difference? presents major issues relating to the NFS that this organization views have created a barrier to its implementation. These include a lack of federal resources invested in the NFS, a lack of political will at the provincial and federal levels for its implementation, and lack of support and involvement by the Forest Products Association of Canada and the CCFM. The Sierra Club quit the NFS coalition in 2006, due to the following concerns: 1) that as has been the case with past National Forest Strategies, the current NFS operates as a showcase of present undertakings more than as a roadmap for future ones, and 2) while the NFS umbrella itself is good, efforts spent working outside the NFSC prove more fruitful than the inside approach, since the major progressive steps forward in forest management that have occurred in the 2003 –2007 period ((e.g. best practices due to markets pressure, negotiations and certification systems) have happened not because of the NFS, but in spite of it.

7- THE STATUS OF FORESTS AND FOREST MANAGEMENT IN CANADA BEFORE AND AFTER THE ENTRY INTO FORCE OF THE CBD/FPOW

There is a general lack of awareness of the CBD/FPOW in Canada beyond those government personnel tasked to deal with the CBD and no strong commitment to forest biodiversity

conservation in practice, despite the indication by the Federal government that “as demonstrated by the wide array of programs and policies in place in the forest sector, forest biological diversity ranks high in the considerations of forest stakeholders in Canada”. For those who are aware of the CBD/FPOW they mostly agree it is worthwhile and that it provides some impetus for improvement of forest biodiversity conservation in Canada. However there is also agreement that is that its overall effectiveness to date has been minimal. Despite the fact that the National Forest Strategy has been developed as Canada’s major institution to promote forest biodiversity conservation, and that there are good intentions by governments and also industry in individual cases, what is actually happening on the ground in many cases is abysmal and significant progress overall has at best been minor. We are still degrading and losing forests (losses to roads and landings, cumulative impacts, and degradation due to poor regeneration and species conversion taking place). Wildlife are still being lost at an alarming rate in some locations as forestry and other development pushes into their habitat (e.g. woodland and mountain caribou). The carbon benefits of intact forests are not being accounted for in development equations. Canada has one of the last remaining large intact forests on the planet and the best geopolitical chance of conserving it yet we are falling short in doing so. Major reasons that have been determined for this situation are described below. Specific aspects of the status of forests and forest management since entry into force of the CBD/FPOW are elaborated upon in the following sections.

7.1.- Lack of strong commitment to forest biodiversity conservation

While there has been progress on developing some legislation to assist with the conservation of forest biodiversity conservation in the past several years, there has been inadequate progress in this realm. For example, although an Invasive Alien Species Strategy was developed in 2004, no legally binding comprehensive program yet exists in Canada to address invasive alien species. The existing Plant Protection Seeds Acts only react to threats as they materialize so they fail to adequately control introductions of alien species, even though damage can be irreversible once alien species are discovered. The federal Species at Risk Act (SARA) to protect endangered or threatened organisms and their habitats or whose existence or habitat is in jeopardy became law in Canada in December 2002 and went into effect in 2003, yet there has to date been limited action to ensure that this legislation is translated to policies and practices in individual jurisdictions that actually manage the forests (i.e. provinces). In addition, the number of recovery plans that have been developed at the federal level are limited. In some jurisdictions legislation to protect forest species is outdated and does not address concerns about forest biodiversity adequately. A notable example of this situation occurs in British Columbia, the most biodiversity rich province in Canada, with the global range of hundreds of species such that extirpation from the province would have global implications, yet where there now exists a severe biodiversity crisis. Over 1300 species in B.C. threatened and more than 40% are now at risk of extirpation or extinction (Moola et al. 2007), yet stand-alone endangered species legislation to protect B.C.’s biodiversity still has not been created. Very marginal protection to wildlife is provided by B.C.’s current Wildlife Act and the legislation that regulates forest practices (Forest and Range Practices Act) focuses primarily on timber extraction. As a result of this highly flawed regulatory regime, many threats to species continue unabated. An example includes the ongoing logging that continues in threatened spotted owl habitat with the mitigation plan being to implement a captive breeding program to prevent the loss of this species. A similar situation exists for the mountain caribou. The large discrepancy between the number of species at risk and those that are receiving sufficient protection and recovery efforts is a strong indicator of widespread unsustainable forest management in BC. The fact that this situation is not being addressed by legislation prompted a coalition of ENGOs and a BC government union to submit a request to the government for a review of the Wildlife Act in July of this year.

New policies to conserve forest biodiversity are not widespread and where they do exist (e.g. Ontario’s new nation-leading 2007 Species at Risk Act to protect endangered species) have yet to be implemented so the results still remain to be seen. Though biodiversity strategies modeled on the CBS have been developed in some provinces during the 2002-2007 period (e.g. Ontario), they are still lacking in others, despite commitments to do so (e.g. Alberta).

Even where strategies exist, as in Ontario, little real progress in implementation is evident to date. For example, the Ontario Biodiversity Council which was formed to help implement the Ontario Biodiversity Strategy, and is composed of members intended to represent the spectrum of interests in the Province, has been so ineffective, due to the greatest voices coming from the forest industry and angling and hunting organization sectors (who are resisting endorsing the new SAR legislation, and actively worked to oppose its passage) that member ENGOs are considering quitting the council.

7.2.- Interest of other sectors takes precedence over forest management

Forest management in general and conservation of forest biodiversity *specifically* are low on the spectrum of priorities relative to funding for other sectors (i.e. health care) and this situation has worsened in the 2002-2007 period. Forest government departments are experiencing extreme cutbacks in most cases. This includes funding of the Biodiversity Convention Office (BCO) that coordinates the Canadian Biodiversity Strategy and the response to the CBD. Funding to the BCO has been reduced significantly this year. In terms of priorities for practices on the ground, energy sector in particular tends to “win” over forest biodiversity conservation in almost every case. This situation has not changed for the most part in the past five years since the inception of the FPOW. Rapid oil sands development with little regard for forest biodiversity (e.g. woodland caribou) protection in Alberta during this period is a good example. Commitments have been made by the Alberta government to do more appropriate management for protection of caribou but implementation has not been enforced due to interests of the energy sector in oil sands production.

7.3.- Focus on timber extraction objectives

The majority of the forest sector, with support by governments, is still primarily interested in maximum timber extraction as the major objective using the status quo industrial forestry model for the most part. There are examples of progressive forestry practices that are moving toward ecosystem-based management, though these are most often motivated by community management policies, including those of First Nations forest management initiatives, and/or the processes and guidelines of the Forest Stewardship Council’s certification standards rather than by government policies.



Boreal forest, British Columbia. Photo: Larry McCullough

8. THREATS TO FOREST BIODIVERSITY

While threats to forest biodiversity are being identified in Canada to some extent, and there is growing support for further research in some realms (e.g. discussions are currently underway to establish an Invasive Species Research Institute to support the National Strategy on Invasive Species), not enough research has been undertaken to date and the identification of threats is not being done comprehensively for the most part. Much more research is needed in a number of areas to properly evaluate threats properly (see Research section that follows for specifics). Another major problem is that forestry tends to be done in isolation from other land uses and cumulative impacts are not being properly addressed. One of the worst examples of this situation is occurring with the oil sands development in boreal forest areas of Alberta for which there is no cumulative impacts framework or mechanism to limit such impacts. Cumulative impacts also occur wherever roads are put in theoretically on a temporary basis for forestry purposes but the roads may eventually be used on a permanent basis, a situation that is common in most forests today. Other unintended effects often end up occurring in such

cases. Therefore access management as it relates to forest biodiversity and ecosystem approaches is a major issue that has not received adequate attention and needs to, despite some efforts in this realm. For example, Ontario forest management plans include a road management strategy for all forest access roads including commissioning and decommissioning roads and access management strategies. A few forest management plans have been prepared with cumulative effects considered, though what is generally driving governments in this direction is generally not forest biodiversity conservation concerns but rather markets pressure for green products and associated certification.

Other actors who should be engaged with regard to forest management planning (e.g. those in other sectors with major impacts on forest biodiversity conservation such as mining) are generally not, and this issue is not being addressed for the most part. There are some promises to do so, such as by Ontario's newly re-elected government to work together with the mining industry, FN communities, ENGOs and other stakeholders to undertake a comprehensive and consultative review of the Mining Act, but what action in this direction is actually taken remains to be seen at this point. It is important that the various resource departments, at various levels, undertake integrated management across entire watersheds, considering all natural resources, and the impacts of all practices upon them. There is some movement within federal natural resource departments to move in this direction, but much further progress must be made, as well as at the provincial and territorial levels.

9. PROTECTED AREAS

There has been significant progress in the past year towards protecting Canada's northern ecosystems. In August 2007, the federal government made a major commitment for interim protection to expand the Northwest Territories Nahanni National Park Reserve and protect Sahoyue Ehdacho National Historic Site. In November, 2007, the federal government went on to announce the largest land withdrawal for interim protection in Canadian history. This will involve withdrawing over 10 million hectares of land near the East Arm of Great Slave Lake and around the Ramparts River and Wetlands, both in the Northwest Territories. In total, over the past year, the federal government has committed to protecting over 140,000 km² of land in the NWT that has long been identified by local Aboriginal communities and conservation groups as requiring protected status. Most recently, in April 2008, lands comprising the headwaters of the Nahanni River in the Northwest Territories have been temporarily protected to enable the creation of a new national park. Federal officials together with Dene First Nation and Métis representatives signed a deal in April 2008 under a land-claim agreement that will lead to the establishment of a 7,600 square kilometre protected area called the Naats'ihch'oh National Park Reserve. The new reserve will be contiguous with the existing Nahanni National Park Reserve, creating two large, side-by-side protected areas. The government is currently working with First Nations to collaboratively establish and expand these park reserves. National park reserves are created where land has been set aside for conservation purposes, but not all Aboriginal land claims have been resolved. Before the land claims are settled, an interim land withdrawal prevents prospectors from staking new mineral claims, although existing mineral claims will be respected.

Additional recent accomplishments in establishing new Canadian protected areas include the landmark 2006 designation of the Great Bear Rainforest protected areas in British Columbia, for which green-ward shifts in the marketplace played a key role. An announcement was made in April 2008 that the province will introduce legislation this spring to create 11 new provincial parks and 66 conservancy areas. Protection of these areas will help to preserve the remaining intact temperate rainforests of B.C.'s central and north coasts. In Quebec, where to date only 5% of the territory is established protected areas, the government made an announcement in November 2007 for interim protection of a 2000 square km area of rivers, forests and lakes north of Algonquin Park in Ontario to establish a new park, as part of a plan to increase protected areas to 8% of the land base in the province.

Despite the accomplishments and intentions that indicate historic progress toward protected areas establishment, there has still been a lack of progress in many regions on establishing

needed new protected areas and protected areas networks. In some jurisdictions gap analyses have been undertaken to determine where protected areas currently provide representation and where new protected areas are needed to conserve biodiversity and a management framework is being developed to guide implementation (e.g. Nova Scotia). However in many cases, even where gap analyses have been undertaken, action based on their results has not been taken. For example, though large wilderness areas in the order of 4000 sq km and larger are recommended from government analysis for complete biodiversity and wilderness protection in Alberta, no progress has been made in establishing such areas. In many jurisdictions protected areas strategies have either not been completed to date or if they have been, they are not being implemented. Only the NWT and Nova Scotia have progressive protected areas strategies to date. In many cases protected areas sites under consideration are not readily accessible to the general public. Networks of protected areas that have corridors linking the protected areas to provide connectivity for wildlife are either non-existent in many jurisdictions or limited in others, most commonly with no formal processes in place to work toward improving landscape connectivity within the existed protected areas systems. Even in the limited cases where links between protected areas do exist, commercial activities are not necessarily restricted, but often merely discouraged.



Temperate rainforest, British Columbia. Photo Larry McCullough

Though ecological integrity is now identified as a top priority in many Canadian parks, non-conforming uses including mining, oil and gas development, hydro development, sport hunting, recreational motorized use (all-terrain vehicles and snowmobiles) logging, continue to be prevalent, even in some cases where for their benefit, ecological integrity has been compromised. This situation is evident even with the most recent legislation, such as under Ontario's new *Provincial Parks and Conservation Reserves Act* that came into effect September 2007 and which is considered to be a key initiative in support of Ontario's Biodiversity Strategy. Even under this new Act, logging is still allowed to continue in Canada's oldest park, Algonquin Provincial Park, and many non-conforming uses are still allowed in various parks. Special management areas (SMAs) in significant areas outside parks been designated in many jurisdictions and special management guidelines have in some cases been developed to preserve the ecological values. Such examples include the Muskwa-Kechika and Cariboo-Chilcotin SMAs in B.C. that are managed to some extent for ecological values, the Exceptional Forest Ecosystems in where no industrial activities can take place in Québec, and the moratorium that has been put into place for the cutting of stands greater than 125 years old in Nova Scotia. However it is not uncommon for the special management guidelines in some locations to be overridden by timber extraction objectives and that these areas become subject to the conventional forest practices that occur on the majority of the landscape.

On November 21 2007 the Government of Canada took a major step to protect and conserve Canada's north by announcing the withdrawal of over 10 million hectares of land, one of the largest land conservation initiatives in Canadian history near the East Arm of Great Slave Lake, and around the Ramparts River and Wetlands, both in the Northwest Territories. This announcement amounts to the largest land withdrawal for interim protection in Canadian history and together with federal commitments earlier this year to massively expand the

Northwest Territories Nahanni National Park and protect Sahoyue Ehdacho National Historic Site, represent historic progress towards conserving Canada's northern ecosystems.

10. ECOSYSTEM BASED MANAGEMENT (EBM)

There has been widespread movement in Canada to adopt sustainable forest management in the broad sense that involves consideration of other values besides timber yields in forest management planning. The emulation of natural disturbances has been incorporated into public policy in most jurisdictions as an approach to foster ecosystem-based management (EBM).

There are some notable examples of forest companies that have begun to implement EBM. There are also excellent examples of leading-edge ecosystem-based management plans that have either been developed in the 2002-2007 period or are still in the process of being developed through community management efforts, including FNs communities. Some of these examples include:

- Deh Cho FN plan in NWT (includes quantitative cumulative impacts thresholds)
- Kaska First Nation plan in northern B.C.
- Harrop-Proctor Community Forest EBM approach in southeastern B.C.
- Athabasca and Lac La Ronge FN and traditional land users plans in northern and north-central Saskatchewan
- Haliburton forest EBM approach in southern Ontario
- Innu Nation plan in District 19 Labrador



Boreal forest Northern Ontario. Photo: CPAWS-Wildlands League

However not all of these EBM plans are being implemented. This is the case in Saskatchewan where support was provided for the planning process by the government and state of the art mapping of traditional land use information was carried out for development these plans, yet the Saskatchewan government has completely reneged on their implementation. There is currently no indication of movement forward to do so. In contrast, the government appears to be in support of the implementation of industrial forest model plans that will do little to conserve forest biodiversity.

Overall, there is a wide gap between policy and practices and strong leadership by most governments to promote EBM in practice has not been seen widely over the past decade. British Columbia has made progress in this realm, where in coastal B.C., ecosystem-based management guidelines have just recently been developed from strategic land use plans though they are just beginning to be applied operationally. However, this is not seen everywhere. While the Nova Scotia Code of Forest Practices articulates the need to maintain ecosystem function, structure and composition, more than 97% of harvesting in Nova Scotia's severely threatened Acadian forest occurs by clearcutting as opposed to uneven-aged

management that would emulate the gap dynamics that drives this forest ecosystem. The situation is comparable in New Brunswick's similarly threatened Acadian forest. Maximizing timber volume is still the primary objective for determination of annual allowable cut (AAC) in most jurisdictions where AAC is set (B.C., Alberta, Manitoba, Québec, Nova Scotia and Newfoundland and Labrador). In Saskatchewan and NB the objective is to maximize timber volume after all other objectives have been met, though the other objectives are determined only by the input of those involved, which at least in NB does not include the public. The Strategic Forest management Model (SFMM) to determine AAC for Ontario has a number of constraints that address ecosystem structure and composition (e.g. old growth, habitat for caribou and marten). However there is concern that that unreliable data is being input into the model, as indicated by independent forest audit reports that have recently brought errors to light. As a result, conservation groups and others are concerned that harvest levels are set too high (e.g. based on mill demand, not on what the forest can sustainably produce.) .

Ecosystem-based management is being most concretely driven by policies in various jurisdictions to promote certification and by markets pressure that is motivating buyers to develop green procurement policies. Governments want to ensure that forest management is perceived as sufficiently "green" in order to obtain forest certification and thereby maintain the market acceptability of forest products. Similarly, forest corporations recognize an increasing need to ensure that their operations are certified since they see the trend toward the increase in interest in purchase of green forest products. As of June 2007 there were 134 million hectares of forest in Canada certified to one of three sustainable forest management programs in use in Canada (Canadian Sustainable Forestry Certification Coalition). FSC certified lands totaled 20.5 million hectares of that 134 million, or approximately only 15 percent of all certified forests in the country. The other certification systems in use in Canada are CSA and SFI. A key development for a large part of Canada's forests, the boreal, was the finalization of the FSC National Boreal Standard for Canada in Dec. 2003. In Sept. 2007 the Ontario government announced a new procurement policy where 30% of paper products will be obtained from FSC certified forests. This government is now being attacked by Ontario forest companies not using the FSC standard as exhibiting favoritism for one of the three certification systems used in the Province.

As a result of the movement to obtain greener markets, EBM has been implemented to various degrees. Many of the most progressive practices are being carried out by the companies that have obtained or are working toward FSC certification, since they are required to maintain ecosystem components, although there are also progressive practices being undertaken by some companies with other forms of certification. At the other end of the spectrum are the companies who are still practicing what is for the most part outdated sustained yield management. Many companies fall somewhere in between and are implementing a few elements of EBM that are required by legislation (e.g. leaving riparian buffers, varying cutblock size/pattern and retention of a component of dead and live trees, which has been required by Ontario's Natural Disturbance Emulation Guidelines since 2004) but often continue outdated sustained yield management practices such as liquidating old growth. Even where some elements of EBM are being practiced, there are concerns about whether the approach is appropriate. For example it has been noted that while residuals must now be maintained in all Ontario clearcuts, what is being retained is not necessarily representative of the original stand as is the intention of EBM. Often only the unmerchantable timber of poor quality and undesirable species is left on site.

Overall there is still a long way to go to achieve widespread implementation of EBM. Even where its implementation has begun, at this point this approach is really a large experiment as it is too early to know what the impacts will be, particularly in the face of predicted effects of climate change. The expected changes in natural disturbances that are predicted to occur due to climate change (e.g. increased forest fires and pest infestations) will make evaluation of the impacts of emulating natural disturbance a more complex and difficult task.

To assist in improving progress with the implementation of EBM, it requires better definition, and more integrated research and monitoring, with consideration of climate change impacts to be a key element. There is an issue about lack of consistency about the definition of EBM.

While it is nevertheless the trend in forest policy across Canada to utilize natural disturbance emulation as an approach to implement EBM, what is needed is extensive research and monitoring followed by adaptive management to evaluate and adapt the approach. Forest management plans need to be able to demonstrate if they are actually conserving forest biodiversity once implemented.

While there is in fact a lot of monitoring going on, it is not aimed specifically at the CBD/FPOW and also not particularly well integrated. The State of the Forest reporting is supposed to track monitoring but it is not well integrated since various government branches collect information that they need for their individual programs. With regard to monitoring for FSC certification, the standards are not very specific about how monitoring is done so this also tends to encourage a lack of integrated monitoring.

Appropriate criteria and indicators are needed to know if natural disturbance emulation is in fact sustainable and if it contributes to forest biodiversity conservation and maintenance of ecosystem functionality. The appropriate time period for evaluation and the kind of disturbances to be evaluated must be determined. There are many measures available (e.g. National Forest Strategy criteria and indicators: the CCFM Framework of Criteria and Indicators) but to date there have generally been inadequate attempts at implementation. Consequently it is too soon to say what the results are and whether these measures are appropriate. For effective research and monitoring of the impacts of EBM, appropriate ecological benchmark areas of an adequate size (e.g. large areas, especially when considering impacts of climate change) are required. These are generally lacking. Since all areas are now influenced to some extent by humans it is necessary to establish criteria as to why any area would be considered appropriate as a benchmark. Because monitoring is very expensive to do it has been limited. We are barely on top of the planning stage let alone the monitoring that is needed to be able to prove whether we are effective. Much greater resources must be devoted to monitoring.

11. ECOSYSTEM-BASED LAND USE PLANNING

The existence and extent of conservation-based land use planning frameworks and processes to ensure that planning for forest biodiversity conservation takes place before development and allocation of tenure and licenses in unallocated lands varies among jurisdictions, as does the implementation of the outcome of land use plans that result from such processes. Public land use planning has been common in B.C. and ecosystem-based land use planning is evident on the coast in areas like the Great Bear Rainforest and Haida Gwaii as well as further north (Muskwa-Kechika) Saskatchewan and Quebec also require land use planning prior to new allocations. Yet in some jurisdictions comprehensive land use planning is not undertaken. Examples of this situation are evident in the boreal forests in Ontario and Alberta. There is currently a lack of policy to support comprehensive land-use planning in Ontario's mostly still intact northern boreal forest north of the 51st parallel. In the area south of this line, species like wolverine and woodland caribou are now under threat since mining, hydro development and roads that threaten these species are currently permitted without a planning requirement. The newly re-elected provincial government is promising to work with northern and native communities to implement a long-term community-based plan that protects the Boreal Forest in north of the 51st parallel, though it remains to be seen whether land use planning in this still mostly intact region will be different from that occurring further south. In Alberta, land use planning is considered to be ecosystem-based but timber extraction and mining have precedence over conservation, other than in small, high value sites. To date, over 3.5 million hectares of boreal forest have been leased for intensive in situ oil sands development in Alberta without any landscape-level strategic planning and new leases continue to be allocated at a record pace (Schneider and Dyer 2006).

12. RESEARCH

In addition to the noted need for research and monitoring to progress to widespread effective implementation of EBM, a much greater focus is needed in a variety of areas to support forest biodiversity conservation. While forest biodiversity conservation research is being done, the highest priorities are to forest productivity. Far greater work is needed in an array of realms, including: the impacts of cumulative effects (forestry, hydro electric development, mining) as noted previously and roads; effective ecological restoration in degraded forest ecosystems; threatened forest dependent focal species and their reaction to development (forest and any others) that encroaches their habitat to determine if there are acceptable development thresholds to maintain healthy species populations and prevent extirpation/extinction; impacts of forest loss on hydrological function; effective protected area design (adequacy of representation and resilience of existing protected areas network); high conservation value area identification; impacts of genetically engineered trees (while no operational plantations exist to date, there is extensive research and several open field trials); and an entire realm relating to climate change and its impacts on forest ecosystems (impact of rapidly changing climate on biodiversity and ecological function, role that forest biodiversity, including intact forests, plays in mitigation of climate change, impacts of industrial activities on carbon storage and sequestration of forests, ways to mitigate the effects of climate change on forest management objectives). All of this required research must be followed by adaptive management to transfer the results.

13. THE STATUS OF FOREST PEOPLES BEFORE AND AFTER THE ENTRY INTO FORCE OF THE CBD/FPOW

The current crisis in the forest industry, which has worsened substantially in the 2002-2007 period, has negatively impacted a large number of forest-dependent peoples increasingly in this timeframe. The business as usual industrial forestry model continues for the most part with the extractive forest industry that continues to employ fewer and fewer people, and which focuses on a limited range of timber commodities. Beyond the limited examples that are provided in the following sections, there is little evidence of public involvement in management of natural resources to the extent that communities are enabled to conserve and sustainably use forest biological diversity. There is overall minimal movement to by forest industry or support by government for value-added timber and non-timber forest products production for diversification and support of communities, and little major action to conserve forest biodiversity. Most efforts from governments (in terms of incentives provided) have been focused on how to "fix" the dominant forest industry that is now in crisis. This continued predominant model of forest management in most locations has led to the existence of undiversified and volatile economies in a majority of forest-dependent communities. At the same time, impaired habitat and wildlife populations from the dominant forestry approach continues to undermine Aboriginal rights to hunt, trap and fish in their traditional territories on Crown land. The financial benefits of logging continue for the most part to be distributed inequitably, benefiting company shareholders and CEOs as opposed to the Aboriginal and local communities who are directly affected by logging practices. Affected local and Aboriginal communities are still, for the most part, excluded from meaningful participation opportunities in forest management planning processes including tenure allocation and forest management decisions. There is some evidence of capacity building for First Nations (a notable example being the Nisgaá agreement in B.C. that provides a framework that enables socio-economic development and capacity) and other communities though it is still extremely limited. The mechanism even for public involvement of First Nations is in many locations still inadequate, let alone for co-management in it's truest sense where the vision of the majority of band members is reflected in management decisions

Despite these conclusions, there do exist examples of progress and these are highlighted in the following sections. There are examples where reallocation of forest tenures to First Nations and other communities has occurred (for FNs this is for the most part short-term licenses), where co-management agreements involving a share in forest management decision-making

have been developed with First Nations, where joint ventures between FNs and industry have taken place, where social and economic benefits have occurred in the form of training, employment and subcontracts. First Nations and other communities have in some cases been enabled in land-use planning. However overall the progress in general is slow and very challenging and does not reflect general shift in forest policies. For the examples that do exist, they are really still experiments that can still face uncertainty and unforeseen setbacks due to continued pressure to conform to the dominant industrial model of forest management. There has been a diverse response among Canadian jurisdictions in this realm. Some governments are leading (e.g. Northwest Territories with regard to co-management), some are moderately supportive (e.g. there is progress in B.C. but almost no investment in building capacity or policy development) and in other cases government is openly hostile (e.g. in Alberta where the provincial government is going along with cooperative management but not co-management).

With regard to First Nations and forest management, the following six key recommendations are given in the July 2007 report on the assessment of the performance of Theme 3: Rights and participation of aboriginal peoples of Canada's 2003-2008 NFS as determined by a multi-party, consensus-based team of Aboriginal organizations, governments (provincial, federal) academics, and others, formed with the purpose of promoting the implementation of Theme 3:

1. Greater and sustained support for Aboriginal communities to develop and implement capacity building plans.
2. Improve coordinated funding that is stable and flexible, for Aboriginal capacity building in the forest sector.
3. Increase Aboriginal access to forest resources; possibly through new and / or shared types of tenure.
4. Improve shared policy and program framework among partners for measuring progress in Aboriginal capacity building efforts.
5. Improve education and training initiatives that respond to real opportunities, and support for these initiatives by creating new opportunities (e.g. jobs, tenures).
6. Clearer roles and responsibilities of Aboriginal communities, their governments, federal government, provincial / territorial governments, forest companies, and non-governmental parties in building Aboriginal capacity.

14. FEDERAL PROGRAMS TO SUPPORT FOREST COMMUNITIES

The Federal government is providing \$25 million to 11 forest-based community organizations across Canada through the new (2006) Forest Communities Program (FCP). The program will



assist these select forest-dependent communities, that include First Nations communities, in Canada develop the knowledge, tools, best practices and strategies that they need to respond to the new challenges facing Canada's forest sector. The FCP is based on the successes of Canada's Model Forest Program, which began in 1992 and ends this year. The solutions are to be shared with other forest communities across Canada and internationally through the Canadian Model Forest Network, the International Model Forest Network and similar organizations.

The First Nations Forestry Program (FNFP) is a joint program sponsored by the Department of Indian Affairs and Northern Development (DIAND) and Natural Resources Canada (NRCan) as the sole federal program dedicated specifically to First Nations participation in the forest sector. This program provides \$5 million per year nationally. The FNFP is a program that is based on a Memorandum of Understanding between DIAND and NRCan, and is scheduled to expire March 31, 2008.

Boreal forest, British Columbia,
Photo Larry McCullough

15. FOREST TENURE REFORM

Overall there has been only marginal improvement in terms of community control of forest management in most Canadian jurisdictions, including control by First Nations communities. Despite the move to the sustainable forest management concept in Canada in recent years, there has been no significant change in the major systems of tenure, which are based on the concept of sustained yield management, throughout the range of jurisdictions. The current industrial tenure systems continue to include the determination of the annual allowable cut (ACC), the process of allocation of long-term tenures, and the requirement to build and operate a mill as a condition of tenure allocation. The major systems of tenure continue to be a structural impediment to enabling the development and implementation of adaptive community-forestry and the sustainable use of forest biodiversity by most forest peoples. These predominant systems also continue to impede recognition of Aboriginal and treaty rights in forest management in Canada. While there are some exceptional cases where progress has been made, as highlighted in the following sections, the major tenure systems (in conjunction with the fundamental tenets of most forest policies) have not been modified to accommodate the particular values needs and knowledge systems of Aboriginal Peoples. Thus tenure reform as a key to achieve new objectives of sustainable forest management is clearly needed in most jurisdictions. Assessing any changes in how the AAC is determined and the allocation of forest tenure to communities and First Nations are important measures to determine progress in achieving stated objectives related to sustainable forest management and to Canada's NFS.

15.1.-Annual Allowable Cut

There is widespread concern that cut levels remain too high, that AAC calculations are not based in most jurisdictions on principles of sustainable forest management (which would result in significant reductions in wood supplies), and pressure to maximize short-term profits is greater than the desire to ensure biological sustainability. As noted previously, the setting of harvest volumes is generally designed to ensure that the wood supply requirement of the mills are met. The determination of AAC levels does not factor in Aboriginal land and resources uses with few exceptions. AAC levels are rarely set to be sensitive to the local, social, cultural and economic aspirations of First Nations or other communities. Though traditional ecological knowledge is being collected for forest management purposed increasingly, its incorporation into forest management plans is rare.

15.2.-Developments in Community and First Nations Tenures

The allocation of long-term, area-based tenures continues to be primarily to major forest industry and is still the outcome of private negotiations between provincial governments and forest industry, with little public involvement in the process. This situation is of increasing concern among ENGOs, FNs and the public. An indication of this concern in Ontario, is apparent from the 2006 Canadian Parks and Wilderness Society-Wildlands League Request for Review of the Ontario government Timber Allocation Regime in 2006 through the Environmental Bill of Rights. The request was turned down by the provincial government.

First Nations tenure in Canada has increased from 4.7% in 2003 to 6.4% in 2006 (NAFA 2007) and has come about due to resolution of land claims in the territories, prairie provinces, Labrador and B.C. It should be noted that most of this increase has been in small volume allocations without long-term management responsibilities. However there are also allocations of significant areas of forested lands that were previously owned by the Crown in these agreements. Treaty-making and settling of Aboriginal land claims have played a key role in the current status of access to forest tenure for FNs in BC and are expected to continue to shape future FNs forest tenures in this province. The Supreme Court of Canada has affirmed that Aboriginal title and rights continue to exist in British Columbia. Several notable Supreme Court cases between 1997 (Delgamuukw) and the present and the signing of the Nisgaá Treaty (May 2000) continue to shape forest tenures in B.C. Court cases on the adequacy of consultation and accommodation between 2002 and 2007 and the need to negotiate have lead to the

development of what is known as the New Relationship process (April 2005) between the Province of B.C. and First Nations.



Boreal forest Northern Ontario. Photo: CPAWS-Wildlands League

For the provinces that have major amounts of Crown land allocated to industrial forest tenure (unlike in the territories where limited amounts of land have been allocated for this purpose), only British Columbia has a strong government framework to reallocate tenure for community-based forest management. Changes with regard to forest tenure allocation in the 2002-2007 period are indicated in the following table.

15.3.-Table 1: Tenure changes in Canadian jurisdictions from 2002-2007

Jurisdiction	Tenure Changes
British Columbia	The introduction of major tenure reform legislation in 2003 has resulted in the ability to reallocate previously committed timber harvesting rights from major licensees and permit the BC government to directly award these rights to FNs and other communities. The take-back process will unfold over several years though it is as a one-time initiative. Although tenure is being re-allocated in the province, the increase in community tenures is only from 1% to 3%. There are currently eleven community forest agreements in British Columbia, two of which are with First Nations communities. The agreements (except for one) are probationary agreements and are assessed after 5 years when a determination is made regarding whether a long-term license (25-99 years) will be issued. In addition, 33 invitations to apply for a community forest have been extended, four of which are to First Nations. In BC, six First Nations are involved in community forest agreements with the province. In addition, three First Nations have been invited to apply for a community forest license. Although the province is making a concerted effort to allocate tenure and/or volume to First Nations to enable greater control over and management of forest resources, the vast majority of agreements with First Nations are through agreements that are short-term volume based tenures. To support the lasting and meaningful engagement of First Nations in forestry, more area-based long-term licenses, such as community forests, must be offered.
Saskatchewan	In Saskatchewan there has been an increase in FN held forest tenure and discussions underway with FN interests for the potential of increasing off-reserve Aboriginal holdings. However, these tenures require 'industrial partners' (established outside companies) and are being granted on the basis of industrial forestry models, not community forestry models.
Manitoba	Over the past three years, Manitoba has continued a commitment begun several years ago to increase access to forest resources for Aboriginal communities and to explore opportunities for Aboriginal-forest industry partnerships. There are now a few examples of community partnership

	<p>arrangements with Manitoba First Nations.. There has been a policy change in the government that has lead to changes in how timber allocations are made. The new Crown Timber Allocation Policy (April 2006) includes a requirement that allocations of large volumes (> 50,000 cubic metres) of Crown timber include a proposal that addresses Aboriginal-industry partnership (e.g. addresses how to develop a working relationship with Aboriginal peoples including mill construction, management and operations planning, financial resources and training, as well as work with the government to fulfill legal obligations to First Nations). No new timber allocations have yet been made under this new policy though discussions are underway.</p>
Ontario	<p>In Ontario, the government is undertaking a process of tenure reform for the currently allocated forest area to promote cooperative sustainable forest licenses. It remains to be seen if communities will be included as members in any of these new licenses. In addition, there are initiatives currently underway to engage in partnerships in First Nations communities in the northern as yet unallocated boreal forest, through the Northern Boreal Initiative: the Whitefeather initiative has progressed the furthest, and work is just beginning on Moose Cree forest management planning initiative. However no operations are yet happening on the ground and the final outcomes remain to be seen, as these partnerships appear to be following the industrial Sustainable Forest Licence format since there are limited opportunities in Ontario for deviating from this tenure model.</p>
Québec	<p>There is a history of community forestry development in Québec, where there is the possibility of tenure take-back, though it rarely occurs. Following the recommendations of the Commission to Review Public Forest Management (Coulombe Commission) in Dec. 2004, it was announced in June 2005 that 1.5 million dollars would be invested to support project initiatives related to the concept of Forêt Habitée (community forests) for the next three years and since September 2005, 75 Forest Management Contracts FMCs have been signed with municipalities, native communities, and forestry cooperatives. Of these, six are held by Aboriginal communities.</p>
PEI	<p>The PEI provincial government has signed an agreement with the Environmental Coalition of PEI to manage 800 hectares of public land in southeastern PEI. Under the 10-year lease agreement, the MacPhail Woods Ecological Forestry Project will use the lands to demonstrate sustainable forest management and restoration of Acadian woodlands.</p>
Labrador	<p>In Labrador, there has been significant progress since 2002 where Aboriginal peoples have begun to gain access to Crown forest tenure. The government of Newfoundland and Labrador completed a progressive co-management plan in March 2003 with the Innu Nation of Labrador for Forest District 19. The agreement provides for the full participation of the Innu First Nation in management planning, designing practices and prescriptions for ongoing operations, and exploring models for co-management of the resources. In addition, as of the end of 2006, under the Labrador Inuit Land Claims Agreement signed in 2005, through establishment of the Nunatsiavut Government, the Labrador Inuit now exercise direct management control within the Labrador Inuit Land area. They will hold significant influence on management of forests within the Labrador Inuit Settlement Area through their structural participation on a co-management body (as yet to be established) that will make forest management recommendations to the Minister.</p>
Yukon	<p>In the Yukon, significant advances in forest management and opportunities for FNs are arising. Devolution of forest management to the Yukon from the federal government took place in 2003. New forest legislation is being created to provide new opportunities in the forest sector across the Yukon and it is expected that FNs will be part of this emerging opportunity. They will have opportunities to hold forest tenures, create business partnerships and gain employment from all aspects of forest-based economic development. Land claims and self government agreements have been a significant influence</p>

	because they clearly define rights and obligations of all levels of government. The land claims process and settlements have led to planning processes that have led to land base certainty. Once these strategic level plans are completed, it will be possible to complete timber supply analysis and then determine an appropriate AAC for each community.
NWT	The NWT territorial government is working towards building community forestry partnerships with Aboriginal communities. The Tlicho Land Claims and Self-Government Agreement was signed in Aug. 2003 and passed into law in 2005. It gives the Tlicho title to 3.9 million ha of land surrounding four Tlicho communities. The Tlicho Government has jurisdiction for managing forests (and other resources) within these lands. In addition, the Tlicho share responsibilities through the Wekeezhii Renewable Resource Board for wildlife, forest and plant resources and commercial harvesting activities within the larger Wekeezhii land area. Agreements with the Gwich'in and Sahtú Dene and Métis account for another 2.2 million ha and 4.1 million ha respectively. Negotiations with the Deh Cho FNs have led to an Interim Measures Agreement signed in the spring of 2001. Negotiations are on-going. These interim measures ensure that any new forest management authorizations will only be issued in Deh Cho territory if they have the support of the affected Deh Cho FNs. Two forest Management Plans using an integrated forest management approach have been developed: the Dehcho forest management plan and the Gwich'in Regional forest management plan. Communities in the Inuvialuit Settlement Region that are situated in forested regions where forest use is culturally and economically important have developed Community Conservation Plans with forestry components though it is not clear how they are being implemented.

As is evident in Table 1, though there are examples of concrete change in access to forest tenure for communities, including FN communities in the 2002-2007 period, these situations are still the exceptions to the rule. Furthermore, for most of these cases there is not yet enough support to be effective. Community Forests offer many benefits and in theory should help forest peoples to achieve sustainable economic development based on the sustainable use forest biodiversity. However the forest area must be large enough to provide economic benefits as well as preserve large enough areas to conserve biodiversity, and many community forests cover very small areas. Overall, the industrial model of forestry continues to remain dominant and in most cases important features of an Aboriginal tenure system (incorporation of traditional knowledge, explicit objectives with respect to rights accommodation) are not generally included.

NAFA's 2007 report on changes in FN tenure in Canada over the past four years points out that, with regard to the increase in FN tenure, "while this increase likely indicates greater capacity of FNs to engage in forest sector business, it does not necessarily guarantee that FNs will have either 1) better access to the Crown forests to carry out traditional activities, or 2) more meaningful participation in forest management, which will depend on the nature of the tenure and the prevailing forest management planning requirements with regard to FN participation. Furthermore, this report notes that some tenure forms are functionally indistinguishable from harvesting contracts (e.g. where the tenure holder essentially gains the right to harvest a specific volume but may be required to supply this volume to a designated mill). Finally, the report notes that " There is some concern that for many Aboriginal people, the use of a timber volume measure as a measure for determining access to forest resources is not appropriate because this measure immediately reduced the forest to an economic commodity. The issue of concern for Aboriginal Peoples is what area of the forest is being managed according to Aboriginal values. Thus development of an area-based indicated is merited, though it may be more challenging to define."

16. RIGHTS AND PARTICIPATION OF FOREST-DEPENDENT PEOPLES

Though most Canadian forests are publicly owned and there are major public engagement processes for forest management in most jurisdictions (though still not all), the public still has remarkably little access to information about forest management in many cases. More effort is being made in some cases to make information available (e.g. through web sources) but much greater progress is needed in this realm, particularly before processes are already completed. For example, public participation and consultation in Forest management could be improved through the availability of Forest Management Plans online. In many cases these are already electronic, they just need to be posted. For some processes there is no information available to the public (e.g. determination of the AAC in New Brunswick, Alberta and Manitoba), or if it is available, it is often after a process (i.e. determination of AAC) has already been finalized. Even in jurisdictions with the most progressive processes available for public input, such the Local Citizens Committees (LCCs) for each forest management plan in Ontario, it is evident that the process is not satisfactory. Although LCCs are comprised of a range of local interests, representation by FNs (who often do not even participate because they don't agree with the process) and other local interests (including conservation interests) is often dominated by industrial forest interests, and there is widespread dissatisfaction about the effectiveness of these committees by many participants. Ultimately, even though LCC members are able to provide advice for forest management plans, the members have no real decision-making power since this still rests with forest industry. Although all governments have a duty to consult with Aboriginal people, the forms of consultation that take place are commonly not considered effective from the perspective of many First Nations. The issue of capacity is a major limitation for many stakeholders and First Nations even when information is readily available. Meaningful public input is limited by the technical nature of much of the information that is made available. In Ontario, this capacity issue has been cited in several Independent Forest Audit reports as an obstacle to any meaningful public understanding or input.

The following table indicates the major jointly developed protocols and/or Memorandums of Understanding (MOUs) for the 2002-2007 period between government and FNs and Aboriginal communities which define for each jurisdiction how Aboriginal interests and rights are accommodated within forest management systems. What should be noted is that despite the fact that in some jurisdictions progress is being made as indicated in these examples, implementation to follow through has not necessarily occurred. Such is the case in Saskatchewan, where excellent ecosystem-based land used plans have been developed in conjunction with FNs. Yet these plans are not being implemented and the Province appears to have no intention at this point to support their implementation. In Manitoba, no progress from the Wabanong Nakaygum Okimawin planning process has been reported to the public in a transparent fashion and to date no lands plans have been enabled by this process.

16.1.-Table 2: Jointly developed protocols and/or Memorandums of Understanding between government and FNs for 2002-2007.

Jurisdiction	Protocol
Yukon	All land-use planning processes are co-led by FNs whose traditional territories are at stake. There are formal agreements that make FNs full partners in the three planning processes currently occurring. The Kaska Yukon Forestry Agreement in Principle (AIP) signed in June 2004 defines how aboriginal interests and rights will be accommodated within forest management systems. The AIP creates a management authority tenure model to oversee the disposition of the AAC and management of the forests in the Kaska Traditional Territory (KTT)
NWT	Land use planning occurs within the context of land claims. Draft Forest management plans have been developed since May 2003 for Gwich'in and Deh Cho FNs for their Settlement Regions. Community Conservation Plans with forestry components for communities in forested areas of the Inuvialuit Settlement Region.
British Columbia	Recent land and Resource Management Plans have incorporated a government-to-government process between FNs and the Province (though many FNs have expressed opposition to the approaches taken in some LRMPs and have begun to initiate their own independent land-use planning processes.) 100 Forest and Range Agreements (FRAs) as of Jan. 2006. An improved FRA model is being developed based on the New Relationship Agreement of April 2005 by the Province, First Nations Summit, Union of BC Indian Chiefs and BC Assembly of FNs that are accommodation agreements that include offers of

	short-term volume-based non-replacable licenses, between province and FNs. The New Relationship Agreement lays out a framework for major institutional developments that recognize and accommodate Aboriginal rights and title. One of the few examples includes the Nisg'A agreement in B.C. provides a framework that enables socio-economic development and capacity.
Alberta	The Province released a revised Consultation Policy on Land management and Resource Development in 2005 but support is lacking for capacity building among FNs to effectively participate in the consultation process. Although the 1999-2001 MOU on cooperative management between Little Red river Cree Nation, the Province and timber companies has not been renewed, the parties are proceeding with joint forest management planning on the FN territory.
Saskatchewan	June 2003 Joint Working Agreement with an association of seven FNs to whom a 3 year term license has been granted. Negotiations are ongoing to establish long-term forest management agreements that will accommodate Aboriginal rights and interests. The Athabasca Land Use Plan agreement with Dene communities of the Athabasca basin and the Prince Albert Grand Council is considered to be the closest effort to establish clear measures for accommodating Aboriginal and treaty rights. There is also the North-Central Planning process with Lac La Ronge Indian Band and area communities and the Pinehouse Dipper planning process that includes the northwest Métis communities and the English River First Nation.
Manitoba	Sustainable Forestry Unit established in 2003 with a mandate to increase Aboriginal participation through co-management and other processes. Since 2005, the Wabanoong Nakaygum Okimawin (WN) planning process has reconsidered the approach to addressing Aboriginal and treaty rights and title. Aug 2005 MOU with Swampy Tree Tribal Council that commits timber resources to support economic opportunities. The policy framework is unclear for each of these cases.
Ontario	11 FNs are participating in the Northern Boreal Initiative for the area north of the 51 st parallel since 2001. The NBI is described as a community-based land use planning process by the Province. Pikangikum and Moose Cree FNs are currently pursuing forest management licenses. Pikangikum's Land Use Strategy for the Whitefeather Forest and Adjacent Areas was completed in 2006. Other FNs in this area are considering opportunities.
Québec	Paix de Braves agreement between James Bay Cree and the Province in Feb. 2002 provides for annual payments and revenue sharing over a 50-yr period (mostly from non-timber resources e.g. hydro) and established the Cree-Québec Forestry Board and associated local-level Joint Working Groups which are implementing a co-management process for forest lands. In March 2004, an AIP was signed between the Mamuitun and Nutashkuan Tribal Council and the federal and provincial governments. The AIP establishes the legal scope of a Treaty yet to be negotiated, including the recognition of continuing Aboriginal rights; support for traditional and modern activities integral to the culture, values, and lifestyle of the Innu; institutions for co-management of lands, natural resources and the environment; institutions of self-government; financial and tax arrangements; and measures for socio-economic development. The Province committed \$240 million in 2005-2006 over three years to implement the Coulombe Commission recommendations for development of a communication, participation and consultation process though it is still unclear what concrete actions will be taken. Nine out of 43 FN communities are involved in co-led land use planning processes.
New Brunswick	Harvesting Agreements exist for 5.3% of the Crown forest with all 15 FNs. 2004 Aboriginal Skills and Employment Partnership established to create 200 full-time forestry related jobs for FNs over 4 years. There is no official land-use planning process led or co-led by FN communities.
Nova Scotia	The Confederacy of Mainland Mi'kmaq of Nova Scotia (CMMNS) is currently implementing a project funded through the First Nations Forestry Program to define the requirements of Mi'kmahey Forest Certification. An umbrella agreement exists between the provincial government and CMMNS, which covers a variety of social, legal, and economic issues although the agreement only minimally addresses access to or control over natural resource development subject to rights-based legal processes. There is no official land-use planning process led or co-led by FN communities.
Newfoundland and Labrador	Following the landmark Forest Process Agreement of 2001 between the Innu Nation of Labrador and the Province of Newfoundland and Labrador, establishment by 2003 of 1) a Forestry Department and forest Guardian Program in the Innu Nation Government, (2) Strategic and operating plans were finalized for an area of about 7 million ha; and (3) an institutional structure for ongoing co-management was negotiated. Ecosystem-based management plans for District 19 were co-led by the Innu Nation and the Province. These parties are currently preparing for the process to renew these plans for 2008. There is also an initiative underway to have ecosystem-based forest management plans, similar to the plan developed for District 19, developed for district 21 in Labrador. May 2004 a 2-year agreement was achieved between the Province and the Labrador Metis Nation (LMN) outlining participation of the LMN in forest ecosystem management planning in Labrador. The LMN will be considered for all new wood allocations in Districts 20, 21 and the south side of the Churchill River in District 19, will provide input into all annual operating plans in the districts and will be consulted on all new commercial permits. Among other things, the agreement speaks to the concept of a community forest pilot co-op project. There is currently no active leadership in land-use planning by the Labrador Métis Nation.

17. ACCESS AND BENEFIT SHARING

The federal government is currently working on developing an Access and Benefit Sharing policy in conjunction with the provinces and territories. However it is difficult to provide a national snapshot of the overall progress that has been made with regard to access and benefit sharing since 2002 since there is great diversity throughout the jurisdictions in this realm. While movement in this direction is very embryonic in some jurisdictions (e.g. Ontario), in others there has been much greater progress. During the 2002-2007 period, benefit sharing arrangements have occurred in B.C., Quebec and New Brunswick. For example, in February 2003, the Government of BC announced its intention to pursue revenue-sharing with First Nations. Examples include the Nisgaá and Treaty 8 agreements. Furthermore, individual companies in B.C. are approaching First Nations so there are good opportunities to pursue joint ventures in specific cases.

Though some progress has clearly been made, the creation of meaningful benefit sharing still has a long way to go in most cases. Little thinking has yet occurred on value added and non-timber forest products and non-extractive products like carbon credits. Specific issues relating to the need to move further forward with access and benefit sharing include:

- 1) The need to deal with land rights and to resolve land use claims to better enable access and benefit to resources
- 2) There is an assumption that benefit sharing is based on timber harvesting alone
- 3) There is a need to look at more innovative approaches to access and benefit sharing to provide the greatest benefits to First Nations and other communities while simultaneously promoting forest biodiversity conservation.

18. TRADITIONAL KNOWLEDGE

There is varying opinion about whether traditional knowledge (TK) is:

- 1) considered in definitions associated to policy making
- 2) used in policies and measures to curbe forest loss and degradation
- 3) used in policy making regarding assessment and monitoring of the status of forests

There are very different opinions about to what degree progress is being made with regard to policy and TK. Some opinions are that TK is being used in policies in certain jurisdictions (e.g. B.C., Ontario, Newfoundland/Labrador, Northwest Territories). Most ENGOs, First Nations and some others feel is that while research on TK is being undertaken, and while it is now increasingly mentioned in policy documents and is being considered in some planning processes, it is most often not yet well incorporated in most policies or practices at this stage, other than in limited cases, and its application to resource decision-making remains unclear. While certain certification programs require this approach (e.g. FSC), and forest audits do seek out First nations input in their reviews, the results of the approach is not always successful. Some First Nations views (e.g. NAFA) are firm that the traditional knowledge itself is not being used, but that policy provides for the consideration of aspects of TK, or that governments claim they are using TK but there is no evidence of this (e.g. the view of Nishnawbe Aski Nation in Northern Ontario), and that western science still has a problem with TK. Much more research is needed on Traditional Ecological Knowledge and Aboriginal Traditional Knowledge (benchmarks, clues and insights), to support institutionalizing Aboriginal principles and way of life, and the consideration of this knowledge together with western science needs for policy making needs to be made much more clear.

19. INSTITUTIONAL AND SOCIO-ECONOMIC ENABLING ENVIRONMENT

While the main institution for implementing the CBD/FPOW in Canada is the National Forest Strategy which is coordinated by the National Forest Strategy Coalition and there is engagement by some companies in forest biodiversity conservation through forest certification schemes, there is little evidence other than isolated examples that are not common place of the creation of an enabling environment to conserve forest biodiversity in the institutional and socio-economic fields. This realm relates to the capacity building and awareness of the CBD/FPOW, both of which have been noted previously as lacking extensively.

To consider that such an enabling environment to conserve forest biological diversity is in fact evident in these fields, it is necessary to demonstrate that there are concrete examples of forest biodiversity conservation that are tied to the CBD/FPOW. There is no evidence that this is the case because of the CBD/FPOW. Conscious intention is important. Canada has signed this treaty and therefore needs to demonstrate that it is living up to it with intention. Yet this is not the case. Staff in the various government departments that the CBD FPOW relates to must have an awareness of it, yet in many cases they do not, as the wider public does not. It is difficult to implement policies and make the connection to the CBD/FPOW if most people have no awareness of it.

A major reason for the general lack of awareness of the CBD/FPOW is that it is only a very select group of people in Canada, mostly within the responsible government agencies, that are following the CBD and the CBD/FPOW. The remainder are out of touch and have little awareness about the connection of policies/initiatives related to the CBD/FPOW. Even for those who are aware of the CBD/FPOW but not involved directly (e.g. government employees who deal with biodiversity conservation issues), it takes a major effort to stay on top of it and this effort is rarely made.

It appears that the reason why most people are so unaware is that it has never been made clear about what the FPOW means for the regular Canadian citizen and that governments at the relevant levels are not doing enough to inform people about what is going on with the FPOW. A major problem identified as to why this is the situation is that the responsibility for forest management remains with the provinces/territories and as a result, there is a point of detachment with the federal government that is responsible for CBD/FPOW implementation.

The federal government has an obligation to report. Environment Canada is in the process of doing some status and trends reporting. For example they are currently generating an Ecosystems and Trends Report under the auspices of the Council of Natural Resources Ministers. However what is needed to improve the awareness of the CBD/FPOW is for the provinces/territories to develop a better mechanism to report on the activities they are undertaking since at present it appears such a mechanism to report is weak.

20. SUMMARY

Based on the findings of this assessment, it is clear that if Canada's commitment to the CBD/FPOW is to be realized, a great deal more effort is needed. Efforts to conserve forest biodiversity, such as those set out in the NFS, need to be explicitly linked to the CBD and the FPOW so that the effectiveness in meeting international commitments can be clearly tracked. Strong leadership needs to be expressed at the federal and provincial/territorial levels to ensure that the goals of the FPOW are being clearly translated into forest policies at all levels and into strategies such as the NFS and to ensure that when policies are developed they are implemented. Both the development of adequate policies and the implementation of those that have already been developed are clearly inadequate. While there are good examples of progress in all aspects of the FPOW as indicated in this analysis, these individual cases do not reflect the overall state of progress. The 2003-2008 NFS, while a good strategy developed with good intentions by a broad multi-stakeholder process, has not proven adequate as an

approach to meeting the FPOW commitments. A new NFS to replace the 2003-2008 NFS for beyond 2008 is currently under development by the CCFM. It remains to be seen what direction the new plan takes to improve how Canada's forest biodiversity conservation commitments will be met.



Boreal forest Northern Ontario. Photo: CPAWS-Wildlands League

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Appendix I: Survey Respondents

- Jean Arnold, Falls Brook Centre, Knowlesville, New Brunswick
- Julee Boan, Ontario Nature, Thunder Bay, Ontario
- Harry Bombay, National Aboriginal Forestry Association
- Dan Bulloch, Manitoba Conservation, Winnipeg, Manitoba
- Nick Burnaby, Sierra Club Atlantic, St. Johns, Newfoundland
- Debra Campbell, Vernon, British Columbia (First Nations)
- Paul Capon, Matawa First Nations, Thunder Bay, Ontario
- Paul Charrette Superior-Woods Tree Improvement Association, Thunder Bay, Ontario
- Roberta Clowater, Canadian Parks and Wilderness Society, New Brunswick Chapter, Fredericton, NB
- Joanne Cook, Ecology Action Centre, Halifax, Nova Scotia

- Valerie Courtois, Innu Nation Environment Office , Sheshatshiu, Labrador
- Dale Draper, Ministry of Forests and Range, Victoria, B.C.
- Crystal Dyson, Indian and Northern Affairs, Gatineau, Quebec
- Patricia m. Dwyer, Environment Canada
- ForestCare Corp, St. Williams, Ontario
- Forest Management Branch, Ontario Ministry of Natural Resources
- Tracy Glynn Conservation Council of New Brunswick, Fredericton, New Brunswick
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- Travis Jones, Indian and Northern Affairs, Thunder Bay, Ontario
- Michele Jones, Mimulus Biological Consultants, Courtenay, BC
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- William Mawdsley, Forest management services, Forest Management Division, Environment and Natural Resources, Government of Northwest Territories
- Gillian McEachern, Forest Ethics, Toronto
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- Richard P. Pharis Biological Sciences Department University of Calgary, Calgary, Alberta
- Dave Pearce, Canadian Parks and Wilderness Society – Wildlands League, Toronto, Ontario
- Violet Pleavin, Fort William First Nations, Thunder Bay, Ontario
- Scott Poser, Ontario Ministry of Natural Resources ,Peterborough, ON
- Nadine Roach, Union of Ontario Indians, North Bay, Ontario
- Radostina Schivatcheva, Graduate Student, University of British Columbia, Vancouver, B.C.
- Michael Rosen, Tree Canada , Ottawa, Ontario
- Wendy Solomon, Fort William First Nations, Thunder Bay, Ontario
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- Sara Teitelbaum, Graduate Student, Faculty of Forestry and Environmental Management, University of New Brunswick, Fredericton, New Brunswick
- Dean Trumbley, Metis Nation, Vancouver, B.c.
- Cliff Wallis Alberta Wilderness Association, Calgary, Alberta
- Terry Wilson, Nishnabe Aski Nation, Thunder Bay, Ontario
- Gillian Woolmer, WCS Canada, Toronto, Ontario
- Gaby Zezulka-Mailloux Under the Sleeping Buffalo, Research, Banff, Alberta
- One anonymous NGO respondent (by request)

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APPENDIX III: CANADIAN CRITERIA AND INDICATORS FOR SUSTAINABLE FOREST MANAGEMENT

The Canadian Criteria and Indicators Framework of the Canadian Council of Forest Ministers (CCFM) (http://www.ccfm.org/ci/CI_Booklet_e.pdf.) is a science-based framework used to define and measure Canada's progress in sustainable forest management. The CCFM released its first framework of criteria and indicators (C&I) for sustainable forest management in 1995 and the most recent updated framework was released in 2003. The criteria represent forest values that Canadians want to enhance or sustain, while the indicators identify scientific factors to assess the state of the forests and measure progress over time. In a manner similar to the international Santiago Declaration, the first of the CCFM's six criteria is the conservation of biological diversity. The status of forest species (e.g., as threatened or endangered) is used to indicate how well biodiversity is being conserved. The Council's latest document pertaining to sustainability criteria and indicators states that "the greatest and most readily recognizable form of biological depletion lies with species extinction. Slowing down the rate of species extinction is a key objective for the conservation of biodiversity." The Council uses two "core indicators" for monitoring species diversity: "the status of forest-associated species" and "population levels of selected forest-associated species" (CCFM 2003).

Given this suite of national and international commitments, provincial and territorial governments in Canada are obligated to conserve biodiversity in general and to protect species at risk by legislated means.



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