
AN ABORIGINAL CRITERION FOR SUSTAINABLE FOREST MANAGEMENT

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Shortly following the publication of this paper, the Canadian Council of Forest Ministers released the document *Defining Sustainable Forest Management: A Canadian Approach to Criteria and Indicators* (March 1995). Two elements addressed Aboriginal issues in *Criterion 6, Accepting Society's Responsibility for Sustainable Development*. These two elements were developed by the Criteria and Indicators Technical Committee of which the National Aboriginal Forestry Association was a member.

The following is the wording on Elements 6.1 and 6.2 of Criterion 6:

6.1 Aboriginal and treaty rights

Existing Aboriginal and treaty rights are recognized and affirmed in the Canadian Constitution. In order to ensure that duly established Aboriginal and treaty rights are respected, they should be considered in the context of sustainable forest management.

Various levels of government in Canada will aim to meet their legal obligations with respect to duly established Aboriginal and treaty rights in accordance with policy and legislation in their respective jurisdictions. When discussed in relation to renewable resources, such Aboriginal and treaty rights generally related to hunting, fishing and trapping, and in some cases, gathering.

Forest management and planning processes should be designed, as far as possible, with input from involved Aboriginal communities, as well as other affected groups and communities. Final plans should reflect the options considered and actions taken with respect to duly established Aboriginal and treaty rights.

6.1.1 Extent to which forest planning and management processes consider and meet legal obligations with respect to duly established Aboriginal and treaty rights

6.2 Participation by Aboriginal communities in sustainable forest management

The cultural and spiritual connection between Aboriginal communities and forests is acknowledged. Increased cooperation between Aboriginal communities and all forest stakeholders is important to achieving the goals of sustainable forest management. Governments will work cooperatively with Aboriginal communities within the policy and legislation of their respective jurisdictions in order to achieve the goals of sustainable forest management.

6.2.1 Extent of Aboriginal participation in forest-based economic opportunities

6.2.2 Extent to which forest management planning takes into account the protection of unique

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or significant Aboriginal social, cultural or spiritual sites

- 6.2.3 *Number of Aboriginal communities with a significant forestry component in the economic base and the diversity of forest use at the community level*
- 6.2.4 *Area of forest land available for subsistence purposes*
- 6.2.5 *Area of Indian reserve forest lands under integrated management plans*

Since the publication of the criteria and indicators, the Technical Committee has continued discussions about the availability and quality of information by which to measure the indicators. The *First Report on the Canadian Criteria and Indicators Framework*, describing how Canada and the provinces will measure whether they are meeting the criteria and indicators for sustainable forest management, will be released in May 1997. NAFA continues as a member of the Criteria and Indicators Technical Committee discussing how to evaluate Aboriginal participation in forest management.

Copies of *Defining Sustainable Forest Management: A Canadian Approach to Criteria and Indicators* and the *First Report on the Canadian Criteria and Indicators Framework* is available free of charge from Natural Resources Canada, Canadian Forest Service, 580 Booth Street, Ottawa, Canada K1A 0E4.

Canada is not alone in developing criteria and indicators for sustainable forest management. Many countries and groups of countries have embarked on similar processes. National governments made the commitment to develop criteria and indicators at the United Nations Conference on the Environment and Development held in Brazil in 1992 as a preliminary step to negotiating international standards for sustainable forest management. Canada has also taken part in the development of regional *Criteria and Indicators for the Conservation and Sustainable Management of Temperate and Boreal Forests* (February 1995) through the Montreal Process. The Finnish Ministry of Agriculture and Forestry held an Intergovernmental Seminar on Criteria and Indicators for Sustainable Forest Management in Helsinki in August 1996. A *Background Document* (June 1996) prepared for the seminar summarizes the various criteria and indicators initiatives around the world. This paper is available from the Ministry of Agriculture and Forestry, P.O. Box 232, FIN-00171, Helsinki, Finland.

NAFA's paper, *Assessment of the Need for Aboriginal Compliance with Sustainable Forest Management & Forest Product Certification Systems* (March 1996) describes how the Canadian Criteria and Indicators were used as a basis for the Canadian Standards Sustainable Forest Management Standard, a private, voluntary system for registering defined forest areas. This standard is used to assure consumers that forest products produced by Canadian forest companies who register for the standard come from forests that have been sustainably managed.

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Introduction

Since the 1992 United Nations Conference on Environment and Development, a number of national and international processes have been created for the development of criteria and indicators for assessing the sustainable management of forests. Sustainable forest management is a term used to describe the complementary goals of maintaining and enhancing the health of our forest ecosystems while providing environmental, economic, social and cultural opportunities for the benefit of present and future generations.

The National Aboriginal Forestry Association's concern is that there be an appropriate reflection of the rights and interests of Aboriginal peoples in Canadian criteria and indicators for sustainable forest management.

As the original inhabitants of this land, Aboriginal peoples occupy a unique position within Canadian society. Based on multiple sources of law and rights, the Canadian constitution and the courts have recognized the existence of a special body of Aboriginal rights. These rights, acknowledged by treaties in most areas of the country, include rights to land, rights to hunt, fish and gather, special linguistic, cultural and religious rights and rights held under customary systems of Aboriginal law. Considering that Aboriginal rights pertain largely to continued forest use, sustainable forest

management must address the impact of forest practices on the rights and interests of Aboriginal peoples. With this in mind NAFA developed this position paper which sets out our viewpoint that development is not sustainable if it does not respect and provide for Aboriginal and treaty rights.

What Are Criteria and Indicators and How Can They Be Used?

With respect to criteria and indicators for sustainable forest management, criteria are basic requirements that a company or forest manager must carry out (or at least show that it is trying to do) in order to claim that the forest is being managed in a sustainable manner. The indicators are those things which can be looked at or measured in order to determine whether or not the criteria are being met.

The first time that the indicators are examined or measured, a baseline or starting point is established. In the following years the indicators are measured in the same way to show changes, if any. Where a company or forest manager is claiming sustainability, then the changes should reflect improvement over previous years.

One indicator alone is insufficient to determine the sustainability of forest management practices; it can only be an indication of lack of change, of possible improvement or possible problems. One indicator alone can show a possible movement away from sustainability or towards sustainability. The separate indicators under each criterion can point to strengths and weaknesses in a management system. In determining overall sustainability,

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however, it is the big picture that counts, what all of the indicators under each criterion tell you when they are analysed together. But, if a company or manager fails entirely to address one of the criterion, then the claim of sustainability will be threatened.

For example, when looking at the indicator *Healthy Aboriginal Communities*, a community health problem cannot be blamed on the condition of the forest or on forest management planning without thorough research. Nor can it be easily dismissed, however. If there is a change in community health, such as an increase in the incidence of diabetes, or suicides, the possible reasons for that change must be explored. It is common knowledge that the physical and emotional health of community members is greatly affected by community self-esteem which in turn is affected by economic circumstances and the community's ability to carry on with traditional economic, social and cultural activities. Environmental damage to traditional lands could lead to a decrease in traditional economic, spiritual and cultural activities or to contemporary economic activities, which in turn could lead to dietary changes with resulting physical and emotional health problems. A change in overall community health therefore, is a good indicator of a change in the economics of the community, and/or of community self-esteem, and is worth exploring in relation to the sustainability of the forest management practices. A community health problem therefore needs to be examined in conjunction with other indicators before any final conclusions are reached.

The indicators in the Criterion *Respect and Provision for Aboriginal and Treaty Rights* are easily measurable at a local level through community case studies, including interviews of community members, such as First Nation leaders, foresters or forest technicians, economic development officers, health service providers, elders and others. Many forest companies or forest managers should be able to fully meet this criterion now; however, in order to claim sustainability, this issue should be addressed in a substantive manner. In order to maintain a claim of sustainability in areas where the criterion has not yet been fully satisfied, it must be shown that there is continual improvement.

The Canadian Criteria and Indicators Initiative

NAFA has been actively involved in the Canadian Criteria and Indicators Initiative (C & I) for Sustainable Forest Management. The purpose of this initiative, which operates under the Canadian Council of Forest Ministers (CCFM), is to identify criteria for sustainable forest management and the means of measuring whether or not the criteria are being met. Canada will use these criteria and indicators as guides for determining the overall sustainability of its forest management practices.

NAFA has been involved in this process in an attempt to ensure that the rights and interests of Aboriginal peoples are reflected in the Canadian criteria and indicators. The position that we have brought to the table is that forest management is not sustainable if it does not respect and provide for Aboriginal and treaty rights.

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During the course of the C & I process, six criteria for sustainable forest management were agreed upon as follows:

- Criterion I Conservation of Biological Diversity
- Criterion II Maintenance and Enhancement of Forest Ecosystem Condition and Productivity
- Criterion III Conservation of Soil and Water Resources
- Criterion IV Forest Ecosystem contribution to global Ecological Cycles
- Criterion V Multiple Benefits to Society
- Criterion VI Accepting Society's Responsibility for Sustainable Development.

Initially, the Aboriginal and treaty rights issue was addressed by the C & I as an indicator under Criterion VI *Accepting Society's Responsibility*. NAFA felt that Aboriginal and treaty rights must be more appropriately identified as a criterion for sustainability rather than mere indicators of sustainability. NAFA therefore proposed that a Seventh Criterion be developed, entitled "Respect and Provision for Aboriginal and Treaty Rights". At the C & I Steering Committee level there was considerable support for the proposed Criterion VII, however no agreement was achieved and the decision was deferred to the Canadian Council of Forest Ministers (CCFM), which in the end approved the criteria and indicators proposed.

The CCFM rejected Criterion VII on the grounds that it might be prejudicial to future negotiations between the provinces and First

Nations. The CCFM further indicated that it will redraft Criterion Six to reflect Aboriginal concerns. To our knowledge, no invitations have been extended for Aboriginal participation in this redrafting process.

From our perspective, *Respect and Provision for Aboriginal and Treaty Rights* is an essential element of sustainable forest management and is not optional. NAFA still believes therefore that Canada should take a leading role internationally by treating Aboriginal rights as a separate criterion. We have expressed our concerns in writing to each member of the CCFM and have indicated that we will find it difficult to support a process which is taking an apparent step backward from Canada's previous national and international commitments.

THE ABORIGINAL CRITERION RESPECT AND PROVISION FOR ABORIGINAL AND TREATY RIGHTS

Most Aboriginal peoples are forest dwellers whose culture and identity are based on their spiritual relationship to the land and the pursuit of traditional harvesting activities. They have rights to continued access to and benefits from forest lands for spiritual and cultural purposes and for traditional forest harvesting activities in all areas of traditional use, including hunting, trapping, gathering and fishing. Aboriginal and Treaty Rights are recognized in the Canadian Constitution and in legal decisions involving natural resources use, and should be given contemporary interpretation. Because of their unique relationship with the land, Aboriginal peoples have developed special knowledge of forest ecosystems, knowledge which may be shared and used in improving

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forest management practices. Aboriginal peoples have a right to share in the economic development afforded others by forestry activities.

In order for forest activities to be sustainable, Constitutionally recognized Aboriginal and Treaty Rights must be respected and provided for. Forest activities should therefore be conducted with respect and care for the land ("stewardship") to ensure healthy forests for future generations of Aboriginal peoples.

The following are some indicators which may be used to determine if forest management and/or development is respectful of Aboriginal and Treaty Rights. These indicators must be given a high priority in determining the sustainability of forest related activities due to the fact that Aboriginal peoples and their rights suffer the first, and often most devastating impacts of non-sustainable forest related activities.

This criterion is reflective of Canada's approach to sustainable forestry as outlined in Strategic Direction Seven (on Aboriginal Peoples) of Canada's National Forest Strategy of which the provinces are all signatories, and in Canada's international commitments such as the generally accepted United Nations Commission on the Environment and Development (UNCED) Guiding Principles on Forests, the UN

conventions on Climate Change and Biodiversity, and Chapter 26 of Agenda 21 from UNCED. Further, this criterion is consistent with and has linkages to current federal policy on sustainable forest management, as demonstrated by the Model Forests Program, which includes Aboriginal Peoples as full partners in forest management in many of the projects. It is also in line with

the current approach to Aboriginal issues of major significance such as self-government, land claims, economic self-sufficiency and recent legal decisions which call for the integration of Aboriginal and Treaty Rights in natural resources management.

Definition

Sustainable forest management or development activities respect and provide for Constitutionally recognized Aboriginal and Treaty Rights.

Indicator 1 - *Aboriginal Participation in Decision-making and Forest Management Planning*

Aboriginal peoples have a leadership role to play in forest management, and in forest management decision-making and monitoring. This role stems from their relationship to and original occupancy of the land, and the nature of the Treaties.

Aboriginal peoples are not just another forest "stakeholder". It is therefore imperative that they be involved in all levels and aspects of decision-making in their traditional territories (which includes lands outside existing Indian reserves). To ensure that Aboriginal involvement is effective, they must participate in the design of these decision-making processes.

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Examples of ways in which Aboriginal participation can be measured include:

- * assessing if Aboriginal communities are satisfied with their participation;
- * assessing the number of Aboriginal peoples involved and the role they play in the planning, implementation and monitoring of forest management;
- * assessing the role played by Aboriginal peoples in the design of decision-making processes;
- * assessing the amount of control in decision-making exercised by Aboriginal communities; and
- * assessing which Aboriginal peoples are participating in decision-making processes and who they represent.

Indicator 2 - *Mutual Learning*

Aboriginal peoples are often faced with the reality that informed consent is expected to be a one-way street. Information is provided to them and they are expected to understand and accept the other point of view on a proposed project. Aboriginal peoples are often not able to accept such an alternative point of view because it conflicts with or threatens the very essence of their lifestyle, culturally, socially and economically. The concept of mutual learning proposes that where all parties share information and attempt to learn about and understand the differing viewpoints, it may be possible to avoid conflict and to reach consensus more easily. As well, Aboriginal peoples have developed special knowledge of forest

ecosystems, knowledge which may be shared and used in improving forest management practices. Mutual learning can be measured by assessing the following:

- * the extent to which traditional knowledge been used in forest management planning; and
- * the level of understanding that all the parties involved in forest management planning and operations have of differing viewpoints.

Indicator 3 - *Healthy Aboriginal Communities*

Due to the close relationship which Aboriginal peoples have with the forest and its resources, as well as their continued reliance on it, the overall health and sustainability of Aboriginal communities can be an important indicator of sustainable development. This indicator can be measured in part through an assessment of the following:

- * the level of conflict over resource development;
- * the overall economic well being of Aboriginal communities, including the continuation of traditional Aboriginal economic activities;
- * low levels of disease and mortality;
- * traditional land use through traditional land use studies; and
- * practice of cultural and spiritual activities through cultural inventories.

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Indicator 4 - Trends in Rates of Aboriginal Participation in Traditional Activities and Use of Traditional Territories

Traditional land use activities have an economic value within Aboriginal communities. If an Aboriginal community is part of a forest area, the people in those communities should be able to continue cultural, spiritual and traditional harvesting activities. Current forest management planning practices often do not take into account the need to ensure that there is a balance in planning for fish and wildlife habitat, medicinal plants, traditional food plants, good water quality, recreational, spiritual and cultural pursuits, and the use of timber to provide shelter and heat, as well as for economic gain. Use of traditional areas tends to decrease where any one type of forest use suffers damage as a result of another activity. This indicator can be measured through:

- * cultural inventories; and
- * traditional land use studies (The House of Commons Standing Committee on Natural Resources has recommended that traditional land use studies be a part of forest inventories)

Indicator 5 - Person Days of Employment in Forestry-Related Activities and Number of Aboriginal Owned and Managed Forest Related Businesses

Aboriginal peoples have a constitutionally recognized right to participation in and benefit from the economic wealth generated by forest related activities in their traditional

territories. Such participation can be measured using the following data:

- * employment of Aboriginal peoples on- and off- reserves;
- * Aboriginal owned and/or managed businesses; and,
- * the number and variety of tenures held by Aboriginal individuals or communities.

Indicator 6 - Aboriginal Access to Forest Resources.

Aboriginal peoples face numerous impediments to the continuation of traditional activities and to participation in contemporary resource management and development. Such impediments limit access of Aboriginal peoples to forest resources and are barriers to the exercise of Constitutionally recognized Aboriginal and Treaty Rights. The goal is to respect and provide for Aboriginal and Treaty Rights in relation to harvesting and to improve the access of Aboriginal peoples to forest resources. More specific measures that might be considered here are:

- * the number of co-management agreements with Aboriginal communities;
- * the number of licenses issued directly to Aboriginal communities or businesses; and
- * the number of land claims settled in a province versus the number that have been filed and are outstanding.

APPENDIX 1

An excerpt from: Criteria and Indicators of Sustainable
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