



## Implementation of the Madrid Extraordinary Ministerial Decision

### *Background Document on Possible Procedural Pathways*

*Summary: The purpose of this background document is to a) update FOREST EUROPE signatories and observers on the progress made and b) provide further guidance on the follow-up of the implementation of the Madrid Extraordinary Ministerial Decision 2015. Within the document, main points and outcomes of the discussions about the procedural options held at the Roundtable Meeting on a Legally Binding Agreement on Forests in Europe (RTM) are summarised and all outlined options for procedural follow-up of the Ministerial Decision are still kept open for further consideration. Following the preferred procedural option C by the RTM, a Draft Ministerial Decision is attached. The Expert Level Meeting (ELM) is invited to consider the outcomes of the RTM and attached proposal and take a decision on the concrete procedural follow-up of the Madrid Extraordinary Ministerial Decision.*

### **Introduction**

The FOREST EUROPE Extraordinary Ministerial Conference held in 2015 in Madrid adopted the Madrid Ministerial Decision<sup>1</sup>, noting that FOREST EUROPE signatories "*at an appropriate time and at the latest by 2020 will explore possible ways to find common ground on the Legally Binding Agreement*". Within this decision, the FOREST EUROPE signatories acknowledged the work of the Intergovernmental Negotiating Committee and recognized the Draft Negotiating Text (DNT)<sup>2</sup> as "*a basis for potential further consideration of the Legally Binding Agreement*".

At the first ELM held after the Extraordinary Ministerial Conference, FOREST EUROPE signatories adopted the Work Programme for 2016-2020, where they decided to organize a roundtable meeting to discuss all options for the procedural follow-up of the Madrid Extraordinary Ministerial Decision.

The next ELM held in November 2018 decided that the Roundtable Meeting on a Legally Binding Agreement on Forests in Europe (RTM) would take place in September 2018 in Bratislava with the aim to exchange views and collect ideas on all options for the procedural follow-up of the Madrid Extraordinary Ministerial Decision. Furthermore, it was agreed that the RTM outcomes would be presented to subsequent Expert Level Meeting for its considerations.

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<sup>1</sup> Madrid Ministerial Decision as adopted by the Extraordinary Ministerial Conference: [http://foresteurope.org/wp-content/uploads/2016/11/V.-EMC\\_MadridMinisterialDecision.pdf](http://foresteurope.org/wp-content/uploads/2016/11/V.-EMC_MadridMinisterialDecision.pdf)

<sup>2</sup>Draft Negotiating text for a legally binding agreement on forests in Europe as on 8 November 2013: [http://foris.fao.org/static/forestnegotiations/INC4\\_REPORT\\_ANNEX\\_F.pdf](http://foris.fao.org/static/forestnegotiations/INC4_REPORT_ANNEX_F.pdf)

## **Possible Procedural Pathways to Follow-up of the Madrid Extraordinary Ministerial Decision as discussed at the RTM**

Prior to the RTM a Background Document<sup>3</sup>, comprising, *inter alia*, a summary of the previous developments was submitted to FOREST EUROPE signatories and observers in March 2018. The Background Document for the RTM contained a set of guiding questions enabling preparation for the meeting and facilitation of the discussion at the RTM.

Before the RTM, The General Coordinating Committee released an *Explanatory Note on Possible Procedural Pathways to Follow-up of the Madrid Extraordinary Ministerial Decision*<sup>4</sup> (hereinafter referred to as "Explanatory Note"). The purpose of this Explanatory Note was to provide an insight into procedural alternatives to follow-up the Madrid Extraordinary Ministerial Decision, as outlined in the guiding questions in the Background Document, in order to facilitate discussion at the RTM. The Explanatory Note elaborated on options for a decision on the process that needs to be taken by FOREST EUROPE as well as on institutional options for the negotiation, adoption, administration of and servicing the agreement.

**Options for procedural follow-up of the Madrid Ministerial Decision** identified within the above mentioned Background Document and further described in the Explanatory Note and brought to the discussions at the RTM were as follows:

- A. Finalizing negotiations under Madrid mandate;
- B. New mandate and restart of negotiations under FOREST EUROPE by (re-) establishing INC;
- C. New mandate and restart of negotiations under UN system;
- D. New mandate and restart of negotiations under another international organisation/process.

The Explanatory Note on Possible Procedural Pathways to Follow-up of the Madrid Extraordinary Ministerial Decision is available at <https://foresteurope.org/wp-content/uploads/2017/08/Explanatory-Note-FINAL-fixed.pdf>.

## **Results of discussion at the RTM**

Roundtable Meeting on a Legally Binding Agreement on Forests in Europe (RTM) held on 19-20 September 2018 in Bratislava, Slovakia, provided a platform to discuss views and positions towards possible LBA as well as on possible further procedural steps towards further negotiation and adoption of the agreement.

Participants of RTM widely shared the opinion that a legally binding agreement on forests in Europe would have an added value. They confirmed their willingness to discuss again the opportunities for LBA under certain pre-conditions, among others related to options how to further conduct negotiations, broad participation of negotiating parties, willingness to compromise.

Outcomes and main points of discussions from the RTM regarding the further procedural pathways are visualised in figure 1.

The full text of the RTM **Co-chairs Summary** is available at [https://foresteurope.org/wp-content/uploads/2017/08/Cochairs\\_Summary\\_RT\\_M\\_LBA.pdf](https://foresteurope.org/wp-content/uploads/2017/08/Cochairs_Summary_RT_M_LBA.pdf).

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<sup>3</sup> Background Document for FOREST EUROPE Roundtable Meeting on Legally Binding Agreement on Forests in Europe: [https://foresteurope.org/wp-content/uploads/2017/08/RTM\\_LBA-2018-Background-document-1.pdf](https://foresteurope.org/wp-content/uploads/2017/08/RTM_LBA-2018-Background-document-1.pdf)

<sup>4</sup> Explanatory Note on Possible Procedural Pathways to Follow-up of the Madrid Extraordinary Ministerial Decision: <https://foresteurope.org/wp-content/uploads/2017/08/Explanatory-Note-FINAL-fixed.pdf>

# Possible procedural pathways to follow-up of the Madrid Extraordinary Ministerial Decision

To complement the Background Document and the Explanatory Note, the following visualization reflects the development and state-of-play of the LBA process, mandates and results of discussions from the RTM regarding respective procedural options to follow-up of the Ministerial Decision from the Madrid Extraordinary Conference and thus may serve as a framework for possible decision on a particular pathway:

## Finding common ground on a legally binding agreement

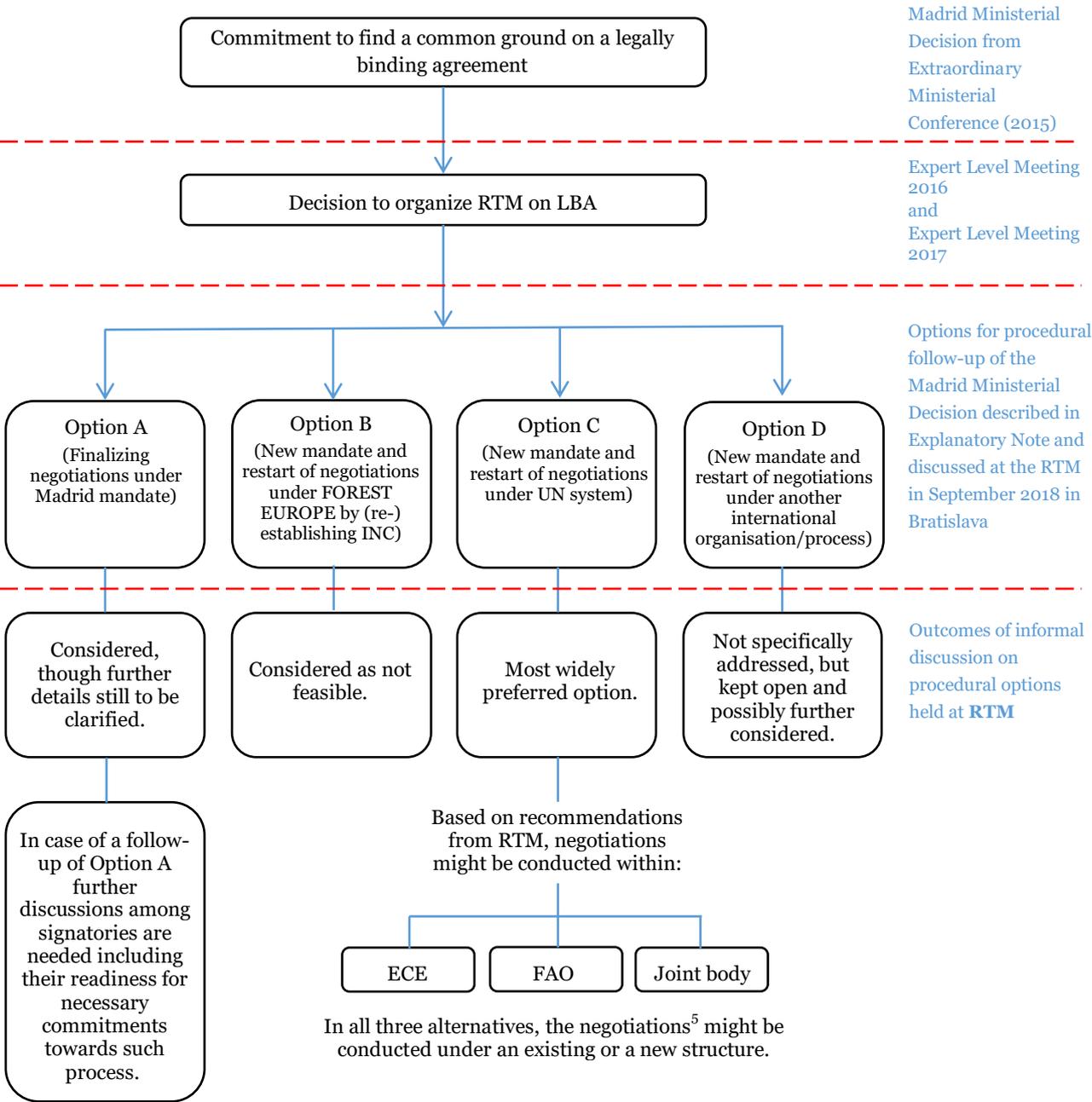


Figure 1: Visualization of the development and state of play of the LBA process, mandates and results of discussions from the RTM

<sup>5</sup> All countries listed in the Annex 2 of the Oslo mandate, including additional successor states of the former Soviet Union, are entitled to participate in the negotiating process.

## **Proposal by the General Coordinating Committee**

Based on the discussions and outcomes of the RTM and following the preferences informally expressed there, the General Coordinating Committee submits a **Draft Ministerial Decision**, that is based on the **procedural option “C”** (as referred to in the Explanatory Note), for consideration and possible adoption by the ELM.

After the possible adoption by the ELM, the next step would be a submission of the Draft Ministerial Decision for consideration and endorsement by the ministers. Taking into account the well-established procedures, modalities and flexibilities of the FOREST EUROPE process as well as requirements for effectiveness and efficiency of procedures, GCC recommends applying **a written procedure** as the most feasible and efficient way for endorsing the ministerial decision.

Draft Ministerial Decision based on the procedural option “C” is enclosed in the **Annex** of this document.

## Annex

### **DRAFT Ministerial Decision**

*Adopted by the Expert Level Meeting on 6 December 2018 for consideration by the ministers through a written procedure in 2019.*

RECALLING the Oslo Ministerial Mandate for Negotiating a Legally Binding Agreement on Forests in Europe, June 2011, establishing the Intergovernmental Negotiating Committee to develop a legally binding agreement on forests in Europe (INC),

ACKNOWLEDGING the work of the Intergovernmental Negotiating Committee in 2012 and 2013 and taking note of the outcome as contained in the report of the fourth resumed and final session of the Intergovernmental Negotiating Committee as presented at the Extraordinary Ministerial Conference in Madrid in 2015,

RE-CONFIRMING / REITERATING the Madrid Ministerial Decision from 21 October 2015 to explore possible ways to find common ground on the Legally Binding Agreement at the latest by 2020,

WELCOMING the results of the Round Table Meeting on a legally binding agreement on forest in Europe in Bratislava on 19-20 September 2018 as presented in the final co-chairs summary.

As representatives of the signatories of FOREST EUROPE, we:

1. REITERATE that the Draft Negotiating Text for a legally binding agreement on forests in Europe (DNT) should serve as the basis for further negotiations, while recognizing that some updates might be needed to reflect recent policy developments, such as the Paris Agreement, the 2030 Agenda and its Sustainable Development Goals, the United Nations Strategic Plan for Forests, and their corresponding terminology. RECOMMEND that DNT paragraphs agreed *ad ref* should not be re-opened, unless needed to reflect aforementioned recent policy developments.
2. RECOMMEND that a future legally binding agreement on forests in Europe should be established under the UN system.
3. INVITE [UNECE]/[FAO]/[UNECE and FAO] to [jointly] host the further negotiations on a Legally Binding Agreement on Forests in Europe by
  - a. [making arrangement for an existing body to serve as the forum for negotiations]/
  - b. [establishing a new INC].
4. INVITE UNECE and FAO to jointly service these negotiations through a secretariat.
5. TAKE THE VIEW that all countries listed in the Annex 2 of the Oslo mandate, are entitled to participate in the negotiating process. Other member countries belonging to the FAO European Forestry Commission and UNECE, not listed in Annex 2 of the Oslo mandate, should be allowed to participate as observers. Once established, the agreement should be open for other countries to join in, taking into account the scope and established practices of the hosting organization.

6. REQUEST that those organizations that are observers to the FOREST EUROPE process are also eligible to participate as observers in the negotiations.
7. ASK that the Minister of the Slovak Republic sends an invitation including the aforementioned elements on behalf of FOREST EUROPE to the Secretariats of UNECE and FAO to facilitate further negotiations of a legally binding agreement and ultimately its adoption.
8. ASK the Secretariats of UNECE and FAO to address this invitation with due urgency.
9. EMPHASIZE that the envisaged legally binding agreement is intended to be of regional pan-European scope.
10. EXPRESS THE WISH that the negotiations are to be conducted and concluded with due urgency and in an efficient manner.
11. RECOMMEND that, once the LBA has been adopted, the secretariat services for a legally binding agreement will be provided by a joint secretariat of UNECE and FAO.