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DEVELOPMENT

OF THE SYSTEM OF FOREST RELATIONS AS A MONOPOLY OF STATE OWNERSHIP OF FORESTS IN THE RUSSIAN FEDERATION

DESARROLLO DEL SISTEMA DE RELACIONES FORESTALES COMO MONOPOLIO DE LA PROPIEDAD ESTATAL DE LOS BOSQUES EN LA FEDERACIÓN RUSA

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ABSTRACT

In relation to forest land, the owner has the right to sell all or part of it in accordance with the procedures and rules established by law. The owner is free to make decisions that determine the use and reproduction of forests, in particular, the volume of logging, being guided by economic interests, without any restrictions in the form of directive established allowable cutting area and cutting ages. Restrictions on the use and reproduction of forests are imposed only by forest and environmental legislation. These restrictions are mainly predetermined by the requirements for the ecological condition of forests, the ability of the latter to perform public environmental and social functions. These requirements are implemented in the forest plan, the provision of which by the forest owner to the state forest management authorities is mandatory for any economic activities.

Keywords: Forest land, monopoly, forests, business.

RESUMEN

En relación con las tierras forestales, el propietario tiene el derecho de vender todo o parte de ellas de acuerdo con los procedimientos y las normas establecidas por la ley. El propietario es libre de tomar decisiones que determinen el uso y la reproducción de los bosques, en particular, el volumen de la tala, guiándose por intereses económicos, sin ninguna restricción en forma de área de corte permitida establecida directamente y edades de corte. Las restricciones sobre el uso y la reproducción de los bosques están impuestas solo por la legislación forestal y medioambiental. Estas restricciones están determinadas principalmente por los requisitos para la condición ecológica de los bosques, la capacidad de estos últimos para realizar funciones sociales y ambientales públicas. Estos requisitos se implementan en el plan forestal, cuya provisión por parte del propietario del bosque a las autoridades estatales de manejo forestal es obligatoria para cualquier actividad económica.

Palabras clave: Tierras forestales, monopolio, bosques, negocios.

INTRODUCTION

Forests provide the diverse needs of people. They not only serve as a raw material base for the forest and wood processing industry, but also are human habitats, one of the main elements of the recreational potential, regulate and clean water runoff, effectively prevent erosion, preserve and increase soil fertility, most fully preserve the genetic diversity of the biosphere, enrich the atmosphere oxygen and protect the air from pollution, largely form the climate. The flora of forests is a unique supplier of wild fruits and berries, nuts and mushrooms, valuable types of medicinal herbs and specific technical raw materials for various industries. Russia is the largest forest power. In terms of forest endowment, it ranks first in the world, possessing more than 1/5 of the world's forests and timber reserves and 2/3 of the world's reserves of boreal and temperate forests. The total timber reserves in Russia are about 82 billion m³, of which 81.3 billion m³ are the countries forest reserves. Coniferous species occupy in volume more than 3/4 of Russian wood reserves.

Now in Russia there is no normal forestry. The current Forestry Code considers the forest as a place where the logs are located. There are a lot of beautiful words about the importance of the forest and its rational use in the code, but in fact they turn out to be only a declaration that is not supported by competent technical requirements. Therefore, new economically valuable forests grow many times more slowly than old ones are cut or burned.

The depletion of already developed forests forces loggers to go for timber to distant areas of wild taiga or, by hook or by crook, to cut the most valuable forests in densely populated areas.

The right of forest use can be defined as a subjective right to extract the useful properties of the forest as a natural object. The essence of forest management is to use the beneficial natural properties of forests, and not to use the land surface occupied by forests. Since forests perform extremely important ecological functions (climate regulation, water protection, sanitary and hygienic, protective, recreational, recreational and other useful properties), forest use has an ecological essence¹.

As a legal institution, the law of forest use was defined as a set of legal norms establishing the conditions and procedure for multi-purpose use, preservation and restoration of the forest environment, rights and obligations of forest users, based on the public interest in obtaining wood and non-timber forest products, using other useful forest properties and ensuring the protection of forests and other objects of nature.

The types of forest use themselves are different directions for the use of the benefits of forests as a natural object and natural resource. In the implementation of forest land use plays a secondary role.

Not all types of forest use are types of forest use. It is clear that, for example, the development of mineral deposits has nothing to do with the use of the beneficial natural properties of forests as a natural object and resource. On the contrary, the development of minerals often occurs the destruction of forests.

Forms of forest use should include those activities whose implementation is directly related to the extraction of useful properties of forest resources.

Forest for economic purposes with the right approach can be grown over several decades. But the ecosystems of wild forests as a result of industrial logging are destroyed irreversibly - even for their partial restoration it will take centuries, and full restoration is impossible at all.

The features of forestry put it in line with complex economic systems with a long production cycle, which require a special approach in organizing, planning, managing, and independent legislative regulation.

Expanding the content of forest relations, one should also define the concept of "forestry", the content of which has changed significantly in recent years. With the adoption of the Forest Code of the Russian Federation in 2006, many production functions, besides managerial and control and supervisory, are carried out by private business structures and specialized state organizations.

Forestry has become a type of economic activity organized in a certain territory, of a complex nature, having a long production cycle and serving the satisfaction of human needs from the use of a land area. Complex character is manifested through the functions of forestry: reforestation, afforestation, forest conservation, forest management, forest management, etc.

The term "forest relations" was rooted in the professional vocabulary of the Soviet period. Before the nationalization of forests in 1917, the phrase "forestry" was widely used. The difference between these terms is that the first reflects the external, bureaucratic side of forestry and is indirectly related to the results of forestry, the second reflects its internal content and is directly related to the final results of forestry.

In the Forest Code of the RSFSR (Russian Soviet Federative Socialist Republic. State Duma, 1923), there was no such term. The fundamentals of forest legislation of the USSR and the Union Republics (Union of Soviet Socialist

Republics. Ministry of Forestry, 1977) introduced the term “forest relations”, which was transferred to the Forest Codes of the Russian Federation (**Russian Federation. State Duma, 1997, 2006**) implying relations between individuals in the use of, protection, protection, reproduction and management of forests.

Forest relations are complex, long-lasting relationships, the effectiveness of which largely depends not only on human actions, but also on natural phenomena.

To build effective forest relations, it is necessary to have a clear idea of their basic concept - the forest. Modern forest legislation does not give a clear definition of a forest, thereby giving rise, for example, to the uncertainty of the status of urban forests that are of great social and environmental importance for citizens. The lack of a clear individualization of the object of relations in practice forms various non-specific forest relations, which complicates the assessment of their effectiveness.

The most accurate picture of the forest was given in the Forest Code of the Russian Federation: it is a combination of forest vegetation, land, wildlife and other components of the natural environment, which has important environmental, economic and social significance.

MATERIALS AND METHODS

The theoretical and methodological basis of the study consists of domestic and foreign articles in forest relations, including monographs, articles and analytical reviews.

In the formation of the system of forest relations, as foreign experience shows, the main role belongs to political decisions determining the form of ownership of forest lands.

The adoption of such decisions proved difficult for the Russian Federation in the transition from a centrally planned economy, when ownership of all means of production, including natural resources, was nationwide, to a market economy, which is characterized in all countries by the

variety of forms of ownership of the means of production, land and other natural resources.

Despite the fact that, according to the Constitution of the Russian Federation, land and other natural resources may be in private, state, municipal and other forms of ownership, the Russian Federation, through all the regulatory legal acts adopted since 1993, regulating forest relations, retains the monopoly of federal state property on the lands of the forest fund, while redistributing property rights between the subjects of forest relations as a consequence of the implementation of the constitutional principle of federalism, based on the joint jurisdiction of the Russian Federation and its subjects in the field of forest relations.

Such a principle of forming federative relations through joint management in relation to land and natural resources is unknown in the world practice of land use management and environmental management.

RESULTS AND DISCUSSION

The usual practice of managing natural (forest) resources in market economy countries is the recognition of only one owner for each natural object (forest plot), while in countries with a federal structure, either the federation or its individual component (state, province, region, etc.). No country in the world has forest parcels under the joint management of the federation and its components, as is the case in forest management in the Russian Federation, where the distribution of forest parcels by owners is replaced by the distribution of management decisions by levels (structures) of state power, which inevitably creates corruption factors and risks.

Since the 90s of the 20th century, the development of the forest relations system has been characterized by a constant redistribution of power between federal executive authorities, state authorities of the constituent entities of the Russian Federation, and local governments (Table 1).

Table 1. Development of federative relations in the forest fund management system in Russia.

Management levels and functions		Basics of forest legislation, 1993	Forest Code, 1997	Federal Law of August 22, 2004 No. 122-FL	Federal Law of December 31, 2005 No. 199- FL, Forest Code of the Russian Federation of December 4, 2006 No. 200-FL
Russian Federation	Entitling	+	+	+	+
	Property management	0	0	+	
	Supervisory	+	+	+	+

Subject Russian Federation	Entitling	0	+	0	+*
	Property management	0	+	0	+
	Supervisory	0	0	0	0
Administrative districts (municipalities)	Entitling	0	0	0	0
	Property management	+	0(+)	0	0
	Supervisory	0	0	0	0

+ - there are functions

0 - no function

Adopted in 1993 through a political compromise between the federal centre and the regions, the Basics of the forest legislation of the Russian Federation went away from establishing forms of ownership of forest lands, but at the same time transferred the main functions of managing forests to administrative districts (now municipalities). Thus, unprecedented opportunities were created for corrupt transactions in conditions when forest resources provided for use on the basis of lease agreements and tenders for more than 1,500 district administrations in the absence of adequate supervision by federal authorities.

The large-scale development of corruption has restrained only that the most severe financial and structural crisis in the forest sector has sharply reduced the demand for harvested wood.

The dangerous economic, environmental and social consequences of the implemented decentralization of forest management (1993–1997) were recognized by the federal legislative and executive powers, which resulted in the adoption of the Forest Code (introduced in 1997), which redistributed powers in the field of forest relations in favor of state authorities of the constituent entities of the Russian Federation.

Despite the fact that the forest fund was declared federal property, the main functions of managing forest resources in terms of their use were transferred to the authorities of the constituent entities of the Russian Federation.

The Russian Federation carried out law-making and control functions in forest management, and also carried out all forestry work, including forest management, in the leased forest area.

As the practice of applying the Forest Code in 1997–2004 has shown, the Federation and the subjects of the Federation have a different understanding of joint management in the management of the forest fund, that is, an

understanding of rights and obligations when exercising directly distributed powers.

The most disadvantaged were the economic interests of the Russian Federation as the owner of the forest fund. According to Article 81 of the Code, she had the authority to protect, protect, reproduce and organize the rational use of forest resources, but she was not able to influence the formation of a market environment in the use of forests, where forest income is created in all its forms.

The consequence of the fact that the state authorities of the subjects of the Federation, on behalf of the Russian Federation, managed the use of forests and at the same time carried out current and long-term planning for the development of private forest business, was the low price of standing timber, supporting the competitiveness of forest products in the domestic and foreign markets at the expense of the state.

A certain share of “guilt” for low profitability of forest use according to the criterion of forest income in the budget along with the above should be attributed to the corruption risks that occurred during the competitive selection of forest users as tenants of forest fund plots.

In the development of forest relations under the conditions of the commencement of the new Forest Code (1997) there was a short period of time (2005–2006), when, in accordance with Federal Law No. 122-FL, all powers for managing the forest fund belonged exclusively to the federal executive authorities, but at the same time, the Leshoz has lost the supervisory (control) functions transferred to the Federal Service for the Supervision of the use of Natural Resources of the Ministry of Natural Resources.

Neither the institutional nor the economic reforms that would change the situation in the forest sector for the better have been implemented neither for this short period of time nor for the entire period of the new Forest Code.

And this situation was characterized by:

- Low level of use of the calculated cutting area, which determines the economic potential of growing tree resources.
- The inability of timber industries to compete in the export markets of forest products with a high degree of wood processing.
- Declining share of forest industry products in gross domestic product.
- Large volumes of illegal activities in the field of timber harvesting and its turnover.
- low level of wood consumption in the branches of chemical and chemical-mechanical processing.
- Unsatisfactory working and living conditions for employees of enterprises and organizations of the forest sector, low wages in comparison with other extractive industries.
- Low investment attractiveness of the forestry and forestry industries due to high commercial risks and imperfect legislation.

The Forest Code, which implemented the decentralization of forest management with the transfer of basic powers in the field of forest relations to the state authorities of the constituent entities of the Russian Federation and created the legal framework for the implementation of the new forest policy, was set to achieve the aforementioned negative phenomena in the development of the forest sector.

The system of forest relations, created by the Forest Code, has no analogues in the world practice of forest management, where, as noted earlier, the political basis of forest relations is recognition for each forest object of only one owner, whose rights are protected by law.

CONCLUSIONS

The mentioned form of forest relations is represented in most European countries, and it was formed as a result of institutional changes in the state forest sector, which took place in the early 90s of the last century and aimed at dividing state and economic functions in this sector.

The state forests as capital are transferred to the economic management of a state enterprise, usually operating in the legal status of a state joint stock company (Sweden, Austria, Latvia, Ireland, etc.). There are no rental or concession agreements between the state and its enterprise. The state-owner, establishing a state-owned enterprise, allocates it with forest land (forest resources), for the use of which annual payments are made to the budget, and its size depends on the income received from forest exploitation.

The income of an enterprise is determined by its business plan, approved by the state authority in the field of forest relations. Monitoring the state of forests, the quality of the performance of logging and forestry activities on the lands of state forests are carried out by state forest management bodies that are free from economic activities.

The privatization of forests transferred to the economic management of a state-owned enterprise is decided solely by law, proceeding, as a rule, from the interests of the state.

The long-term strategy of the state enterprise is based on its desire to increase the capitalized value of forest land, which significantly reduces the possibility of financial abuse associated with the irrational, inefficient use of forest land due to the realization of corrupt interests that arise when forest land is leased to private business.

The state enterprise carries out logging and forestry operations with the involvement of contractors, which contributes to the development of small business and employment of the local population.

The possibility of corruption risks is reduced due to the lack of redistribution of powers in the system of state authorities in the field of forest relations and due to the lack of transfer of some powers to manage forests to private businesses, which takes place in the forest relations system established by the Forest Code of the Russian Federation.

The norms of legislation on the rational use and protection of forests require the protection of the object of use during its operation. The nature of the legal protection of forests is determined by the nature and characteristics of the forest use process. The right to forest use and the legal protection of forests are elements of a unified system of legal norms governing the process of forest use and the preservation of forests. Rational use and protection of forests, their dialectic connection should be provided with adequate reflection in the legislation of the patterns of development and existence of the forest as an element of biogeocenosis, which is reflected in the ratio of the rights and duties of the subjects of forest use.

The close connection between activities for the use and protection of forests and the right to forest use is also determined by the fact that it lies in the very nature of the use of natural resources. It is precisely as a result of the exercise of the right of forest use that it becomes necessary to protect objects of nature (protection from misuse), i.e. ensuring first and foremost compliance with the rules of rational use of them.

The forest legislation clearly demonstrates the inseparability of the legal protection of forests and their rational use, since this is an expression of the most important law, according to which the cutting and renewal of forests should be synonymous. In other words, the method, time and area of logging (or other types of forest use) should be organized in such a way as not to interfere with the natural reforestation, which is the basis for future forest use.

Forest use should be based on the concept of sustainable development. Sustainable development is defined as development that satisfies the needs of the present, but does not endanger the ability of future generations to meet their own interests. In other words, sustainable development is environmentally sound economic and social development.

It is necessary to organize the use of forests in such a way that it is non-depleting. It is not by chance that the organization of forest management is named in the Forestry Development Concept as a strategically important task. The essence of the sustainable use of forests is to limit the maximum amount of forest resources withdrawn from forests, due to the rate of their natural restoration.

An important feature of forest management is that it is tailored to the needs of the population.

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