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## **Legitimacy and Policy Effectiveness of National Strategies for Sustainability in Austria**

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### **Abstract**

The text deals with governance processes in environmental and natural resource policy and questions if these new modes of governance can achieve both the establishment of procedural legitimacy and high substantive effectiveness in terms of the formulation of policies. To illustrate the ambiguous relationship between these dimensions, two models are outlined in the first part of the paper, supposing either a negative or a positive relation between input-oriented legitimacy and effectiveness. It is further assumed that a focus either on the process or the effectiveness has also an impact on the output legitimacy in terms of the acceptance of the policies. Indicators to measure the degree of input and procedural legitimacy as well as policy effectiveness of governance processes are developed and applied to the selected cases.

In the second part, two empirical cases are analyzed: the Austrian Forest Dialogue and the Austrian Strategy for Biodiversity. The empirical analysis shows that the actors in the two cases rather favor to reach procedural legitimacy than give priority to the output in terms of the formulation of policies. Based on these findings the trade-offs and synergies between the dimensions of legitimacy and effectiveness are assessed. The results of the analysis indicate that procedural legitimacy has rather a positive influence on output legitimacy than on substantial effectiveness.

# 1 Sustainability strategies and the relationship between legitimacy and policy effectiveness

At the UN summit in Rio de Janeiro (1992), governments worldwide committed themselves to sustainable development as a goal of international and national policies. With Agenda 21, a new strategic concept was simultaneously adopted. This new strategy for sustainable development includes the formulation of long-term goals and operative targets as well as instruments to monitor and evaluate the respective results. It calls for the participation of non-state actors in political decision-making processes, inter-sectoral co-ordination, and the integration of different political and administrative levels. At the same time, planning is not understood as a one-off event, but rather as an iterative and adaptive approach that is open for learning effects. This new strategic approach has been labelled the "Rio-Model of environmental governance" (Jänicke and Jörgens 2004) and has found its way into numerous political programmes, not only as overarching Strategies for Sustainable Development, but also into more targeted national strategies such as Biodiversity Strategies and Forest Programmes. The new model of environmental governance promised to offer a win-win solution, to be both more legitimated and more effective (Brunnengräber et al. 2004: 11, Bäckstrand 2006: 470f.). Moreover, some rhetorics on participation even promise an inherent logical progression that leads to more legitimacy in terms of the input and output as well as an effective decision-making and implementation process to a greater extent.

Until now there are hardly any empirical findings that governance or participation lead in fact to a better or more legitimate problem solving capacity of decision making processes. In this paper participation is not seen as a goal in itself, but is rather a means to an end. So, there is no guarantee that governance processes that comply with principles of legitimate participatory process design can reach more successful their self-defined goals.

The analysis of legitimacy differs between a normative and an empirical approach. The normative analysis of legitimacy deals with the normative acceptance of a political system or authority based on theories and concepts (Kaase 1992: 224). The empirical discourse on legitimacy focus on the attitudes of persons concerned towards an authority or a political system (Blatter 2006: 271). Still, legitimacy is a similarly fuzzy concept as governance and there is no single definition. Many scientists have dealt with the concept of legitimacy and also with a link between legitimacy and effectiveness (Habermas 1973, 2001, Luhmann 2005; Easton 1965, Lipset 1962, Max Weber, etc.). Fritz Scharpf as a well-known representative of the systems-theoretical model of David Easton developed the concept of complex democracy (Scharpf 1970, Scharpf 1999), which is based on assumption that one can claim two very different sources for political legitimacy (Scharpf 2000: 255). On the one hand, input-oriented legitimacy (input and throughput legitimacy) derives from procedures based on "democratic criteria" that enable stakeholders to articulate their interests in the strategy process. This can come about through various mechanisms in order to ensure the participation of politicians, administrative officials, or representatives of interest groups as well as non-governmental organisations. On the other hand, output legitimacy results from the perceived acceptance of the policies (i.e. programmes) by the key actors and target groups as "effective".

Effectiveness can be seen as a pre-stage to reach output legitimacy. Effectiveness is a fuzzy concept such as legitimacy and governance. The definitions of effectiveness vary from a focus in analysis on the results in terms of policies to studies on the actual effectiveness of implemented measures analysed by impact and outcome in the environment (Newig and Fritsch 2006: 17).

The first step of analysis in this paper questions, if and to what extent the input-oriented legitimacy has a positive or negative impact on the “effective” formulation of a policy (1). By this, two models are outlined supposing either a negative or a positive relation between input-oriented legitimacy and effectiveness. Moreover, it will be questioned if the input-oriented legitimacy has more influence on the perceived acceptance of the policy than the effective formulation of a policy and its institutional set-up for implementation (2) (see figure 1).

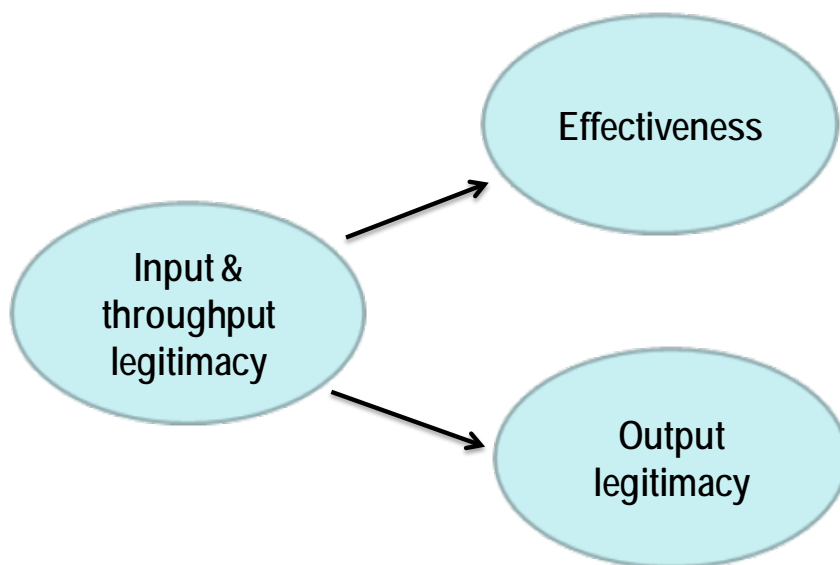


Figure 1: Research questions: influence of input-oriented legitimacy

To analyse the causal mechanisms between input and output factors empirically, in the context of the new model for environmental governance, this paper compares two national sustainability strategies, the Austrian Biodiversity Strategy and the Austrian Forest Programme. Methodologically the empirical research design is based on the most similar system design model (Przeworski and Teune 1970, Blatter et al. 2007: 133f). The intervening variables are the input-oriented criteria, which should explain the dependent variable – the effectiveness and the output-legitimacy that differ between both cases (cf. Hogl et al. 2008). Only the differing intervening variables are the explaining factors.

The independent variables are based on the various similarities in both case studies. Both cases:

- have a similar procedural framework,
- have a similar constellation of key actors - i.e. identical environmental NGOs and representatives of forest interest groups are taking part in both cases,
- have the Federal Ministry of Agriculture, Forestry, Environment, and Water Management (BMLFUW) as the main process organiser,
- can be seen as processes under the umbrella of the concept of sustainable development dealing with environmental and sustainability policies,

- are defined as strategic (governance) processes,
- are participatory processes basically for stakeholders,
- have their focus on national level in Austria and refer to similar international impulses for adopting strategic planning approaches towards sustainability (UNCED, Rio 1992),
- are resulting from external pressure by the international discourse on participatory process planning and international obligations to establish a strategic process on national level,
- have no formal or binding obligation to implement concrete and specific “principles” for participation
- however, rhetorically refer to the principles such as transparency, openness, control mechanism, accountability and effectiveness, etc.

These independent variables have no influence on the explaining variables. Still, these similar factors of the independent variable decrease the “intervening context factors” that have possibly an influence on the explaining factors (i.e. power and resources of the actors, actor constellations, complexity of the problem, etc.).

It still has to be kept in mind that studies of governance tend to have a selective view on processes, because politics can also be seen as rather a matter of political power and profits than of problem solving or good performance, etc. (Mayntz 2004: 201). Due to the difficulty to evaluate governance failure there is also a bias, because only the consequences of failure, but not the phenomena itself attract attention. Thus, it is easier to assess conflicts than for instance the tacit dissatisfaction, exit or non-participation of actors (Pierre and Peters 2000: 208).

### **Two models of relationship between legitimacy and effectiveness**

The confrontation between input or output legitimacy reflects the controversy about whether priority should be given to consent or utility (Wolf 2002: 39). From an input-oriented perspective, legitimacy of governance is based on the consent of stakeholders and the authentic expression of their will. From the output-oriented perspective, legitimacy of governance is measured by the effectiveness of problem-solving for the “common good”. As Wolf further notes, this distinction between input- and output legitimation goes hand in hand with variations in the justification of participation. On the one hand, with the focus on input and equality, participation can be justified normatively with reference to familiar concepts of democratic theory, including authentic self-determination, responsibility on the part of those governed, and the reliability of decision-making. In this context, participation constitutes an end in itself. From an output-oriented point of view, participation stands in a functionalist ends-means relationship geared towards the idea to achieve a particular policy goal in the best possible way. Here, participation is justified in terms of its expected contributions to goal-attainment, acceptance of decisions, and the set-up for effective implementation. The theoretically crucial question in this analysis is therefore the relationship between input and output factors, i.e. input-oriented legitimacy and policy effectiveness and output legitimacy in the longer run. This relationship, however, is complex and two competing hypotheses confront each other: the two dimension of legitimacy may be positively correlated and policy effectiveness may result from input-oriented legitimacy, or the two dimensions may be negatively correlated and the focus on input-oriented legitimacy may conflict with high policy effectiveness and in the consequence with output legitimacy (see table 1). Accordingly, we can find two different models to

explain the interrelation between input-oriented legitimacy and policy effectiveness in the literature. We will call these two different models as follows: (a) the 'trade-off model', and (b) the 'participation model'.

The 'trade-off model' argues (Dahl 1994, Scharpf 2000: 197f., Sartori 2006: 212) that participatory processes inherently have positive and negative potentials. Favouring the one-dimensional increase of participation and inclusivity in the political decision-making process could lower the political costs and risks in terms of its input-legitimacy. However, the arbitrary expansion of participatory rights would lead to the necessity for more aggregation and consensus among actors, and thus the problems in decision-making increase. According to the higher number of stakeholders, more costs and problems occur in finding collective preferences, in which we might see rising risks as well as costs because of ineffective solutions as a compromise. Vice versa, the risks and costs of effective problem-solving could sink to the extent that the number of participants thereby decreases. In this model, governance arenas are not conceived primarily in terms of their potential to democratise policy-making, but are rather meant to be solutions to functional problems (Mayntz 1997).

The 'participation model' does not share the sceptical diagnosis of a democratic dilemma between effectiveness and participation. On the contrary, it argues that effective governance can be a by-product of participation (Gbikpi and Grote 2002: 18; Heinel 2002, Lindblom 1965; Brozus et al. 2003). Here, the participation of key actors and target groups not only leads to the democratisation of decision-making processes, but even can be seen as a prerequisite for their problem-solving capacity (Benz and Papadopoulos 2006: 7). In this sense, governance arrangements would contribute in distinctive ways to improve the quality of decision-making (Schmitter 2002): (1) they enhance the opportunities for mutual accommodation through exchanges of reasoned arguments; (2) they serve to generate higher levels of trust among those who participate and this, in turn, (3) enhance the mobilisation of knowledge and this, in turn (4) leads to better compliance and implementation of decisions.

Table 1: Correlation between legitimacy and effectiveness in two models

	Input-legitimacy	Throughput-legitimacy	Effectiveness	Output-legitimacy
"Trade-off model"	↑	↑	↓	↓
"Participation model"	↑	↑	↑	↑

Empirical material was gathered within GoFOR, a project that was funded under the 6th EU Framework Programme for Research and Technological Development. The analyses are based on 1.) official and internal documents (minutes, workshop protocols, programmes, etc.), evaluation reports and scientific articles about the processes, 2.) regular attendance of process meetings and 3.) about 30 qualitative expert interviews (about 90 minutes on average) with different participants of the processes and the process organisers (representatives of the BMLFUW) etc. from summer 2006 to spring 2007.

In the first chapter analytical criteria to measure the degree of input and procedural legitimacy as well as policy effectiveness of governance processes will be developed (Chapter 2). These criteria will then be applied to our case studies, i.e. the Austrian Forest Programme and the Austrian Biodiversity Strategy (Chapter 3). Based on the analyses of both national strategies, we finally discuss how the dimensions of

legitimacy and effectiveness and/or output legitimacy are interrelated and which of the proposed theoretical models gain more support from the empirical cases (Chapter 4).

## 2 Criteria to assess the legitimacy and policy effectiveness of governance processes

The development of criteria to assess the input-oriented legitimacy of governance processes is first and foremost based on the programmatic and rhetoric statements on procedures and principles such as transparency, openness, accountability and effectiveness the empirical case studies refer to.

Secondly, the criteria for input and throughput legitimacy have also been developed by a review on the literature dealing with legitimacy of governance processes on international, national or sub-national level (Bäckstrand 2006b; Beisheim und Dingwerth 2008, Rauschmayer und Behrens 2008, Newig 2007, Newig 2005, Papadopoulos 2003; Klink 2006; Dingwerth 2005; Wolf 2006, etc.).

Although all criteria on input and throughput legitimacy have its source in ideal types of different democratic theories, the scientific interest in this analysis is, however, not to scrutinize the normative "accuracy" or "democratic performance" of the governance processes, its aims or output. The criteria do not function as benchmarks or scale of legitimacy and effectiveness in the sense of "good governance" or to compare it with democratic criteria in representative democracy (Benz 2004: 27; Scharpf 2000: 36). Thus, it is not of interest if the processes applying all criteria for input and throughput legitimacy are more or less democratic, because the scales and concepts of democracy and democratic legitimacy are various, not value-free and disputed (Walk 2008: 73; Benz 2005: 259).

Thus, the crucial question in this study is, if the factual compliance with and the use of these procedural criteria lead to more effective policies and a change of actor constellations, irrespective if these criteria are more or less useful for democratic performance. For the operationalisation of the input and output factors of governance processes, we draw on the two core concepts that were identified above: input and output legitimacy (Scharpf 1999). On the input-side we use input and throughput legitimacy. Throughput legitimacy describes the procedural features of legitimation in governance processes and was used in other conceptual frameworks on legitimacy (Bäckstrand 2006; Papadopoulos 2003; Klink 2006; Dingwerth 2005; Wolf 2006). The input-side is thereby clearly divided into the question of who is involved in the process (input-legitimacy) and how (throughput-legitimacy). We assume that throughput legitimacy functions as a link between the input and output dimensions. It can thus provide us with a better understanding of the actual linkages between the legitimacy on the input-side and the resulting policy effectiveness or output legitimacy.

Input legitimacy refers to legitimation through participation ('inclusion') and balanced representation of relevant stakeholders (Scharpf 1999: 6). Input-oriented strategies, rely on the rhetoric of participation and of consensus. They are designed to make the policy output more acceptable by "democratising" the processes by which they are reached. *Inclusivity* deals with the question of whether all the relevant actors and interest groups are included in the decision-making process. The trade-off between inclusivity and effectiveness can be found in the dilemma that with the number of participants the transaction-cost rise (Scharpf 2000: 198) and the problem-solving capacity decreases (Jänicke and Jörgens 2004: 326; Börzel and Risse 2005: 12). As a second aspect, inclusivity also refers to the question of the *representation* of interests, which asks whether the stakeholders in the process are also authorised

representatives of their clientele. In other words, representation means the inclusion of high-ranking officials with a mandate and the possibility to influence and take decisions (Beisheim and Dingwerth 2005: 7). The trade-off between representation and effectiveness is based on the tendency that if the representatives aim for an effective decision making process by consensus there is the tendency to neglect the interests of the organisations (Smismans 2006: 127, Benz 2006: 115).

Throughput legitimacy regards the transparency, fairness, and accountability of the structure, topics, and procedures of a process. Throughput legitimacy asks how a decision is taken, who is responsible for it all, and which issues are at stake. Transparency and fairness are seen as important criteria for throughput legitimacy, because they identify the quality and accessibility of gathering information or the equal opportunities to participate in decision-making, by means of the transparency of procedures, negotiation, and decision-making processes, public access to documents, information and participation via Internet and Intranet fora, etc. *Fairness* refers to a fair participation and communication process, in which all the participants can participate on an equal basis (e.g. making issues understandable to non-specialists, external moderation, an equal share of information and voice, fair voting, etc.) or the participants accept the rights and possibilities of participation as justified (Beisheim and Dingwerth 2005: 7). *Accountability* can be defined as the right of a person, group or organisation to gather information about a person, group or organisation and to scrutinize its action (Eberhard et al. 2006: 41). It can be distinguished between internal and external accountability. Internal accountability refers to accountableness to participants of the process or the members of an organisation. External accountability deals with the accountableness to those persons or stakeholder groups not represented in governance arrangements, but concerned of the policies. Accountability brings the establishment of mechanisms and instruments of control and monitoring like ex-ante or ex-post evaluations of the process, output or implementation into play. In this analysis the criteria of accountability refers to the responsibility of the process organisers to offer instruments, institutions or mechanisms that enable a person, group or organisation to scrutinize the actions taken towards the process as such (i.e. procedural principles), its policies (i.e. targets and indicators) and its institutional set-up for implementation. Trade-offs between throughput legitimacy and effectiveness result from the situation that *"negotiators can freely exchange ideas and thoughts more easily than in the public sphere where they have to show, resolve and stick to their principles."* (Risse 2006: 194). The representatives with strict mandates within organisations have less leeway for strategic actions, to avoid blockades and to seek consensus (Benz 2000; Beisheim and Dingwerth 2008: 16).

*"Output legitimacy"* is regarded as the perceived acceptance by the key actors and target groups of the policies as *"effective policies for the common-good"*. In this study we focus on the perception by the key actors that participated in the formulation and start-up process for the implementation of the policies as effective in terms of the following criteria for effectiveness. Political scientists who are interested in the effectiveness of public policies typically distinguish between *"policies"*, *"output"*, *"impact"*, and *"outcome"* (see figure 1) (Jann and Wegrich 2003: 79).<sup>1</sup>

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<sup>1</sup> In many studies on effectiveness the definitions of outcome and impact are often replaced. Outcome is then defined as the policy results of the phase of implementation and impacts for the effects on the environment in the long run. (vgl. Schneider und Janning 2006: 15, Jann/Wegrich 2003: 79).

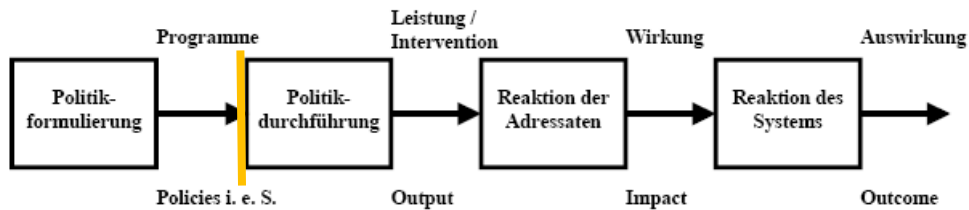


Figure 2: Effectiveness by policies, output, impact and outcome  
 Source: Jann/Wegrich 2003: 79

According to the framework in figure 1, policies are the “products” of the policy formulation phase i.e. the adoption of laws, programmes, or plans. Outputs are defined as result of the phase of implementation. The term impact addresses the changes in the actor’s behaviour as a result of the implementation process. This can involve changes in the behaviour of key actors and target groups, but also changes in interest intermediation, solutions to existing conflicts, or the development and creation of new coalitions and networks. Finally, outcomes are defined as consequences in terms of biophysical changes that have materialised because of the outputs and impacts of a governance process.

The output, impact and outcome of the implementation process of the Forest Programme and the Biodiversity Strategy is difficult and too early to evaluate at this stage of the process.

In this analysis effectiveness is based on the analysis of the formulation process and its substantial results in terms of policies (see coloured line in figure 1).

The criteria to assess *substantial effectiveness* are that the policies should include

- clearly *defined substantive targets*: The targets of a strategy should be measurable (i.e. time-bound), problem-oriented and challenging the status quo (referring to the formulation of problems and definition of status quo collectively developed in the formulation phase),
- *measures* related to the targets and with clear defined timelines and responsibilities for their implementation,
- and an *institutional set-up and clear responsibilities for the implementation* of the policy.

### 3 National Strategies for Sustainability in Austria

#### 3.1 Austrian Forest Programme

The Austrian Forest Dialogue (AFD) is a process on the national level in forest policy with the aim to elaborate and implement a National Forest Programme. The process has been initiated by the Federal Ministry of Agriculture, Forestry, Environment, and Water Management (BMLFUW) in April 2003 as a “long-term oriented, participatory, multi-stakeholder, and inter-sectoral dialogue platform on the future perspectives of the forest policies of Austria [...] to reach a social consensus with respect to an ecologically, socially, and economically sustainable forest management, but also to highlight the vital role of forestry within the framework of sustainable development (BMLFUW 2003a).” After a formulation



phase of approximately three years, a “National Forest Programme” and a “Work Programme 2006” were presented in December 2005 (BMLFUW 2006a, 2006b).

Both programmes were elaborated in working groups within approximately 27 meetings. On average, approximately 40 organisations attended the meetings, workshops, and five round table conferences. The round table was the main decision-making body of the AFD, where political reconciliation and adaptation of interests took place. The round tables consisted of approximately 80 organisations representing forestry, economics, social, and environmental interest groups that were organised at the national level, and were nominated and chaired by the Minister of the BMLFUW. The main body for the elaboration of the Forest Programme and Work Programme comprised three expert working groups. The participants of these groups were representatives of Ministries, interest groups, NGOs, and academic organisations. A co-ordination group, consisting mainly of representatives from the BMLFUW, was responsible for the administration and co-ordination of both bodies and the process in general.

The implementation of the first Work Programme was supported through a newly established platform called “Forest Forum” that meets twice a year in order to elaborate the Work Programme and to monitor the implementation of the measures that are listed in the Work Programme.

### 3.1.1 Input legitimacy of the AFD

The Austrian forest sector has been known for its corporatist policy networks and ‘clientelistic’ behaviour. Within the forestry sector, the actual power and communication were focussed in a very close circle of high-ranking representatives of the administration and forestry associations, which is known as “Green Pillarisation” (Pregernig and Weiss 1998: 28) wherein its policies strongly support the economic interests of their clientele, the forest owners (Voitleithner 2002: 316, Hognl and Nordbeck 2007). However, the AFD left these pathways and is declared in its mission statement as a participatory, multi-stakeholder, and inter-sectoral dialogue process open to all *“national, governmental, and non-governmental organisations and interest groups, which are interested in forestry related issues”* (BMLFUW 2003a: 2). Thus, participation has been declared as one of the main principles of the process.

The level of participation of public officials, interest groups, NGOs, and academic organisations was very high during the first two years of the dialogue process. High ranking officials and representatives from diverse ministries, a wide range of non-state actors, but also delegates from the sub-national level, provinces, and communities that represent a broad range of sectors that are relevant to forests and forestry were invited and nominated as participants of the AFD. The members of the round table were officially nominated by their respective organisations. The broader public was informed via the Internet, press releases, and public events.

The intensity of the attendance and of the active participation via oral or written statements in the working group sessions and at the round table meetings proved to be different among the participating organisations. Some actors always brought in written or oral statements and some acted only as observers of the process. However, this different level of engagement can be explained in nearly all cases by the differences in capacities. For instance, Greenpeace was forced to quit the AFD at an early stage of the process due to a lack of personal resources. Nevertheless, a substantial involvement of the most relevant state and non-state actors in forest policy took place in the AFD.

At the final stage of the AFD process, a short survey among the participants of the working group sessions was conducted (Voitleithner 2005). This survey, also in addition to our own expert's interviews with 25 participants of the AFD, shows that the majority of the participants regarded the process as successful in terms of inclusivity and representation, in particular, the NGOs as well represented. However, a more active participation by representatives from other sectors was lacking. Basically, the integration of sectors other than forestry and the inter-ministerial co-ordination were the largest challenges for the AFD. Despite an invitation from the responsible Minister, some sectors were rather weakly represented in the process such as tourism, hunting, water management, and agriculture.

### 3.1.2 Throughput legitimacy of the AFD

"Openness and transparency" was declared as one of the main principles of the AFD (BMLFUW 2003a: 6). Therefore, rhetorically and practically, the initiators and co-ordinators of the process place much emphasis on their claim for transparency. For the participants of the process, most of the documents were made accessible via an Intranet web page. All of the participants were informed about the updates of textual materials and, upon request; the differing views were included in the protocols or the final programme.

Most of the participants were generally satisfied with the transparency of the procedures (Voitleithner 2005: 8), but some were still critical towards the procedural aspects, particularly with the non-traceable actions of formulating the programme. It was criticised that the co-ordination group was aiming for the utmost consensus and thus a couple of deviating opinions that were expressed by participants were not included in the final paper. Moreover, due to a perceived illogical sequence of, and confusing link between, the different drafts, comprising mission statements, targets, indicators, measures, and so on, the review of the enormous amount of text was nearly deemed unmanageable and fairly time consuming for many participants.

Another highly emphasised principle of the AFD process was its fair procedures and that participation took place on an equal basis. For instance, the codes of conduct for the working groups (BMLFUW 2003b) refer to the aspects of open-minded behaviour by the participants that respect different positions and interests. The procedural rules also included those discussions that were moderated and that were in plenum joint decisions that were reached by mutual accommodation with an aim for the utmost consensus. The possibility to provide in written papers or actively participate in discussions during the expert or round table meetings was also provided for at any stage of the process.

According to our interviews, the participants viewed their opportunities for participation in the process as good and the overall procedural structures were perceived as a starting basis to enable fair discussions. Although a sound atmosphere for discussions was observed, some NGOs still blamed the process co-ordinators to take advantage of the primary process aim of reaching consensus by neglecting conflicts even on highly disputable issues.

Furthermore, concerns over the mix of the roles of the co-ordinators as working group leaders, moderators, and simultaneously the leading representative of the BMLFUW were mentioned. It was criticised that the moderators in the working groups occasionally controlled the line of discussion too strictly and that they attempted to decide which issues should be dealt with without enabling feedback

from the participants (BMLFUW 2004: 6) or to keep some 'disputable' topics out of the process: i.e. endangering of virgin forests, FLEGT<sup>2</sup>, or the new Programme on Support for Rural Development 2007-2013. Some organisations, i.e. WWF Austria, vetoed against these 'non-demand responsive' procedures and announced, at many stages, to opt out if some topics that were highly relevant for their organisation would not be dealt with (BMLFUW 2004: 7).

Consequently, the participant's perceived responsivity to issues, reflecting and representing likewise the preferences and interests of their clientele or constituencies, was quite ambiguous at some stages in the process.

As regards accountability the AFD offers some mechanisms to control and monitor the process steps and the progress of the implementation of measures. First, an internal "evaluation" was established by conducting ad-hoc surveys among the participants of the expert sessions about their contentment with the process as such (Voitleithner 2005a, Voitleithner 2005b). Secondly, about 90 indicators that are linked to 52 policy targets of the Work Programme were defined and shall function as a check for goal attainment (BMLFUW 2005b).

Thirdly, as indicated in the Forest Programme, the Forest Forum shall play the role of a monitoring body, wherein the progress of the implementation of the measures will be discussed in plenum and reported on twice a year (43 of the 121 measures have been discussed and presented). The Forest Forum still has not been fully developed as an adequate monitoring tool for the implementation of the process, because there are no mandatory reporting requirements to track the progress of the measures taken and there are no clear guidelines as to how the implementation of the measures that are listed in the Work Programme shall take place. Some of the weakly operationalised measures listed in the programme have not been re-formulated or updated since the first draft of the programme and there is hardly any information on their status of implementation.

Moreover, an external evaluation of the process or the implementation has never been mentioned in any document, although some participants called for it by referring to international standards of participatory process design. After two years of the implementation phase of the AFD it was decided at the fourth Forest Forum to start an external evaluation of the process as such, its policies, its outputs and impacts.

The perceived legitimacy of the AFD as a fair and transparent process basically depended on the actors' institutional interests and the expectations of, and fears towards, a participatory process. When the implementation of the AFD started three years ago the mechanisms and instruments to publicly give account for the process and its implementation have been perceived by some participants of the AFD and also by the authors as merely moderately institutionalised by the Forest Forum, the set-up of the indicators or the internal ad-hoc surveys. With the set-up of an external evaluation, however, an important mechanism of accountability has been initiated.

### 3.1.3 Effectiveness and output legitimacy of the AFD

The aimed output of the AFD, the Forest Programme, was defined at the onset of the process as a "*non-binding document for decision-makers as a basis for their policy decisions and contains*

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<sup>2</sup> In 2003, the EU Commission adopted an Action Plan for Forest Law Enforcement, Governance, and Trade (FLEGT) that addressed the problems of illegal logging and deforestation.

*recommendations for decision-makers on important fields of action that shall be seen as a framework for measures in forest policy."*

After a period of approximately three years of formulation, the Forest Programme comprised a mission statement describing the principles and targets of the process, a description of the actual-state, trends, and main problems in relation to Austrian forest and forest policy and the indicators linked to defined targets and measures (BMLFUW 2006a).

Although the AFD was defined as a problem-focussed and result-oriented process, the declared endeavour was solely the collection of common points of view regarding the main problems in Austrian forests and forestry and the search for their respective solutions. Despite this declared non-binding character of the envisaged programme, the aim was changed in the middle of the process into an elaboration of a programme with a high grade of concrete objectives and measures associated with the responsibilities of the implementation, timeframe, and availability of resources. The Work Programme 2005 (11/2005; BMLUW 2006b) listed 50 single measures including a timeframe, potential funding, as well as the main responsible leading and co-leading organisations that are in charge of the implementation (the current status of the Work Programme 11/2008 lists 121 measures and 14 best practice measures; BMLFUW 2008). This modification of the process' final aim and ambition resulted from general discontent by key actors, particularly NGOs, with the originally declared process goal and their threat to exit the process. However, the measures in the first draft of the programme have not been linked to quantifiable goals, and comprise mostly "soft instruments" such as information, advice, research, or education.<sup>3</sup> Moreover, the 52 targets of the Forest Programme are all qualitative goals without a target-value or a deadline to be achieved. The measurability of the targets has been operationalised by the set of indicators that refer to the targets. However, it is not clear, how the set of indicators shall be used for. Although many goals are defined to change the status quo, the scope of goal attainment varies from the definition of very specific and detailed targets to a very vague statement on general goals in forest policy. Thus, many of the goals offer a broad scope of interpretation and are not specific how the goals can be achieved.

According to the BMLFUW, the implementation and the financing of the implementation of the proposed measures has to "*take place as independently as possible*" by the leading or co-leading organisations in charge of the specific measures that are listed in the Work Programme (BMLFUW 2003b: 5). Hence, even though the Forest Forum took place four times since the adoption of the Work Programme and had offered the possibility to present, discuss and further elaborate some measures, it functions more as a meeting and discussion platform than as the central co-ordination mechanism or contact point that control, guide or enhance the implementation of measures by the responsible actors and organisations.

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<sup>3</sup> Since the adoption of the first Work Programme, its implementation has made further numerous steps forward. Out of the total 121 measures in the current Work Programme 11/2008, 21% of the measures are completed, 39% of the measures are under implementation, and 21% of the measures are in preparation. About half of the measures are formulated in a way that they can be defined as "operational" and more than a third can be seen as "operational to a large extent" (not yet published preliminary results of the external evaluation - please do not cite without permission of the authors).

## **3.2 Austrian Biodiversity Strategy**

Austria ratified the Convention on Biological Diversity in 1995 and has since developed national measures and objectives for the conservation and sustainable use of biodiversity to ensure the implementation of the CBD. Recognising the diverse legislation and divided responsibilities for biodiversity in Austria a “National Commission on Biodiversity” was entrusted by the former Federal Ministry of Environment, Youth, and Family in June 1996. The Biodiversity Commission was set up as a policy co-ordination mechanism. It should fulfil three functions: (1) guide efforts on implementing the CBD; (2) facilitate co-ordination and co-operation between different activities and programmes in the field of biodiversity; and (3) play an important platform for information exchange on various issues that are related to biodiversity.

As Article 6 of the Convention calls upon governments to develop national strategies, plans, and programmes to maintain and sustainably use biological diversity, the Biodiversity Commission drew up the first Austrian Strategy for the Implementation of the Convention on Biological Diversity in 1997, which was adopted by the Council of Ministers in August 1998 (BMUJF 1998).

The first biodiversity strategy was evaluated in a two-step approach in 2001 and 2003. Based on this evaluation, the national biodiversity strategy was revised after 2003, and an updated strategy was adopted by the Biodiversity Commission in 2005, but not by the Austrian government. This “Advanced Austrian Biodiversity Strategy” will form a long-term framework for conservation and the sustainable use of biological diversity in Austria and seeks a compromise between the necessary long-term goals and financial and political opportunities. As a new instrument for its implementation, the strategy makes use of action plans for specific themes, of which the first on NEOBIOTA was published in 2004.

### **3.2.1 Input legitimacy of the BDS**

A range of stakeholders participated in the formulation of the first biodiversity strategy between June 1997 and April 1998. Two main bodies were important for this initial step: the National Biodiversity Commission (NBC) and the editorial group. While the NBC was already established when the formulation process started, the editorial group needed to be set up in the course of the elaboration phase.

At that time, the NBC had approximately 50 members and was deemed an open and representative body. Its membership comprised various actors, including representatives of administrative departments (Federal Ministries and Provincial Authorities), public and private interest groups (landowner associations, Chamber of Commerce, and trade unions), science (Universities, Austrian Academy of Sciences, and Natural History Museum), and NGOs (Bird Life, Greenpeace, WWF, and Arche Noah). The NBC has no rules of internal procedure and there are no strict rules on membership. It is a rather open body and all the relevant institutions were, and still are, free to nominate representatives. Access is in fact restricted to governmental officers and representatives of interest groups of nationwide importance. In contrast to other countries, for instance the UK, the involvement of local organisations played no role in the Austrian strategy process. With that, the NBC shows a sort of elite bias.

The editorial group was established in December 1997. It consisted of seven members representing different ministries, federal provinces, the Presidents’ Conference of Chambers of Agriculture, and the

Federation of Environmental Organisations (ÖGNU) (NBC 1997b: 1). The editorial group was responsible for the collection of input and the wording of the draft strategy. It was supported by working groups, sometimes single persons, which were responsible for drafting chapters on respective topics. In most cases, these working groups were led by public officials within the competent federal ministry. Up to the year 1998, the editorial group met three times to discuss the strategy drafts and to solve the remaining problems.

The membership of the NBC and the editorial group mirrors the diverse landscape of actors in the Austrian biodiversity and nature conservation policy. However, not all the above-mentioned organisations attended the meetings of the NBC. Even fewer actively participated in the elaboration of the national biodiversity strategy. Furthermore, since the political weight of the NBC, in general, has been regarded as low, representatives that attended the meetings were not high-ranking officials, but rather lower-ranking officials with extensive expertise in their specific field. As such, they represent the operational working level. This is also true for the representatives of interest groups and NGOs.

The actors' network surrounding the biodiversity strategy was split right from the onset into two major opposing coalitions. The first coalition was mainly motivated by their strong economic interests in making use of natural resources. This group was led by the former Ministry of Agriculture and Forestry in co-operation with the Presidents' Conference of Chambers of Agriculture, and the Chamber of Commerce. The opposing coalition was led by the former Ministry of Environment in co-operation with some environmental NGOs (ÖGNU, WWF). This group was mainly motivated by their interest in nature conservation. The lobbying strategy of the first coalition group during the strategy formulation was aimed at restricting the scope and coherence of the strategy as well as avoiding concrete measures. For instance, the Ministry of Agriculture and Forestry used the biodiversity strategy basically as an opportunity to report on all the measures that had already been taken in the sectors of agriculture and forestry, but was strictly opposed to new measures and further co-ordination. In contrast, the second coalition, which was led by the Ministry of Environment, promoted a strategy with new measures, concrete targets, timelines, and defined responsibilities for implementation. However, this coalition was insufficiently powerful to dominate the agenda in the formulation process of the biodiversity strategy.

The participation of stakeholders has steadily declined over the last decade accordingly. Nowadays, important interest groups are missing and only very few attend the meeting regularly. Large environmental NGOs such as Greenpeace do not participate in the NBC any more and others participate only irregularly. The exceptions are the WWF and certain smaller NGOs (e.g. Arche Noah) who are actively involved. As a negative consequence of this limited participation of business interests and civil society, the potential for stakeholder participation in the strategy process is limited from the outset. Moreover, the overall involvement of federal ministries, besides for the BMLFUW, is also not satisfying. Important actors such as the Ministry of Economics and Labour do not actively participate in the NBC meetings.

### **3.2.2 Throughput legitimacy of the BDS**

Stakeholder participation in the elaboration of the Austrian Biodiversity Strategy took place in three different forms: (1) Attending the meetings of the NBC, (2) Participating in the editorial group, and (3) Writing comments on the four drafts of the biodiversity strategy.

Basically, the NBC used a transparent mode of operation with the Chair regularly distributing all the relevant documents, including the relevant scientific studies and expert opinions, to all the Commission members. Transparency was, however, more restricted when it came to the political reconciliation of positions, e.g. in the formulation and reformulation of strategy documents. Contacts and talks occurred in a bilateral way between the Chair of the NBC and other stakeholders. The channels of communication were selective and behind closed doors. An open discussion or exchange of ideas between all the participating stakeholders did not occur. The work flow was presented in the meetings of the NBC, but there was no time for discussion about common positions or different opinions in detail.

Between June 1997 and April 1998, the NBC met seven times in total in order to elaborate the Austrian Biodiversity Strategy. The members of the NBC mandated the Federal Environmental Agency to write a first draft, which accordingly was presented in December 1997 (NBC 1997b: 1). The proposal followed an ecosystem-approach, i.e. its structure was formed along chapters based on alpine regions, forests, cultivated landscapes, and wetlands and combined them with chapters covering cross-sectoral issues, such as conservation and sustainable use of biological diversity. Two major issues of dissent emerged in the following discussion. First, the representatives from the agricultural and forestry sectors opposed the overall strategy concept and criticised the ecosystem approach as such. Another major dispute emerged around the question of whether the strategy should outline concrete measures for its subsequent implementation. The Chamber of Commerce and the Presidents Conference of the Chambers of Agriculture were opposed to any new measures and were supported by the Ministry of Agriculture and Forestry on this matter.

After intense discussions, the members of the NBC, pushed by the economic coalition, finally decided to radically change the process structure and procedures. First of all, the editorial group was set up and took over the Federal Environmental Agency's task to compile the draft chapters. The editorial group changed the structure of the biodiversity strategy significantly and focussed basically on those chapters describing the sustainable use of biological diversity with regard to different sectors. Second, while progress in the work was still presented and discussed at the NBC meetings and the stakeholders could send written comments to the Chair of the NBC afterwards, the decision on whether proposed changes were to be incorporated into the draft remained within the editorial group. Furthermore, since nearly all the NBC members sent their written comments only to the Chair of the Commission, these were not accessible for the other commission members. Thus, the participants were not aware of each other's comments, except for the few members of the editorial group.

As a result of the bilateral co-ordination and the strong influence of individual ministries on "their" respective chapters, the first strategy lacks coherence, a common framework, and inherent logic. Nevertheless, the experts that were interviewed for the evaluation of the implementation of the first strategy in turn mentioned some critical points (Röhrich 2003: 76): (1) genetic biodiversity as one dimension of biodiversity was clearly underrepresented, (2) the issue of access and benefit-sharing, one of the three main goals of the CBD, was totally sidelined and only mentioned in the last chapter, (3) stakeholders and target groups were only indirectly approached in the strategy, in which none of the actors claimed to be responsible for the implementation of measures.

The NBC monitored the implementation of the biodiversity strategy in a two-step evaluation between 2001 and 2003 (Götz 2001, Röhrich 2003). At an initial stage, the relevant activities were identified, assigned to the measures that were outlined in the strategy, and then transferred to a database ("Living

Document“), which permits the regular entry of new activities as well as specific research. In a second step, the implementation of the strategy itself was evaluated.

### 3.2.3 Effectiveness and output legitimacy of the BDS

In the course of the evaluation, it soon became clear that a review of the content of the biodiversity strategy as above-mentioned would not be possible due to a lack of data and in the absence of a national monitoring network for biodiversity (Röhrich 2003: 7). The strategy itself contributed to this problem as its content has several significant flaws. The individual chapters differ substantially in style, length, and concreteness. The distribution of topics over the individual chapters is inaccurate, and the coverage of topics sometimes overlaps. The degree of accuracy describing the relevant problems and measures to be taken varies significantly in terms of scope and depth. The strategy does not contain quantifiable targets, timeframes, interim targets, or indicators. Neither the legal backgrounds or competencies nor the responsibilities of the actors for the implementation of the suggested measures were presented in adequate depth or clearly defined. Furthermore, the strategy lacks clear priorities with regard to the implementation of measures or research topics (Röhrich 2003: 7).

Up to February 2003, the “Living Document” included 501 activities deemed relevant for biodiversity (Götz 2001, Röhrich 2003). The majority of activities collected in the “Living Document” covers those measures dealing with the traditional forms of land-use and the protection of species and landscapes. However, activities in the sectors of tourism and recreation, industry, mining, and energy as well as traffic and development co-operation are highly underrepresented.

Most of our interview partners concluded that the Austrian Biodiversity Strategy has a rather low implementation record. Despite the fact that many organisations and institutions reported ongoing activities in the various thematic areas in the first phase of the evaluation, the link between these activities to the biodiversity strategy remained somewhat unclear. Many of these activities fit into the thematic areas and targets of the strategy, but were not actually stimulated by the strategy. Occasionally, the strategy is referred to, and used as, a source of legitimacy, especially by research organisations applying for the funding of research projects. Beyond that, the strategy seems to have had little impact. The content of the strategy along with its targets and measures are too general in order to have any direct impact in terms of behavioural changes of the addressed target groups.



## 4 Summary and Conclusions









In the previous chapters we evaluated the input- and output legitimacy as well as the effectiveness of the Austrian Forest Programme and the Austrian Biodiversity Strategy along the criteria that were developed in chapter 2. In analysing the two case studies, we found similarities with regard to the interrelation of legitimacy on the input-side and output-legitimacy, but also some differences that are difficult to explain in the context of the two theoretical models as outlined in chapter 1.

The Austrian Forest Dialogue has managed to mobilise a wide range of relevant and high ranking stakeholders of the respective sector, and thus newly established a good platform to provide different views and interests with a voice. As regards the criteria for throughput legitimacy, such as transparency, fairness and accountability, some participants experienced drawbacks as regards the fair style of moderation, selection of experts, insufficient mechanisms on accountability or exclusion of themes. However, the rules set out in the overall code of conduct for the process procedures guaranteed a fair and transparent process with equal access for all the stakeholders.

The most prominent innovation for the sector with a traditionally rather exclusive and selective structure of decision-making and an opposing coalition grouping (i.e. environmental NGOs versus representatives of the forest sector) can be seen in the intensive exchange of views and preferences among all the stakeholders that resulted in quite a good climate for discussion throughout the process (Hogl and Nordbeck 2007). This behavioural change of key actors has been perceived as a novelty in Austrian forest policy with its strong antagonistic coalitions and can be seen as a result of the good process performance regarding its throughput legitimacy.

The set up of the Forest Forum as an institutionalised continuation of the AFD, in turn build only a moderate framework for the implementation of the Work Programme. The first draft of the Work Programme comprised measures with clear responsibilities but rather vague timeframes. Moreover, the targets were vaguely defined and the institutional set-up was weakly established. To sum up, in the case of the Austrian Forest Dialogue, the input legitimacy is high and the throughput legitimacy was good. The effectiveness in terms of the institutional set-up for implementation and the definition of targets has turned out to be rather moderate. On the contrary, the output legitimacy in terms of the perceived acceptance of the policies - Work and Forest Programme – is rather high (see table 2).

Table 2: Performance of cases studies as regards legitimacy and effectiveness

	Input legitimacy	Throughput legitimacy	Effectiveness	Output legitimacy
AFD				
BDS				

The Austrian Biodiversity Strategy had a more modest input legitimacy in terms of inclusivity and representation. Several important state actors and interest groups opposed the strategy process and,

thereby, limited the space for active participation. The throughput legitimacy was also lower than in the AFD, mainly because of the inadequate mode of co-ordination that was used in the drafting of the biodiversity strategy. However, the antagonistic stakeholder coalitions and the organisational changes made during the process had by far the biggest impact on the course of the drafting of the strategy. This led to an unclear and unfair formulation process that gave only a few actors the possibility to influence the content of the strategy. As a result, the biodiversity strategy is written in a very general and vague language and has a very low effectiveness in terms of the quality of targets and measures that were set and a low acceptance.

In sum, stakeholders in both strategy processes follow an input-oriented perspective and are less concerned about the final policy effectiveness of the strategies (cf. Hogl et al. 2008). The output-oriented perspective was, therefore, ranked in second position. The Forest Programme, however, can claim both a higher input-oriented legitimacy and higher policy effectiveness than the Biodiversity Strategy.

Thus, the participatory governance process of the Forest Dialogue had a positive effect on its policy effectiveness. In contrast, the low legitimacy of the biodiversity strategy on the input-side had a very negative effect on the effectiveness of the strategy. Both cases, therefore, support more the theoretical claim of the participation model that there is a positive relationship between legitimacy on the input-side and policy effectiveness.

As regards the trade-off model, the lower number of participants and the lesser attention on throughput legitimacy in the Biodiversity Strategy process obviously did not reduce the political risks of the participatory process. On the contrary, the limited emphasis placed on the aspects to guarantee input-oriented legitimacy led in both processes, to a situation where the process was blocked by strong oppositional interest groups. This resulted in rather weak policies.

Also, both case studies prove the particular importance of a fair and transparent governance process and thus the strong relevance of the throughput legitimacy. Moreover, the case of the Forest Dialogue showed that a broader participation with opaque and fair procedures can provide a level of trust among the stakeholders that enables a better output legitimacy in terms of the perceived acceptance of the policies even if the substantive policy effectiveness is only moderate.

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