

Legislation for Biodiversity Conservation in Russian Forests: Good Start, Miserable Reality and Unclear Future

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Stages of environmental legislation development in Russia

- The 1990s: The stage of big environmental hopes
- 2000-2003: The stage of destruction of environmental protection system
- Since 2004: A new paradigm: use of natural resources for doubling GDP

The 1990s: The stage of big environmental
hopes

In the 1990s, Russia laid foundation for a strong system of nature protection

- A set of environmental laws
- Independent Ministry (later Committee) for Environmental Protection
- Federal-level environmental and forest authorities with a well-developed vertical structure to a level of administrative district
- The federal and regional governments committed to increase the number and area of nature protected areas
- Three-level (federal, regional and local) system of protected areas
- The update of the Red-data Book of the USSR has started
- Active participation in international projects: UNESCO World Natural and Cultural Heritage Program, RAMSAR Convention
- Many legislative and biodiversity conservation gaps at the federal level were partly filled at the regional level
- Forest regulations permit a wide set of felling restrictions outside of protected areas (from complete felling ban to a stricter logging rules)
- Active public debates on environmental issues

The key environmental laws

- Red-data Book of Russia (1988) (adopted in the time of the USSR)
- Law on Environmental Protection (1991)
- Law on Wildlife (1995)
- Law on Protected Areas (1995)
- Law on Environment Impact Assessment [*Ekologicheskaya Ekspertiza*] (1995)
- Water Code (1995)
- Forest Code (1997)
- Red-data Book of the Russian Federation (Animals) (2001)
- Red-data books for many regions of the Russian Federation
- Regional legislation

The key problems of the early stage

- Legislation for biodiversity conservation remained incomplete
- The new federal laws were too declarative
- Practical implementation of laws is strongly dependent on low-level regulations developed solely by an interested agency, which resulted in misleading recommendations and contradictions among the laws
- Political weakness of environmental authorities and their low budget
- Inefficient systems for environmental protection and forest governance
- Poor law implementation and enforcement

Legislation for biodiversity conservation remained incomplete

- Russia did not signed the Aarhus Convention (Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters)
- Russia failed to produce any legal mechanisms for practical implementation and practical action plans for implementing the Convention on Biodiversity Conservation and Pan-European Biological and Landscape Diversity Strategy
- Not all the environmental laws (e.g., Forest Code) adequately tackle the issue of biodiversity conservation
- The new Red-data Book of the Russian Federation for plants is not the official document (currently exists as a list of species recommended for protection)

Practical biodiversity conservation: Unsolved legal problems

- In many cases, the key procedures for implementing federal laws when planning forest management are not developed
 - there is no procedure for identification and protection of red-listed species and their habitats
 - there is no program for identification and protection of key habitats
 - there is no mechanisms for establishment and management of ecological networks
- Environmental laws are contradictive, often permitting low-level forest regulations to override the laws themselves:
 - the Water Code prescribed automatic establishment of riparian zones along all water streams, while forest regulations recognize only riparian zones officially established during state forest inventory and planning (such work is done only in some regions)
 - the Water Code prohibits final felling in riparian zones, while forest regulations permits to do that in some categories of riparian forests
 - forest regulations do not require forest management plans to pass environmental impact assessment as required by the Law on Environmental Impact Assessment

Biodiversity conservation: Wrong forest governance

- The Forest Service cannot adequately finance district-level state forest management enterprises – leskhozoes – leading to corruption and illegal logging
- The conflict of interests within the Forest Service: leskhozoes continue to be simultaneously responsible for issuing logging permits, silviculture and control of forestry

As a result:

- while being officially prohibited to perform commercial felling leskhozoes practiced that under the name of salvage logging and thinning, even in areas where final felling has been prohibited by law
- poor forest protection, absence of silviculture and devastating forest fires

Biodiversity conservation: Wrong incentives in forest legislation

- The Forest Code is very declarative, nonbinding document, at least in terms of sustainable forestry and biodiversity conservation
- Forest regulations are very prescriptive, while reflect 50-year old notions about forestry
- The prescriptive character of the forest regulations is “compensated” by “selective” implementation by forest industry and “selective” observation by state forest authorities
- Decision about the use of forest is made by forest authorities and forest industries

Biodiversity conservation: Wrong incentives in practical forestry

- Overall forest use policy is oriented mainly on harvesting timber in mature forests using take-and-run approach
- The success of forestry is measured by volumes of timber harvested

As a result:

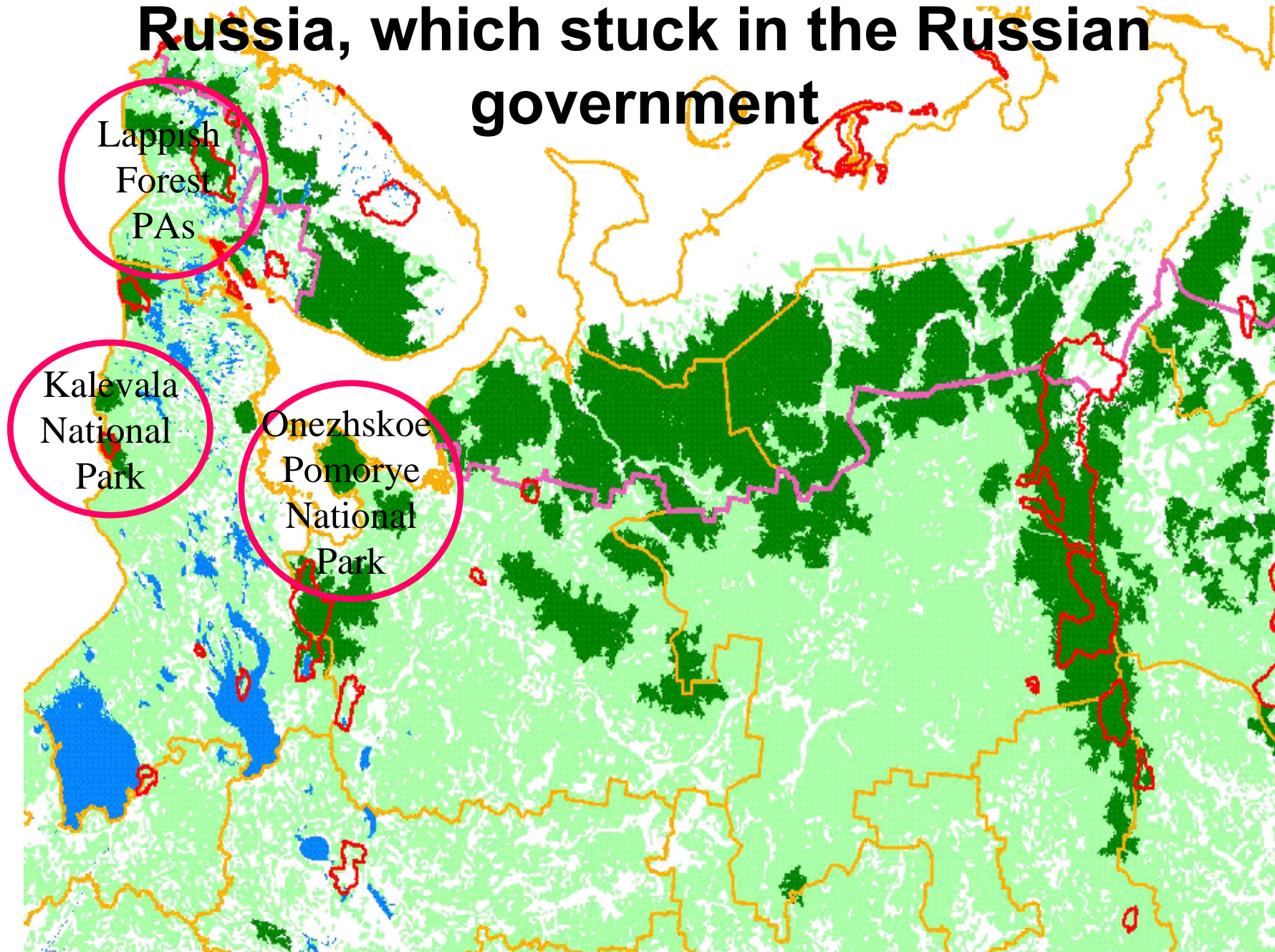
- Old-growth and intact forests are primary objects of logging
- No silviculture in secondary stands
- Non-sustainable use of forest resources (allowable annual cut is overestimated)
- Leaving patches of unlogged forest is a violation
- No mechanism for officially setting forest aside by industry (e.g., as a requirement of forest certification)
- The system is dominated by clearcuts (up to 50 ha), which is simple to use
- Logging rules generally contradict goals of biodiversity conservation:
 - Typically no seed trees are left
 - No standing deadwood and high stumps are allowed
 - All commercially non-valuable old trees should be logged out (old aspens, birches and commercial species with defects)

2000-2003: The stage of destruction of nature
protection system

2000-2003: The stage of destruction of nature protection system

- In the year 2000 independent Committee for Environmental Protection and Forest Service have been merged into the Ministry of Natural Resources
- MNR failed to provide normal functioning of the system:
 - 3 ministers over 5 years
 - Permanent restructuring at the federal level = high level of corruption
 - The most qualified staff left the agencies or was fired
 - Continuous decline in functioning of the leskhoz system = growing illegal logging (20-30% of all logging, Greenpeace, WWF)
 - Semillegal logging by leskhozses alone can be estimated in 20% of all logging
 - There is no effective law-enforcement system (in 2004 MNR “discovered” 2000 private buildings erected on forest lands without authorization only in riparian zones around Moscow)
- No new zapovedniks (strict nature reserve) or national parks have been established since 2000
 - According to the official program, 21 zapovedniks and national parks with the total area of 10,6 million ha should be established over the period 2001-2010

Major protected areas in European Northern Russia, which stuck in the Russian government

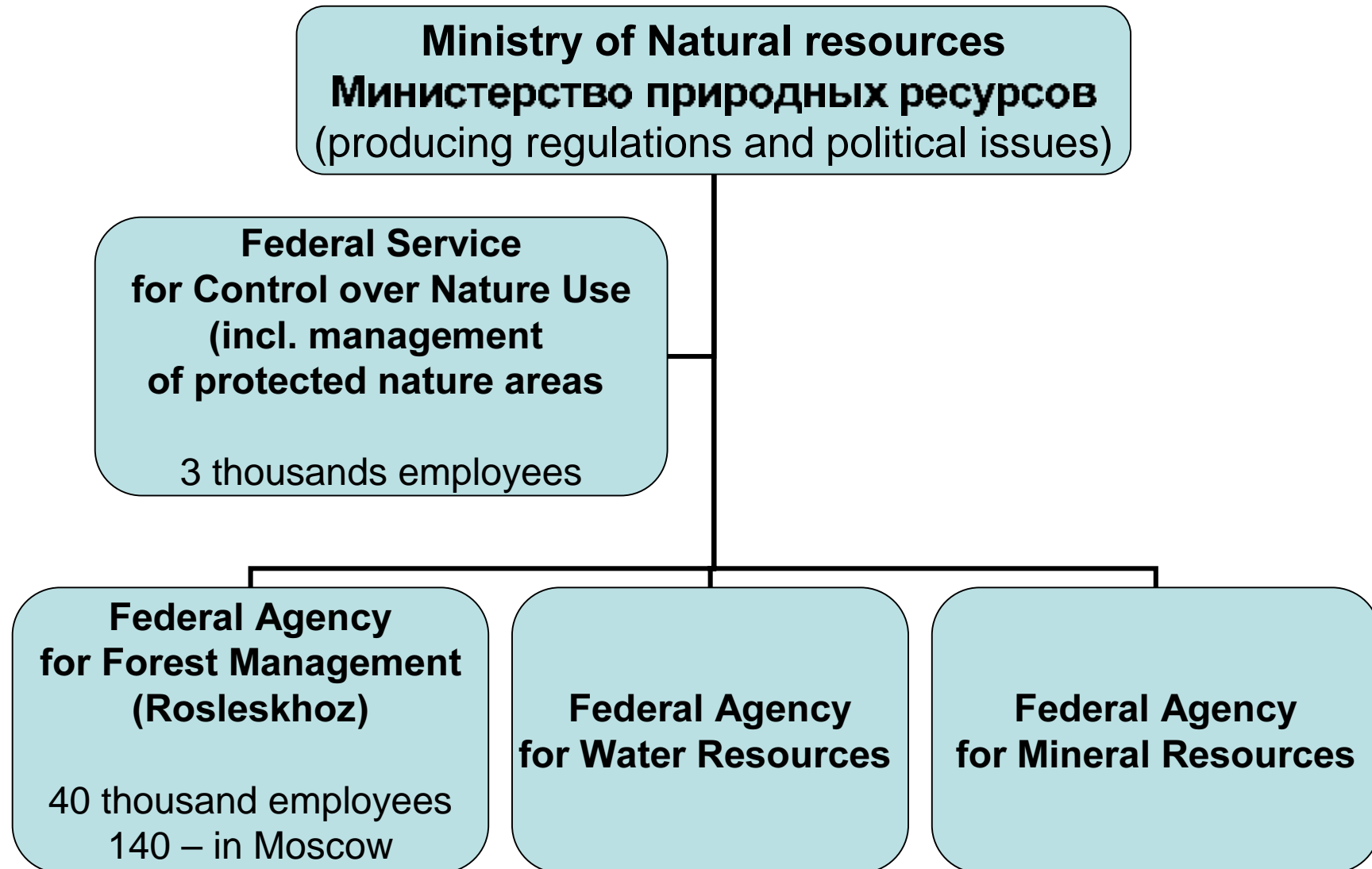


A New Paradigm: Use of natural resources for doubling GDP

Legal framework for doubling GDP

- Administrative reforms
 - Government's structure: Ministries/Agencies/Services
 - Government's functions: Policy/Implementation/Control
- All forests are owned and managed solely by federal authorities
- New legislation for use of natural resources
 - Forest Code
 - Water Code
 - Code on the Use of Mineral Resources
- Transfer of functions of natural resources management to private companies
- More freedom for private businesses to use natural resources
- Establishment of new protected areas is an obstacle for economic growth

Russian governmental structures for natural resources management at the federal level

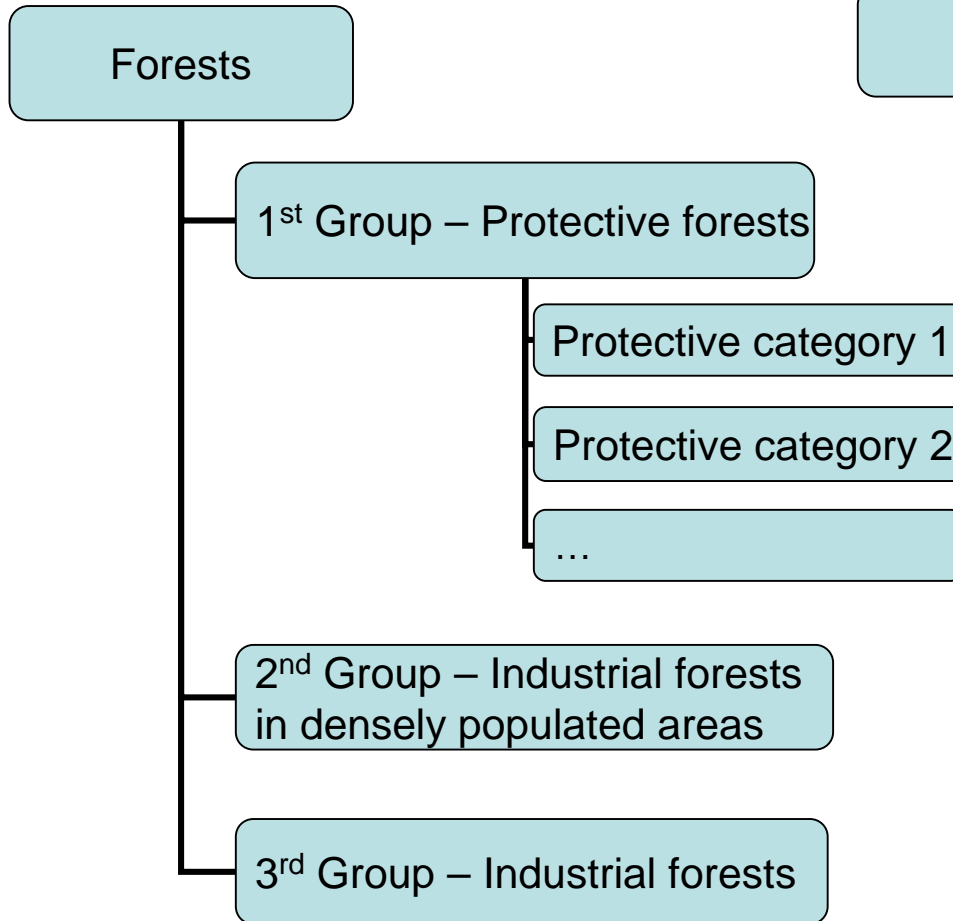


Short Recent Story of the new Forest Code

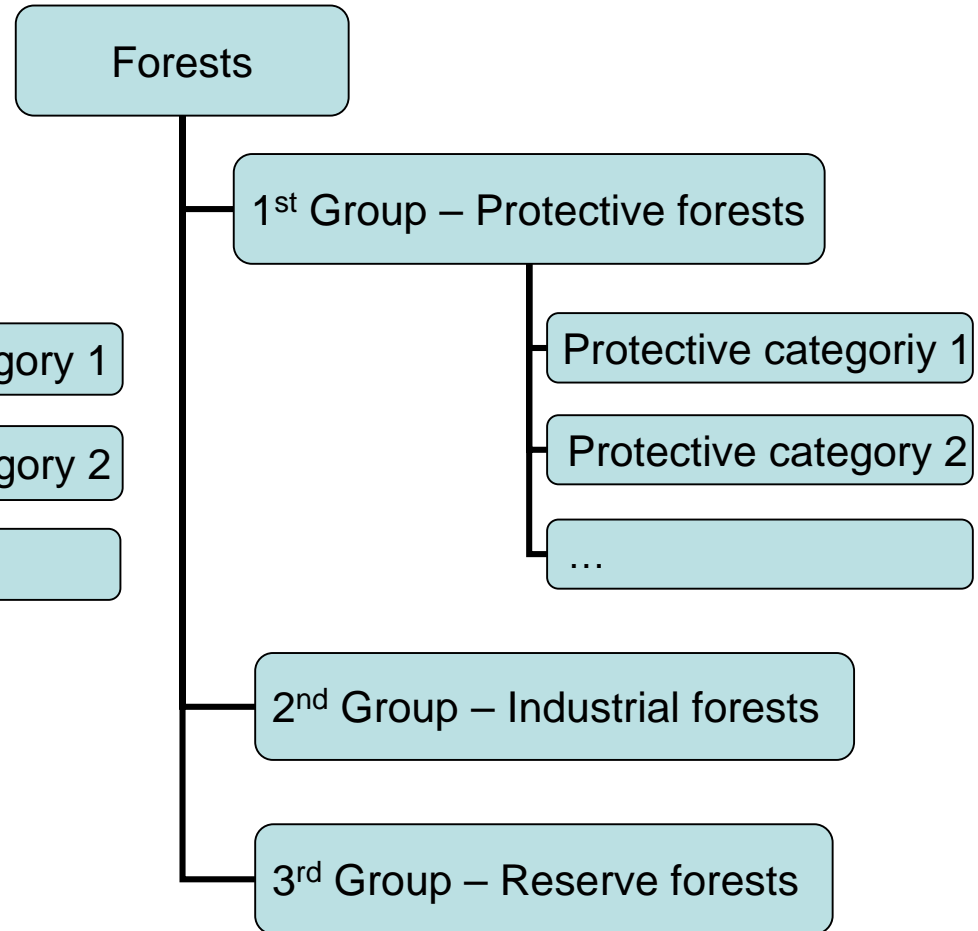
- **Autumn 2003** – The new draft Forest Code was developed by the Ministry of Natural Resources (MNR), very similar from the previous one.
- **Nov-Dec 2003** – The responsibility to develop the new Forest Code was transferred to the Ministry of Economic Development and Trade (MEDT), the concept totally changed, private property for forest lands introduced.
- **Jan-Feb 2004** – Raising protest campaign by Russian environmental NGOs.
- **2nd February** – Public hearings on the Forest Code organized by MEDT. Code's draft version appeared in the Ministry's web site.
- **19th Feb** – Draft project preliminary adopted by the Government, declared that the project should be finalized during a month.
- **26th February** – Putin fired Kasyanov's Government. The administrative reform started.
- **18th March** – The Fradkov's Government adopted the project in general but sent back again for more corrections for another month. In the meeting with the Minister of Natural Resources Putin publicly told that the decision on the Forest Code should be taken after "wide discussion with scientific community and environmental movement".
- **25th March** – Representatives of environmental NGOs met Mr. Tsykanov, at the MEDT to discuss main concerns. Tsykanov invited suggestions, although insisted that the Code will be not changed in general. He was sure the project would be complete in a couple of weeks.
- **2nd April** – NGOs' suggestions passed to the MEDT.
- **End of April** – Corrected version delivered to the Government. Some of our suggestions accepted (version on 18th April), forest privatization postponed for the separate law.
- **May** – The project development halted due to the Government reform. Tsykanov fired. Restored Forest Management Agency started to operate.
- **Summer 2004 – until now** – Situation unclear. No official progress with the Forest Code, although new versions appear periodically. MEDT is still responsible for completion of the project, but the Forest Management Agency is somehow involved.

Forest Groups

Acting Forest Code



New Forest Code



Both positive and negative changes in the list of protection categories of the 1st Group Forests

- (+) Single category for forests of protected areas. More or less correct reference to the Law on Protected Areas.
- (-) Strictly protected forests sites (zapovednye lesnye uchastki) are absent in the current version (about 75 thousand hectares all over Russia).
- (-) Belts along spawning grounds of valuable fish species are absent as a separate category. They can be included into other category, e.g. into water protection belts but the latter are usually narrower.
- (+) Water protection belts, riparian forests. Correct reference to the Water Code. Regulations are stronger than today (final felling are not allowed).
- (-) Logging restrictions for some categories are weaker than today.

The most problematic issues regarding biodiversity conservation

- A real threat of uncontrolled privatization.
- Public access to the forests can be restricted by local municipalities “if not compatible with goals of forest use”. This gives large room for manipulations.
- Regulations for some categories of the 1st Group forests are even weaker than today.
- The right of owners and leaseholders to build on forest lands “if required for forest use”. There are concerns it will be widely used to build up forests, especially around big cities.
- There is no incentives for sustainable forest management. The Code forces users to log more. The system of logging basically remains the same, some possibilities for destructive logging are not excluded.
- The situation with regional-level protected areas is not clear, since they exist in federally owned forests.
- The establishment of new protected areas will be more complicated
- The system of state control over timber companies became very weak and unreliable.

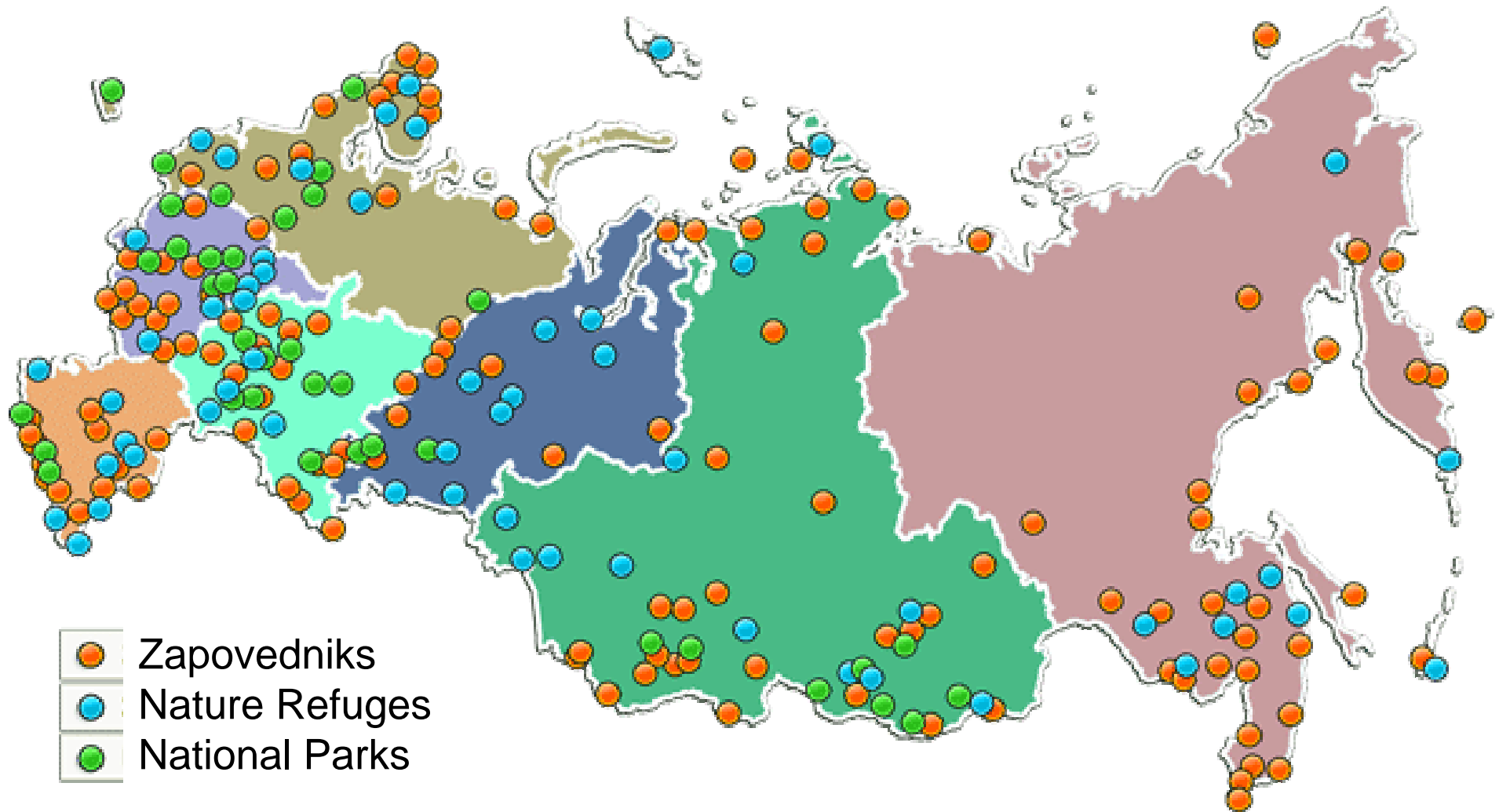
Environmentally positive issues

- Sustainable forest management and biodiversity protection declared.
- More clear status and regulations for forests outside the Forest Fund – agricultural, lands of defense, urban forests etc.
- Any kind of forest use is directly prohibited for all governmental structures and municipalities.
- Public hearings required to transfer Forest Fund lands into other categories (but deforestation inside the Forest Fund is not as strictly regulated).
- Protected areas (also inside the Forest Fund), as well as areas temporary reserved for protection, are directly listed as reasons for restricting forest use. Rare and endangered species habitats are listed as well. Restrictions are preserved while transferring land or forest use rights.
- Representative of “public organizations” could be included in the auction commission.
- Voluntary forest certification is directly mentioned in the Code.

What is currently protected in Russia?

- 257 federal-level protected areas with total on-land area of 48 million ha (2,7% of Russia's land).
- About 15 thousand regional and local protected areas with total area of ca. 140 million ha.
- In total protected areas of all levels make up nearly 10% of country's area.
- 6 areas are listed as the UNESCO World Heritage Sites with total area of around 14 million ha.

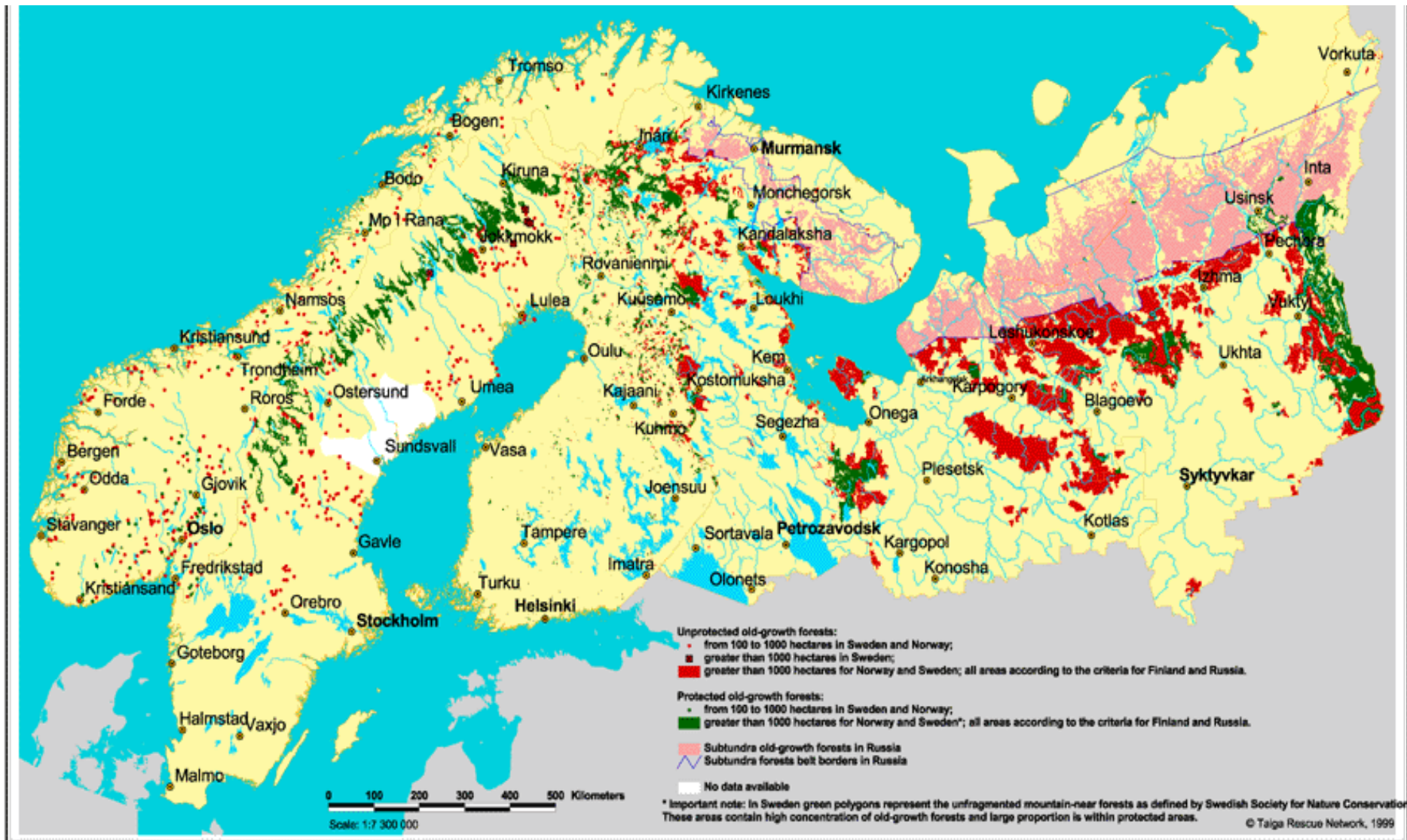
Federal-level protected areas in Russia



What are the key problems with forest protection in Russia?

- No state program for inventory and protection of biodiversity-rich old growth forests.
- No state program for protection of intact forest landscapes.
- Some areas listed as the UNESCO World Heritage Sites can lose their status because of technical problems.

The Last of the Last. Old-growth Forests of Northern Europe (Taiga Rescue Network, 1999)



The Last Intact Forest Landscapes of Europe (GFW Russia, Greenpeace, 2002)



What kind of legal framework is needed for efficient forest biodiversity conservation in Russia?

- Clarification of the situation with existing protected areas, especially regional ones
- Procedures for new protected areas within the Land Code and new Forest Code
- Procedures for identification and voluntary protection/official reservation of high conservation value forests (e.g. for FSC certification for Russia)
 - Intact forest landscapes
 - Biodiversity rich old-growth forests
 - Forests of cultural and social importance
- Procedures for identification and preservation of key biotopes, habitats of red-listed species
- Procedures for implementing measures on preservation/restoration of forest biodiversity
 - during logging
 - during silviculture