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ments to the Nature Protection Act and Act no. 453 on Amendments to the Forests Act. According to the new legislation, landowners are compensated for any economic loss caused by Natura 2000 protection when they are prevented from using their land in the manner they had been accustomed to. However, even the latest legislation does not fully implement Article 6 of the Habitat Directive. First, the scope of the act is too narrow and does not cover, for example, fishing activities. Secondly, the geographical scope is in some matters restricted to activities within the designated sites. Thirdly, the new legislation does not oblige landowners to respect the protection under Article 6, meaning that the obligations of the landowners depend on a prior decision by the public authority. In contrast, Article 6(2) of the directive requires the prohibition of any activity which substantially harms the designated site. If the public authority is not aware of the problem (or refuses to acknowledge it in order to avoid compensation), there is no obligation for the landowner to protect designated sites under Danish Law.

### (3) International Environmental Law

With respect to international obligations, the main concern of Parliament in 2004 has been to make reservations when ratifying multilateral environmental agreements (MEAs) to exclude the territorial application of such treaties to the Faroe Islands and Greenland. In particular, nature conservation has generated concern because the territories of Greenland and the Faroe Islands host important habitats for several endangered species, and local legislation does not comply with international obligations. Several questions were raised on this matter in the Danish Parliament but because of the relative independence of Greenland and the Faroe Islands, these matters are subject to negotiations between the Danish government and the local governments and a final resolution has not yet been made.

The publication of the Danish ratification of the MEAs suffers from strong delay, reflecting the fact that MEAs are not taken seriously. In April, the Ministry of Foreign Affairs finally published the Danish ratification in 2001 of the Convention on Transboundary Effects of Industrial Accidents from 1992, but no measures have been adopted to follow up on the obligations included in the convention. By adopting amendments to the Sea Vessel Act by Act no. 1172 of 19 December 2003, Denmark has decided to ratify the 2003 Protocol to the 1992 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage. In addition, the government decided to sign the International Maritime Organization's Convention for the Control and Management of Ship's Ballast Waters and Sediments from February 2004, but no ratification has yet been reported.

Peter Pagh

## B. Finland

### (1) Major Environmental Policies

As reviewed in last year's country report, Finland's policy within the Baltic Marine Environment Protection Commission (HELCOM) was to have the Baltic Sea designated a particularly sensitive sea area (PSSA) by the International Maritime Organization (IMO). This aim was achieved at the fifty-first meeting of the IMO's Marine Environmental Protection Committee on 2 April, when the committee agreed in principle to the designation, with the exception of Russian waters.

The Environmental Committee of the Barents Euro-Arctic Region accepted the program for the Finnish chair period at its meeting of 16-18 March. (The Environmental Committee represents the inter-state level of the council, whereas the Working Group on the Environment of the Barents Euro-Arctic Regional Council represents the interests of the countries in the region.) The priorities for the program of the Environmental Committee for the years 2003 to 2005 are to promote investments for safer production and environmental protection (hot spots) in the Russian Barents region and to encourage cooperation within the field of sustainable forestry.

### (2) Signature of International Agreements

The International Convention for the Control and Management of Ships' Ballast Water and Sediments was adopted by consensus at an IMO diplomatic conference in London on 13 February. The conference was attended by representatives of seventy-four states, including Finland. The convention will enter into force twelve months after thirty states representing a minimum of 35 per cent of the world merchant shipping tonnage have ratified it (Article 18). Since the convention allows for regional implementation, HELCOM will start to evaluate the measures needed to implement it in the Baltic Sea area.

### (3) Entry into Force of Conventions for Finland

Finland's ratification of the United Nations Economic Commission for Europe (UN ECE) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) took longer than was expected at the beginning of the process. Even though the country's existing legislation fulfilled the requirements of the convention for the most part, certain legislative amendments were deemed necessary. The government bill for ratification of the convention (165/2003) and the relevant amendments were submitted to and passed by Parliament. The convention entered into force on 30 November, with

Finland becoming the thirtieth party to it. Finland made two declarations when ratifying the convention, both relating to Article 9(2):

1. Finland considers that provisions of Article 9, paragraph 2, on access to a review procedure do not require those provisions to be applied at a stage of the decision-making of an activity in which a decision in principle is made by the government and which then is endorsed or rejected by the national parliament, provided that provisions of Article 9, paragraph 2, are applicable at a subsequent decision-making stage of the activity.
2. Some activities in Annex I to the convention may require consecutive decisions by a public authority or public authorities on whether to permit the activity in question. Finland considers that each party shall, within the framework of its national legislation, determine at what stage the substantive and procedural legality of any decision, act, or omission subject to the provisions of Article 6 may be challenged pursuant to Article 9, paragraph 2.

The government bill (165/2003) provides the rationale for these declarations. The first derives from the special procedure in the Act on Nuclear Energy governing the construction of nuclear power plants. The government bill points out that even though concerned members of the public do not have access to the review procedure in the first phase of permission for a nuclear power plant, which consists of a decision in principle by the government that is endorsed or rejected by Parliament, the review procedure is available under the regular licensing procedure set out in section 5 of the act. According to the Finnish government, this clarification accords with the Aarhus Convention, since Articles 6(1) and 9(2) of the convention require the review procedure to be available for the licensing procedure but not necessarily for any preceding ones. The reason why the government opined that a special declaration should be made is the exceptional two-phase nature of the decision-making procedure in the case of nuclear power plants. In its second declaration, the government sought to underscore that the procedure in Finland for certain activities in Annex I of the convention involves several consecutive decisions, whereby—as provided explicitly in Article 9(2) (“within the framework of its national legislation”)—it is Finnish national law that determines at which point in the overall procedure the review procedure is to take place.

Some major international environmental treaties that Finland had already ratified entered into force during the year 2004 and thus became binding on the country. A number of other treaties entered into force for Finland after their formal entry into force. Since Finland had already ratified the Stockholm Convention on Persistent Organic Pollutants, adopted on 22 May 2001, on 3 September 2002, the convention came into force for the country when it entered into force on 17 May 2004. The International Treaty on Plant

Genetic Resources for Food and Agriculture, adopted on 3 November 2001, entered into force on 29 June and became binding as of that date on Finland, which had ratified it on 31 March.

The Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, which was adopted on 10 September 1998, came into force on 24 February. Finland ratified the convention on 4 June, whereby, pursuant to the provisions of the convention (Article 26), the instrument came into force for the country on 2 September. The Cartagena Protocol on Biosafety to the Convention on Biological Diversity (CBD), which was adopted by the Conference of the Parties to the CBD on 29 January 2000, entered into force on 11 September 2003. Finland ratified the convention on 9 July 2004, whereby it entered into force for the country on 7 October 2004.

#### (4) Implementation of International Treaties

Finland has prepared itself in many ways for the entry into force of the Kyoto Protocol to the United Nations Framework Convention on Climate Change (Kyoto Protocol) on 16 February 2005. The country's efforts have partly focused on the use of the Kyoto mechanisms, the government having set up a pilot program as early as in 1999 to prepare for the implementation of the mechanisms. As part of this program, Finland and Estonia signed a framework agreement on 17 December 2002, making it possible for individual joint implementation (JI) projects to be executed in a coordinated manner. The agreement sets out the basic goals and obligations of such projects as well as provisions governing the status of third parties, the verification of emissions reductions, dispute resolution, and so on. Although the framework agreement did not enter into force until 19 January 2004, Finland signed a project agreement with Estonia on 10 October 2003 for JI of a new power plant in the town of Paide. This power plant, which was delivered by Wärtsilä Finland Limited Biopower, has replaced an old, oil-fired installation. The Paide project was described in last year's country report.

On 9 January, Finland and Estonia signed another JI project agreement to reduce greenhouse gas emissions by constructing a wind farm in Paldiski, Estonia. The project, requiring an investment of Euro €2.5 million by Finland, is expected to cut emissions by 500,000 tonnes in the period 2004–12. The project has been developed collaboratively with the Estonian company OÜ Pakri Tuulepark on the one hand, and, on the other, the Danish wind power developer Global Green Energy and the Finnish company EMP Projects Oy. The wind park is part of the effort to replace fossil fuel-based electricity production in Estonia. Should an agreement by which parties execute an individual JI project conflict with the framework agreement, it is the framework agreement that prevails (Article 2).

On 29 September 2003, the eleven states of the Baltic Sea region met for the signature of the Regional Testing Ground Agreement for Flexible Mechanisms of the Kyoto Protocol (Testing Ground Agreement). Seven states signed the agreement on 29 September, a number sufficient for the instrument to enter into force. The agreement is open to other parties that have adhered to the Kyoto Protocol. All regional states have signed the Kyoto Protocol, and Russia has now also ratified it. The agreement came into force on 1 February for Finland, which acts as the depositary of the agreement (Article 17).

The Testing Ground Agreement aims at stimulating climate investment projects in the Baltic Sea Region in the energy sector. It seeks to achieve cost-effective reduction in greenhouse gas emissions through international cooperation and thereby to reduce the overall cost of observing the commitments under the Kyoto Protocol. More specifically, according to Article 3, the parties aim "to build capacity and competence to use the Kyoto mechanisms," "to gain experience with the JI mechanism," to facilitate generation, ensure issuance and transfer of emission reduction units (ERUs) and assigned amount units (AAUs) related to, or accruing from, JI projects and emissions trading, and "to implement projects early and offer credit for emission reductions prior to 2008." A multilateral financing instrument, which will be called a testing ground facility (Article 5), has been established for JI projects, as has a testing ground committee, whose task is to survey how testing ground activities are developed (Article 11).

Finland has now designated a total of forty-nine wetlands that are recognized in accordance with the international criteria of the Convention on Wetlands of International Importance Especially as Waterfowl Habitat (Ramsar Convention). The country added thirty-eight new areas to its list of important wetland areas in February, and these were submitted for inclusion in the European Community's NATURA 2000 program. By observing the NATURA requirements in these designated areas, Finland also complies with its obligations as set out in the Ramsar Convention.

Timo Koivurova

### C. Norway

#### (1) Ratification of, and Accession to, Treaties

Norway ratified the following environment-related treaties:

- International Convention for the Conservation of Atlantic Tunas. Norway has allowed fishing for Atlantic tunas since 1998, but catches have been minor. There is an interest in expanding participation in these fisheries among Norwegian fishermen, which is the main reason why

Norway chose to ratify this convention in 2004 (see St. prp. no. 14 (2003-4)).

- International Treaty on Plant Genetic Resources for Food and Agriculture. Proposals for new legislation in order to follow up on the obligations under the treaty have been proposed by a law commission and are included in a proposal for a general law on biodiversity (see NOU 2004:28, in particular, the proposals for paras. 5, 26, and 55-60. The report includes a summary in English).

#### (2) Signature of Treaties

Norway signed the following treaties:

- Protocol to Amend the Convention on Third Party Liability in the Field of Nuclear Energy, as amended by the Additional Protocol of 28 January 1964 and by Protocol of 16 November 1982.
- Protocol to Amend the Convention of 31 January 1963 supplementary to the Paris Convention of 29 July 1960 on Third Party Liability in the Field of Nuclear Energy, as amended by the Additional Protocol of 28 January 1964 and by the Protocol of 16 November 1982.

#### (3) Legislation to Implement Treaties

On 17 December, the parliament adopted the Act Relating to Greenhouse Gas Emission Allowance Trading and the Duty to Surrender Emission Allowances (Greenhouse Gas Emission Trading Act). The act has been in the pipeline for several years, and was expected to constitute an important instrument for the fulfillment of Norway's obligations under the Kyoto Protocol to the United Nations Framework Convention on Climate Change. However, the scope of the law has turned out to be very restricted, and it will at this stage apply only to a handful of enterprises. Its role as an instrument to reduce Norwegian greenhouse gas emissions will therefore be insignificant (the act can be accessed online at <<http://odin.dep.no/md/english/>>).

New legislation on strategic environmental assessment was adopted on 24 September, primarily in order to implement EC Directive 2001/42 on the Assessment of the Effects of Certain Plans and Programmes on the Environment. It also implements the United Nations Economic Commission for Europe Protocol on Strategic Environmental Assessment. The protocol has not yet been ratified by Norway. The legislation adopted is general (consider Chapter VIIa of the Planning and Building Act, which can be accessed online at <<http://odin.dep.no/md/english/>>), and leaves the more detailed provisions to be set out in government regulations. The detailed regulations were adopted on 1 April 2005.

When ratifying the Convention on Biological Diversity (CBD), Norway found it unnecessary to adopt new legislation in order to comply with the