

UDC 341.01

DOI: 10.34670/AR.2022.98.10.045

The impact of international concepts on national legislation on the protection of nature: the example of the Amazon forests

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Abstract

This paper analyzes the modern legal model of regulating the conservation of Amazon forests in the context of the impact on national legislation of the activities of international organizations. It is shown that the reduction of Amazon forests is an environmental problem that is significant for the continent as a whole and for solving the problem of climate change. The inclusion in the modern legal model of economic incentives as payments for environmental services is not enough to stop illegal deforestation, since this activity brings more benefits. On the other hand, since 2003, Brazil has had a plan for afforestation of deforestation, which allows for the resumption of forest plantations in these territories. However, this tool assumes high costs for the implementation of international programs, which does not allow it to be used everywhere. Thus, both restraining and stimulating factors can be used, but their effectiveness depends on the situation in a certain area of forestry. At the same time, there is currently a wide discussion of the possibility of applying different approaches to protecting the forests of the Brazilian Amazon in different regions using a combination of deterrent and incentive factors.

For citation

Elagina A.S., Nozdrina N.A. (2022) The impact of international concepts on national legislation on the protection of nature: the example of the Amazon forests. *Voprosy rossiiskogo i mezhdunarodnogo prava* [Matters of Russian and International Law], 12 (5A), pp. 395-399. DOI: 10.34670/AR.2022.98.10.045

Keyword:

International law, forest protection, environmental law, international organizations, forest degradation

Introduction

The problem of protecting Brazil's forests has become one of the most significant environmental problems of mankind since the mid-1960s. Over the past 50 years, various legal models of forest management regulation have been tested in international and national law. As a result, it was revealed that the consolidation of environmental standards through international conventions is not an effective tool for solving this problem, the rate of desertification of the Amazon region has only begun to increase.

Since the early 1980s, programs to protect against deforestation (Reducing Emissions from Deforestation and Forest Degradation, abbreviated as REDD+) have been implemented everywhere at the level of international organizations. This activity was especially active in relation to the forests of Brazil and Indonesia. A significant number of forest protection projects have been implemented under the influence of international organizations, but their provisions have been implemented in the national legislation of the countries. Currently, there is a need to search for new solutions, since the current regulatory system has largely lost its effectiveness. This article is devoted to the analysis of the existing limitations of the regulatory regulation of forest protection at the national and supranational levels and the search for solutions to improve the effectiveness of the legal model.

Main content

In the broadest sense, three types of forest protection regulatory instruments can be fixed at the level of national legislation, which can be applied jointly or separately:

- economic incentives;
- restriction through the law enforcement system;
- financing of forest restoration.

Economic constraints are tools that allow the promotion of forest conservation through direct subsidization of alternative activities. In modern conditions, it is shown that such methods are not sufficiently effective in conditions when these tools are supplemented by regionally defined tools of rational agriculture, the expansion of environmental education. The use of these tools allows for more effective methods of environmental management.

Economic incentives can be expressed in payments for environmental services, which are based on transfers to local companies, which in turn protect forests instead of destroying them. Since the early 2000s, it has been shown that this method is the most effective of all the tools used, especially if the compensation level is sufficient to ensure that the opportunity costs in the case of deforestation would be comparable. The disadvantage of such tools is a significant variation in the cost of wood on the world market. In the case when the value of the roundwood significantly increases, the existing level of payments is not enough to maintain incentives. In general, as of 2010, only in one territory of the Brazilian Amazon, this tool was an effective way of rational nature management.

To improve the application of this tool, amendments were adopted to the Brazilian Forest Code (Codigo Florestal), according to which a regulatory framework was created for the conservation of Brazilian forests based on the distribution of property rights opportunities in the concept of the Roman Triad. According to the amendments to this regulatory act, the owners of the site do not have the right to deforestation, except for the territory in the amount of 20%, but they can receive payments for its preservation. At the same time, the results of the Agricultural Census study showed that the logging area exceeded in 749 out of 760 municipalities.

The protection of forests only through the law enforcement system has proved ineffective in virtually all developing countries. In relation to the conditions of Brazil, this is also true. Illegal deforestation has reached such a high level that it is impossible to solve this problem only through the law enforcement system. Even substantial fines and lengthy prison sentences are not sufficient incentives to reduce illegal logging.

The entry into the Kyoto Protocol forced Brazil to search for new forest protection tools, since according to its provision, it is supposed to restore forests on an area equal to 80% of the area. However, the cost of this reform has increased significantly, if in the early 2000s this project was estimated at \$ 6.5 billion, now it is estimated at \$ 18 billion. Thus, financing forest restoration is the most effective but at the same time the most costly instrument.

Thus, by obliging Brazil to comply with the provisions of the Kyoto Protocol, conditions are actually being created so that when it is implemented, the state would be faced with a choice – the economic development of the country and the solution of significant social problems of the national economy or the solution of environmental goals on a planetary scale. Obviously, the first is the most relevant for the administrative system. At the same time, it is necessary to create mechanisms that would allow obtaining direct financing of deforestation programs at the expense of international organizations. The implementation of such norms, of course, presupposes the presence of control over the expenditure of funds.

Conclusion

The reduction of Amazon forests is an environmental problem that is significant for the continent as a whole, and for solving the problem of climate change. The inclusion in the modern legal model of economic incentives as payments for environmental services is not enough to stop illegal deforestation, since this activity brings more benefits. On the other hand, since 2003, Brazil has had a plan for afforestation of deforestation, which allows for the resumption of forest plantations in these territories. However, this tool assumes high costs for the implementation of international programs, which does not allow it to be used everywhere. Thus, both restraining and stimulating factors can be used, but their effectiveness depends on the situation in a certain area of forestry. At the same time, there is currently a broad discussion of the possibility of applying different approaches to protecting the forests of the Brazilian Amazon in different regions using a combination of deterrent and incentive factors.

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Воздействие международных концепций на национальное законодательство о защите природы: на примере лесов Амазонки

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Аннотация

В данной работе анализируется современная правовая модель регулирования сохранения лесов Амазонки в условиях воздействия на национальное законодательство деятельности международных организаций. Показано, что сокращение лесов Амазонки является экологической проблемой, значимой для континента в целом, и для решения проблемы изменения климата. Включение в современную правовую модель экономических стимулов как платежи за экологические услуги недостаточно для того, чтобы прекратить незаконную вырубку леса, так как данная деятельность приносит больше выгоды. С другой стороны, с 2003 году в Бразилии действует план по облесению вырубок лесов, которая позволяет осуществлять возобновление лесопосадок на данных территориях. Однако данный инструмент предполагает высокие затраты на реализацию международных программ, что не позволяет использовать его повсеместно. Таким образом, как сдерживающие, так и стимулирующие факторы может быть использована, но их эффективность зависит от

ситуации в определенном районе лесного хозяйства. В то же время, в настоящее время проходит широкое обсуждение возможности применения различных подходов к защите лесов бразильской Амазонки в различных регионах применяя комбинацию сдерживающих и стимулирующих факторов.

Для цитирования в научных исследованиях

Елагина А.С., Ноздрин Н.А. Воздействие международных концепций на национальное законодательство о защите природы: на примере лесов Амазонки // Вопросы российского и международного права. 2022. Том 12. № 5А. С. 395-399. DOI: 10.34670/AR.2022.98.10.045

Ключевые слова:

Международное право, защита лесов, экологическое право, международные организации, деградация лесов

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