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**MANAGEMENT REPORT AND RECOMMENDATION
IN RESPONSE TO THE
INSPECTION PANEL INVESTIGATION REPORT**

**DEMOCRATIC REPUBLIC OF CONGO
TRANSITIONAL SUPPORT FOR ECONOMIC RECOVERY GRANT (IDA
GRANT NO. H 1920-DRC) AND
EMERGENCY ECONOMIC AND SOCIAL REUNIFICATION
SUPPORT PROJECT
(CREDIT NO. 3824-DRC AND GRANT NO. H 064-DRC)**

November 5, 2007

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OF THE
DEMOCRATIC REPUBLIC OF CONGO
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Pursuant to paragraph 23 of the Resolution Establishing the Inspection Panel (IBRD Resolution 93-10 and IDA Resolution 93-6), attached for consideration by Executive Directors is Management's Report and Recommendation in response to the findings set out in the Investigation Report No. 40746-ZR dated August 31, 2007, of the Inspection Panel on the captioned Projects (Transitional Support for Economic Recovery Grant (IDA Grant No. H 1920-DRC, and Emergency Economic and Social Reunification Support Project (Credit No. 3824-DRC and Grant No. H 064-DRC).

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INSPECTION PANEL INVESTIGATION REPORT NO. XXX**

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ABBREVIATIONS AND ACRONYMS

AFCC2	Africa Region Country Unit for DRC
AFR	Africa Region
AFREX	Africa Region External Affairs
AFTCS	Africa Region Fragile States, Conflict and Social Development
AFTEN	Africa Region Environment and Natural Resources Unit
AFTQK	Africa Region Operational Quality and Knowledge Services
BCECO	Central Bureau of Coordination
BP	Bank Procedures
CARPE	Central African Regional Program for the Environment
CAS	Country Assistance Strategy
CRON	Coalition of NGO Networks
DfID	Department for International Development (United Kingdom)
DPL	Development Policy Loan
DRC	Democratic Republic of Congo
EA	Environmental Assessment
EESRSP	Emergency Economic and Social Reunification Support Project
ESMF	Environmental and Social Management Framework
ESMP	Environmental and Social Management Plan
FY	Fiscal year
GEF	Global Environment Facility
HIPC	Highly Indebted Poor Countries
IDA	International Development Association
IPDP	Indigenous Peoples Development Plan
IPN	Inspection Panel
MDTF	Multi-Donor Trust Fund
NGO	Nongovernmental organization
NPV	Net Present Value
OD	Operational Directive
OP	Operational Policy
OPN	Operational Policy Note
PFZP	Pilot Forest Zoning Plan
PRSP	Poverty Reduction Strategy Paper
RAP	Resettlement Action Plan
RN	Route nationale
RPF	Resettlement Policy Framework
SDR	Special Drawing Rights
SNV	Netherlands Development Organization
TORs	Terms of Reference
TSERO	Transitional Support for Economic Recovery Credit
TSS	Transitional Support Strategy
UCOP	Project Coordination Unit
UN	United Nations
USD	US Dollars

**LIST OF OPERATIONAL POLICIES, OPERATIONAL DIRECTIVES, OPERATIONAL MANUAL
STATEMENTS, AND OPERATIONAL POLICY NOTES**

OP/BP 4.01, Environmental Assessment, January 1999

OP/BP 4.04, Natural Habitats, June 2001

OP/BP 4.12, Involuntary Resettlement, December 2001 (Revised April 2004)

OD 4.15, Poverty Reduction, December 1991

OD 4.20, Indigenous Peoples, September 1991

OP/BP 4.36, Forestry, November 2002

OP/BP 8.50, Emergency Recovery Assistance, August 1995

OP/BP 8.60, Development Policy Lending, August 2004

OPN 11.03, Management of Cultural Property in Bank-financed Projects,
September 1986

OP/BP 13.05, Supervision, July 2001

I. INTRODUCTION

1. On December 1, 2005, the Inspection Panel registered a Request for Inspection, IPN Request RQ05/2 (hereafter referred to as “the Request”), concerning the Democratic Republic of Congo (DRC) for two operations financed by the International Development Association (IDA):

- Emergency Economic and Social Reunification Support Project (EESRSP, hereafter referred to as “the Emergency Recovery Project”, Credit No. 3824-DRC and Grant No. H 064-DRC, approved in September 2003); and
- Transitional Support for Economic Recovery Credit (TSERO, hereafter referred to as “the Development Policy Operation”, approved in December 2005).

2. The Request was submitted by the Organisations Autochtones Pygmées et Accompagnant les Autochtones Pygmées en République Démocratique du Congo on their own behalf and on behalf of local communities living in the DRC (hereafter referred to as the “Requesters”). The Executive Directors and the President of IDA were notified by the Panel of receipt of the Request. The Management responded to the claims in the Request on January 13, 2006. In its Report to the Board, the Panel found the Request eligible and recommended that the Executive Directors authorize an investigation. The investigation was authorized on February 28, 2006. On August 31, 2007, the Panel issued its report outlining the findings of the investigation.

II. BACKGROUND

A. THE POST-CONFLICT ENVIRONMENT IN DRC

3. DRC is gradually emerging from a decade of political instability and conflict that left its institutions and infrastructure in shambles. War and civil disturbance, compounded by the sequels of a long period of economic mismanagement and corruption, have taken a heavy toll on DRC and its 65 million people. Per capita income declined from about USD 380 in 1985 to USD 120 in 2005 making DRC one of the poorest countries in the world, with social indicators among the worst in Africa.

4. Peace is being gradually reestablished since the 1999 Lusaka Agreement. A United Nations (UN) peace-keeping force was deployed throughout the country in 2002, and withdrawal of foreign troops was completed by the end of 2002. In June 2003, negotiations between the Government, armed groups, political opposition, and civil society culminated in an agreement on a power-sharing arrangement with four vice-presidents from the previously fighting factions, for a transition period that lasted from July 2003 to June 2006.

5. Despite formidable logistical challenges and localized, if intense, episodes of violence, general elections, the first in the country’s history, took place in July and October 2006. Joseph Kabila was elected as president with 58 percent of the vote. Parliament and Government have been in place since early 2007.

6. On the economic front, since 2001, the Government has implemented a program of economic reforms supported by the World Bank and the IMF, as well as other development partners. The Bank's support included three Economic Recovery operations, and the IMF's support included a Poverty Reduction and Growth Facility from July 2002 to June 2006 and three Staff Monitored Programs, the most recent covering April to December 2007. Structural reforms have been launched in various areas such as economic governance, public expenditure management, as well as the mining and forestry sectors. After two decades of decline, economic growth returned in 2003 and is currently averaging about 6 percent per year. Inflation remains largely contained, although it spiked in the period leading to the 2006 elections. The DRC reached its HIPC Decision Point in 2003 (with a total relief estimated at USD 6.3 billion for a total stock of outstanding external debt estimated at USD 7.9 billion in NPV terms).

7. Economic recovery has opened up a window of opportunity for peace and stability, which if secured, could have a positive effect on the entire Central African sub-region. The Government has expressed its commitment to a successful process of peace and economic and social recovery. In this context, the Government has a three-fold agenda: (i) to keep the economic reform program on track, particularly with regard to transparency in the use of public finances and the management of natural resources, (ii) to restore institutional unity while allowing for needed decentralization, and (iii) to provide rapid financial support in the eastern and northern parts of the country with a view to attaining social stability and generating a peace dividend.

8. Donor response to the post-conflict economic recovery was discussed in December 2002 in the context of a Consultative Group meeting, where a consensus emerged on the need to facilitate the process of economic recovery and social reunification of DRC. Donors adopted a priority, four-part agenda to support DRC's strategy of: (i) helping restore sound economic governance and ensuring that reforms already undertaken by the Government were implemented throughout the country including in the area of natural resources management; (ii) mitigating the fiscal cost of reunification; (iii) supporting rehabilitation of essential infrastructure and the restoration of social services in eastern and northern areas; and (iv) assisting in demobilization and reintegration of former combatants within the context of the Multi-Country Demobilization and Reintegration Program. Government and other donors called on the Bank to commit resources that could contribute to stabilizing the economic and social situation in the eastern and other provinces. The Government expressed its concern that, in the absence of substantial and rapid external assistance, the situation in reunified provinces might severely deteriorate. There was widespread consensus that failure to consolidate peace would result in a continued humanitarian crisis and further exacerbate insecurity, resulting in a new outbreak of war.

B. THE BANK'S TRANSITIONAL SUPPORT STRATEGY FOR DRC

9. The Bank's Transitional Support Strategy (TSS) (2004-2006), was designed to help consolidate the transition and restore the foundations for effective poverty reduction efforts. In particular, the TSS supported four strategic elements: (i) social stability and security with a focus on demobilization and reintegration of former combatants, (ii) high and shared economic growth with a focus on improving macroeconomic and public management, infrastructure reconstruction, private sector development, natural resources management, and rural

development; (iii) governance and institutional strengthening with a focus on reunification of the country and decentralization of institutions, targeted institutional strengthening, judicial reform, and improved transparency; and (iv) social development, with a focus on HIV/AIDS, key social sectors, urban living conditions, and social protection.

10. The Emergency Recovery Project, approved in September 2003, had objectives that supported the TSS objectives. The Development Policy Operation, approved in December 2005, was also designed to support TSS objectives, notably to help maintain peace and macroeconomic stability, consolidate previous policy achievements since 2002 – including in mining and forestry sectors – and tackle the primary challenge of jump-starting economic growth in a post-conflict setting. The two operations were also complementary to other programs in the Bank-financed portfolio since its re-engagement in 2001 (currently the portfolio stands at about USD 2.0 billion).

11. Implementation of these two projects, as for the rest of the portfolio, has been challenging in a country with considerable logistical and institutional challenges. Fiduciary risks are high, in an environment still rife with corruption. Logistical challenges are extraordinary, especially for projects implemented outside of Kinshasa, where infrastructure and institutions are often non-existent. The challenges of dealing with a country where human rights violations continue – not only against vulnerable groups such as the Pygmies but all parts of Congolese society – are enormous.

C. THE BANK’S SUPPORT TO THE FOREST SECTOR IN DRC

12. Since the focus of the Inspection Panel is largely on the compliance of the Bank’s forest work under the Emergency Recovery Project and the Development Policy Operation with Bank policies, the following paragraphs summarize the Bank’s support to the forest sector in DRC.

13. With about 86 million hectares, the DRC has the second largest rainforest in the world. These forests make a critical contribution to the livelihoods of about 40 million people, who are among the world’s poorest, by providing food, medicine, domestic energy, building materials, and cash income. These forests also have unique value as a biodiversity reservoir and fulfill vital public goods functions by storing carbon on a global scale.

14. As described above, the DRC’s forests have been managed poorly in the past, and have yielded few benefits to the Congolese people as a whole. At the time of Bank re-engagement in 2001, the majority of the country’s rainforests were already allocated in the form of 285 industrial logging contracts with little or no regard for issues of transparency, local consultation, or compensation for local people. No provision was made for environmental protection, and no consideration given to alternative uses. These concessions covered about 43 million hectares – almost twice the size of the United Kingdom. They overlapped with villages, agricultural lands, biodiversity hotspots and swamps, carried the seeds of new conflicts, deprived communities of the right to manage their own forests, and made it difficult to extend protected areas and to develop non-extractive forest uses. There was no legal provision for meaningful participation of local communities. Although the war and poor state of infrastructure had reduced timber production to minimum levels, requests for new logging titles kept pouring in as rent seekers prepared for the resumption of operations which peace and

new infrastructure would make possible. In the absence of radically innovative policy actions, such a situation was clearly conducive to unsustainable logging, and further social, environmental and economic losses.

15. In the post-conflict emergency context of 2002, forests were not considered an obvious priority in DRC by many parties, national or international. However, drawing on technical work done by the FAO and others on forests in Congo Basin countries, the Bank decided to include this sector as a priority in its early dialogue and operations. In line with its new 2002 Forest Policy and Strategy and recognizing the fundamental nature of the challenges at hand, the Bank helped the Government design a Priority Reform Agenda aimed at overcoming the legacy of forest mismanagement and laying the foundation for more sustainable and equitable forest models.

Box 1: Key Items of the Priority Forestry Reform Agenda supported by the Bank since 2002: Achievements and Future Actions

Key items of the DRC Priority Forestry Reform Agenda undertaken by the Government since 2002 with Bank support are as follows. The detailed Agenda is presented in Annex 2.

- *Removing the legacy of past concessions.* 25 million hectares of non-compliant concessions canceled in 2002. Legal Review of all remaining concessions underway with participation by an Independent Observer (World Resources Institute). Introduces new standards of transparency and civil society participation in natural resources management in DRC.
- *Establishing a moratorium on new concessions.* Ministerial regulation in 2002. Reportedly breached on several occasions in 2003-2005. Strengthened and extended as Presidential Decree in 2005. Bank advice that the moratorium should be maintained until satisfactory governance and management standards are achieved in existing concessions. Provides space and time to implement innovative models based on carbon and conservation contracts.
- *Increasing the annual forest fee to encourage the return of speculative concessions to the public domain.* Achieved through a comprehensive forest taxation reform enacted in 2004. Under implementation.
- *Enacting a new legal framework.* Colonial rules of 1949 replaced with a new Forest Code in 2002: protects the traditional rights of local people, introduces the principles of community management of forests, management plans, benefit-sharing at local levels, conservation concessions and environmental services, and calls for expansion of protected areas.
- *Establishing independent monitoring to help detect illegal logging,* and restoring basic enforcement capacity in the field. Scoping mission completed by Global Witness. Government commitment for a long-term assignment.

16. Launched in the wake of the war, in a country with no roads and dislocated institutions, this agenda was designed to be both selective and pragmatic. It focused on basic governance and public participation, and aimed at protecting forests from appropriation by powerful interests for private gain. It called for placing on hold the allocation of new logging concessions; for canceling large areas of non-compliant concessions; and for introducing more stringent social and environmental safeguards in remaining ones. In working with the DRC on the Priority Reform Agenda, the Bank did not, in any way, support the expansion of logging in DRC. All of the Bank's actions, policy dialogue and outreach have been aimed at controlling this activity and curtailing the potential for unregulated expansion, protecting forests and forest

peoples' rights, enhancing public participation, and opening the way to alternative uses of forests.

17. In this framework, in 2002, about 25 million hectares of illegal or expired concessions were canceled and a moratorium on new concessions was established. However, with the political transition process, five consecutive Ministers of Environment came into office in five years, with uneven levels of commitment to the reform agenda. As a result, some concessions were exchanged, awarded or reinstated, despite the moratorium.¹ In October 2005, President Kabila issued a decree that strengthened and extended the moratorium, and launched a third-party assisted Legal Review of all remaining contracts, including those awarded in breach of the moratorium. Overall, the total area under logging contracts in DRC today is estimated to be about 21 million hectares, down from 43 million hectares in 2002. This means that 22 million hectares of concessions were freed from previously existing logging contracts and made available for participatory zoning and alternative forest uses. The 1949 colonial forest code was replaced with a new Forest Code (2002) which protects the traditional rights of local communities and introducing the principles of community forests, sustainable management plans, and conservation concessions, among others.

18. In applying its 2002 Forest Strategy to the context of DRC, the Bank noted that a gradual post-conflict expansion of logging was likely being driven by increased security and improved infrastructure and concluded in discussion with the authorities and other interested parties that urgent action was needed to regulate this sector and prevent further social and environmental damage. The Bank and other partners also emphasized that despite the risks, post-conflict DRC also provided a unique opportunity to promote new forest models and that radical policy innovations were needed in this regard. However, there was consensus that unless the legacy of past mismanagement was overcome, the benefits accruing from implementation of new forest management models would remain marginal at best.

19. DRC's forests and environment have enjoyed high level attention since the beginning of its re-engagement. From 2002 to the present, Vice Presidents and Presidents Wolfensohn (2004) and Wolfowitz (2007), engaged personally in the debate on forests with DRC Government and with civil society. President Kabila initiated the Priority Agenda in 2002, and personally intervened in 2005 to counter initiatives taken by the then Minister of Environment which threatened the reform process.

20. The Bank's support to the DRC forest agenda facilitated the emergence of a coalition of donors (comprised of the European Commission, Belgium, France, Germany, Luxembourg, United Kingdom, and the United States, among others) as well as international and national nongovernmental organizations (NGOs) familiar with and supportive of the DRC forest reform agenda. This agenda has gained wide recognition at the international level, and has been the focus of events organized in Kinshasa, Brussels and Washington DC (see Annex 6 and 9) that have featured broad civil society participation, including Pygmy representatives.

¹ Based on available information, the gross volume of concession exchanges and awards between 2002 and 2005 is estimated to be 15 million hectares, and the net difference between the total area under contracts in 2002 and 2005 appears to be 2.4 million hectares. 2.7 million hectares allocated after the 2005 Presidential decree were cancelled in April 2007. The 2002 ministerial regulation on the moratorium was published in the *Journal Officiel* in 2004.

21. Between 2002 and now, the Bank's support to the Priority Agenda has been primarily in the form of policy dialogue, studies, workshops, analytical work and field assessments financed through multi-sector emergency operations and trust funds. In 2002, through the First Emergency Recovery Credit, and again in 2005, through the Development Policy Operation, the Bank used development policy financing to establish and, where necessary, reinforce political commitment, strengthening the hand of reformers and helping overcome inertia and resistance to reform.

22. The DRC Government's Poverty Reduction Strategy Paper (PRSP), published in July 2006 and endorsed by the new Government in February 2007, highlights forests as a key sector for reducing poverty, and integrates forest priorities into the country's overall sustainable development agenda. It endorses the Priority Reform Agenda for forests, and aims to foster transparency and law enforcement as key elements of good governance, ensure equitable access to forest resources and equitable sharing of benefits, and promote local development through community-based management and other mechanisms.

23. Bank assistance to the forest sector is gradually evolving to include building capacity on the ground, through: (i) the Multi-Donor Trust Fund (MDTF), supported by the European Commission, Belgium, France, Luxembourg, the United Kingdom, and Germany; (ii) an IDA grant for forest and environment; and (iii) a Global Environment Facility (GEF) grant for national parks. These three operations are being developed in the framework of a multi-donor sector program. See Annex 3 on the Bank's ongoing and planned forest work in DRC.

III. STATUS OF THE TWO PROJECTS UNDER INVESTIGATION

24. The Request for Investigation concerns the application of Bank policies and safeguards in the Emergency Recovery Project and the Development Policy Operation. Both projects are multi-sector operations. In substance, the Request focused on three forest-related activities and reforms included in the two projects:

- A Pilot Participatory Forest Zoning Activity: this component was dropped from the Emergency Recovery Project before implementation began and before the Request was received (see Section III.A);
- The Legal Review of existing logging concessions: the Development Policy Operation supported the Review at a policy level (see Section III.B), and the Emergency Recovery Project is financing an international Independent Observer of the Review (Section III.A); and
- The moratorium on new logging concessions: the Development Policy Operation supported this at a policy level (Section III.B).

25. These three activities represent about 2 percent of the Emergency Recovery Project financing, and two of the nine prior actions (conditions that need to be met before the operation is negotiated and disbursed) of the Development Policy Operation.

A. THE EMERGENCY RECOVERY PROJECT

26. The IDA Credit of SDR 117.0 million (USD 164 million equivalent) and Grant of SDR 35.7 million (USD 50 million equivalent) were approved on September 11, 2003. The project became effective on December 5, 2003. Activities financed under the project are expected to be completed by March 31, 2008 and the Credit and Grant are expected to close on September 30, 2008. As of September 2007, the entire Credit had been disbursed. A total of USD 109 million (62 percent of the project) has been disbursed out of the operation. The overall project development objectives are to assist the Government in the process of economic and social reunification. The project consists of five components:²

- Component 1. Balance of Payments Support (USD 50 million);
- Component 2. Institutional Strengthening (USD 15 million),
- Component 3. Infrastructure Rehabilitation (USD 90 million),
- Component 4. Urban Rehabilitation (USD 30 million); and
- Component 5. Community Empowerment (USD 10 million).

27. The Panel's report addresses Components 2 and 3:

- Component 2 on institutional strengthening includes five subcomponents: (i) restoring administrative capacity in reunified provinces; (ii) supporting the preparation of the PRSP; (iii) assisting forest institutions in reunified provinces; (iv) supporting the decentralization process; and (v) undertaking engineering studies for future rehabilitation projects.
- Component 3 supports the rehabilitation of two national roads, namely RN4 between Kisangani and Beni, and RN2 between Bukavu and Mbuji-Mayi, which link the eastern and western provinces of the country.

28. ***Forest Elements of the Emergency Recovery Project.*** The project included two forest-related activities, which were affected by the following developments:

- *The Pilot Participatory Forest Zoning Activity.* Terms of Reference (TORs) were prepared for this activity in 2004 (see Annex 4). However, in July 2005, before the activity had commenced, the Bank recommended, and the Government agreed, to drop this activity from the project. The main reasons for dropping it related to the complexity of the envisaged activities and Government commitment to their success. The activities would have required greater commitment from the new Minister of Environment to basic governance reforms initially designed with his predecessor, and collaborating with NGOs operating in the pilot region as initially agreed upon. They would also have required more dedicated Bank supervision of that particular subcomponent (equivalent to 2 percent of project financing) than had been envisaged under the multi-sector Emergency Recovery Project. The Bank and Government agreed that this activity would better fit within a future sector-specific operation now in preparation and expected to be presented for Board approval in FY09. Meanwhile, since 2005, the Bank has continued to stress the importance of participatory multi-purpose forest zoning, to work with the Government and other stakeholders to build

² In addition, the project includes USD 5 million for implementation costs and USD 14 million for contingencies.

consensus and to support the policy foundations that make participatory zoning possible, such as the moratorium on new concessions and the cancellation of illegal concessions.

- *The Legal Review of Logging Concessions.* The project was to finance an international Independent Observer to assist the Government in reviewing the legality of all concessions granted before the 2002 Forest Code and those allocated or exchanged (“swapped”) after 2002. The expected outcomes of the Legal Review of existing concessions are as follows: (i) concession contracts found in breach of their own terms or in non-compliance with then existing laws and regulations will be canceled; (ii) concession contracts found to be compliant will be converted into a new format consistent with the 2002 Forest Code, which includes more stringent social and environmental obligations. Criteria and procedures for this Legal Review, and TORs for the Independent Observer, were prepared and agreed upon in 2003. However, in 2004, it became clear that the Legal Review process was undermined by a lack of commitment from the new Minister of Environment and the inability of the transition Government to overcome this inertia. A ministerial decree of November 2004 modified the criteria and procedures that had been agreed upon, and made the Independent Observer optional. Donors shared their concern in a joint letter to the Government in March 2005, as did several international and national NGOs. In September 2005, the Bank used leverage afforded by the Development Policy Operation to encourage the highest level authorities to remedy the situation. In October 2005, President Kabila issued a Presidential Decree (See Annex 5) that reinstated the initially agreed-upon criteria and procedures, restored the full mandate of the Independent Observer, and strengthened the moratorium initially established in 2002. The Legal Review was launched in November 2005, when the Independent Observer was recruited (The World Resources Institute), and the list of all existing concessions was published in the press (See paragraphs 32 and 34).

29. ***Safeguard Policies.*** The Emergency Recovery Project was prepared in accordance with OP 8.50 on Emergency Recovery Assistance, under which the required safeguard instruments may be prepared during appraisal or implementation. At the time of preparation, the project was classified as Category B for environmental assessment. The safeguards review process concluded that: (i) an Environmental Assessment (EA) and a Resettlement Policy Framework (RPF) should be prepared for the Infrastructure Rehabilitation component (Component 3); (ii) an Environmental and Social Management Framework (ESMF) should be prepared for the Urban Rehabilitation and the Community Empowerment components (Components 4 and 5) because the sites of the various sub-projects were not fully known at the time; and (iii) the Balance of Payments Support and Institutional Strengthening components (Components 1 and 2) did not require the preparation of safeguard instruments in keeping with the regular practice for budgetary and institutional support projects.

30. The safeguard policies triggered were OP/BP 4.01, Environmental Assessment, OP/BP 4.12, Involuntary Resettlement, and OP 4.36, Forestry. In line with OP 8.50 on Emergency Recovery Assistance, the agreed deadline for completion of the EA, ESMF and RPF was 12 months after effectiveness, i.e., December 5, 2004. However, because of delays in the procurement process, as well as in preparation of TORs and in project coordination, and with complex project implementation arrangements in a context of generally weak institutions, the

safeguard documents were received in draft a year later, in December 2005 (see paragraph 33 for more details). In order to mitigate the consequences of such delay, the team requested the Borrower to apply the environmental clauses from an earlier ESMF, and the RPF prepared for the Emergency Multi-sector Rehabilitation and Reconstruction Project, as this was financing similar types of activities in the western part of the country. These environmental clauses, common to any country, were made an integral part of contractors' contracts financed under the project. The RPF is a framework applicable to any road project in DRC. The use of existing environmental clauses and RPF was considered a temporary measure to avoid negative impacts to people and the environment during construction until the specific project EA and Resettlement Action Plans (RAPs) were finalized. The Borrower complied with this request.

31. The EA finding most relevant to this Request regards the presence of a community of non-nomadic Pygmies in the vicinity of Mambasa, a village along a segment of RN4. Accordingly, OD 4.20, Indigenous Peoples, was then triggered, and an Indigenous Peoples Development Plan (IPDP) was prepared before road rehabilitation began in that area. The EA, ESMF and RPF were disclosed in DRC and at the Bank InfoShop in March and April 2006. Copies were disseminated to NGOs, academics, Pygmy associations, and news agencies, etc. An Environmental and Social Management Plan (ESMP) is being implemented. RAPs for affected people have been completed. The project provides support to the *Institut Congolais de Conservation de la Nature* to protect the Okapi Reserve. Following an assessment made by the March 2007 supervision mission concerning the Project Coordination Unit's (UCOP) capacity to manage environmental and social issues, an international consulting firm is being recruited to provide technical assistance and help manage implementation of the ESMP.

32. With regard to the two forest elements of the project, the situation is as follows:

- *Pilot Participatory Forest Zoning.* As stated before, this activity, which was part of Component 2 of the Project, was dropped before it started and before the Request was received. Consistent with regular practice for capacity-building projects, OP 4.01 was not triggered for Component 2 during the safeguards review process. However, the design of the PFZP included the requirements to comply with OP 4.01 in substance, including studies, consultations, disclosure, consideration of alternatives, and collection of baseline data³ (see Annex 4).

³ Quotes from the TORs for the Pilot Participatory Forest Zoning Activity:

- With regard to Consultation: *"The focus of this operation is on the animation of a living process of collective reflection and collaboration within Congolese society and with the international partners ... to prepare decisions that take into account the views of all actors."*; *"Special attention will be given to the consultation of pygmy groups while taking into account the particularities of their nomadic or semi-nomadic life style"*; *"Whatever the case, priority will be given to the quality of the land use planning and participatory process rather than on the maximization of area covered"*; *"...ensure that the various stakeholders are consulted and have the possibility to contribute their knowledge and can assert their rights, wishes and constraints"*; *"The team in charge of the activity must maintain a participative process from the beginning on and all along the way up to the end."*
- With regard to Indigenous Peoples: *"A very good and as refined as possible understanding needs to be acquired and assembled on the dynamics of the use of the forest by indigenous peoples, and in particular the pygmies, that have a non-sedentary way of life. These particular dynamics will be taken into account in the zoning scenario's, by showing to what extent the fact of attributing a priority (but not exclusive) land use objective (like protected area, or sustainable forest management concession) is compatible with the respect*

- *Legal Review.* A Consultation Protocol has been prepared to ensure full participation of all concerned local communities, especially the Indigenous Peoples, in the Legal Review. The Protocol is being implemented by a Coalition of NGO Networks (CRON), which includes Indigenous Peoples organizations and is supported by the project as well as by the US-funded Central African Regional Program for the Environment (CARPE) and the Dutch bilateral SNV. This work, combined with the Bank's dialogue with the DRC Government, led to allocating two seats (one rotating and one permanent⁴) for Indigenous Peoples representatives in the Inter-ministerial Committee. It also led to identifying the 111 local representatives (14 of whom represent Indigenous Peoples) who will come to Kinshasa to review the concession contracts involving their respective communities and regions within the Committee. The identification of additional local representatives, including from Pygmy groups, is still underway.⁵ Local representatives will be provided with comprehensive and accessible information to enable them to participate fully in the review. This work is being supported by the Emergency Recovery Project.

33. ***Implementation and Supervision.*** The project is being implemented by UCOP in the Ministry of Planning. This Unit is supervised by a High-Level Oversight Committee, which includes representatives of the Ministers of Finance, Budget, Planning, and Public Works and the Office of the President. Procurement is delegated to the Central Bureau of Coordination (BCECO), a government entity. Since project approval in September 2003, there have been seven supervision missions in addition to the mid-term review in June 2006. During the extended election period from July 2006 to January 2007, and again in March/April 2007, all Bank missions to DRC were suspended, although videoconferences were organized to ensure some monitoring of project implementation. On three occasions after the 2006 mid-term review, Bank safeguard specialists traveled to DRC, including to the project sites, and assisted the project unit in launching and monitoring the social and environmental aspects of the project, including Components 2 and 3. Supervision of the forest Legal Review was intense and took place in the framework of the forest sector dialogue so as to ensure consistency with the other elements of the forest reform agenda. Since 2004, on average, there have been five forest sector missions to DRC per year, including nine field visits to the provinces of Equateur, Orientale, and North Kivu, with mission members having legal, social, Indigenous Peoples,

for the traditional rights and the way of life of these peoples, and by showing how the land use planning process can help to secure the exercise of these rights."

- With regard to Baseline Data: *"Acquisition of detailed understanding of the challenges linked to land rights and local agricultural dynamics, of the use of the forest by different ethnic groups – and in particular the pygmy groups, of the customs related to access to land and land rights, and customary use rights."*
- With regard to Consideration for Alternative Uses and Options: *"...propose and simulate zoning scenario's that contain solutions to restore coherence in the use of forest lands and that secure the rights and responsibilities of the different actors, and that show priority attributions as well as alternatives" – see also specific sections on nature conservation and community forests in the TORs.*
- With regard to disclosure: *"The consultant will produce and assist the Ministry to diffuse the necessary communication and vulgarization supports to ensure sound comprehension of the zoning process and its results, before, during and after the operation. The final land use planning products will be made accessible to the public, on the website of the Ministry and by multiplication and distribution of maps."*

⁴ In total, the Committee will include five representatives of civil society: two from NGOs, one from local communities, and two from Indigenous Peoples.

⁵ The Legal Review covers a total of 156 concessions. Local representatives have been identified for 114 concessions, and the identification of local representatives for the remaining 42 concessions is underway.

environmental, and safeguard expertise. A forest expert was recruited in Kinshasa to ensure daily monitoring of the forest and agriculture program. In addition, the Legal Review was discussed with the DRC delegation during their visits to Washington for the Annual and Spring Meetings.

34. ***Current Status of the Emergency Recovery Project.*** The project is currently rated as Satisfactory for project objectives and implementation. The following is an update on the status of the two project components relevant to the Inspection:

- *Component 2 – Institutional Strengthening* (USD 15 million), which is to support national institutions, is being implemented satisfactorily. The majority of the activities identified have been implemented. Only two activities out of 26 have not been implemented, namely: (i) the forestry zoning; and (ii) improvement in the coordination of external resources. Twelve activities have been completed and the production of the PRSP is one of the major achievements of this component, along with the ongoing support to the Legal Review in the forest sector, improvements the procurement sector, and computerization of the debt sector.

Several activities have been delayed, mainly due to the 2006 elections, to political difficulties in making the new institutions operational, and to field challenges. The draft procurement code is still to be approved and promulgated. Computerization of country debt has yet to occur.

The pilot participatory zoning activity was dropped as explained in paragraph 32.

The Legal Review is being conducted in accordance with the steps and procedures defined in the Presidential Decree (See Annex 5), although with significant delays due mostly to the Presidential and legislative elections of 2006, and logistical challenges in the field. Field and desk verifications have been completed with the participation of the International Observer, the World Resources Institute. Quarterly progress reports have been disclosed and key issues identified have been acted on, such as providing additional funding for field work. CRON has identified over half of the local communities' representatives who will participate in the committee, and additional resources have been mobilized to enable CRON to complete this work for the remaining 42 concessions. The decree designating members of the Inter-ministerial Committee was submitted for the Prime Minister's signature in September 2007.⁶

- *Component 3 – Road Rehabilitation* (USD 90 million) is aimed at rehabilitating 1,770 kilometers of the interurban road network and is rated moderately satisfactory. The roads include RN4 (the 750 kilometers between Kisangani–Beni divided in two sections, Kisangani–Nia-Nia (340 kilometers) and Nia-Nia–Beni (410 kilometers); RN2 from Bukavu to Mbuji Mayi (1,020 kilometers with two sections: Mbuji Mayi–Kasongo (524 kilometers) and Kasongo–Bukavu (496 kilometers); and RN1 (Pont

⁶ A Presidential decree to nominate the members of the Committee was signed in November 2006 immediately after the elections. However, this decree needs to be updated, given the institutional set up of the new Constitution. The new Prime Ministerial decree will also extend the timeframe allowed for completing the Legal Review.

Mpozo–Matadi, 8 asphalted kilometers already completed since October 2006). Slow implementation from the beginning was linked to huge logistical issues associated with the remote locations of project sites and lack of transportation facilities, compounded by poor security conditions and poor organization of the contractor. As of today, 551 kilometers (31 percent of the component) have been completed and the sections of the roads are open to traffic. Traffic has picked up in these sections and the flow of goods and services between the villages and the main urban centers is increasing. Completion of the Nia-Nia–Beni section in March 2008 will directly benefit about 480,000 people living in the 57 villages that the road crosses.

The quality of the roads is good and, in all the completed sections, vehicles can travel 70 kilometers per hour. The main challenge faced under this component is the cost overrun that will have an impact on the scope of the component. The section of road from Kisangani to Beni has a revised completion date of December 2007, and will have a cost overrun that can be covered by the unallocated portion of the credit. The section of the road between Mbuji Mayi and Bukavu is more problematic. The estimated overrun for this project is large and one of the two contractors responsible for carrying out the works is not performing well. Rather than extend the contract, completion of this section will need to be considered under a future project.

B. THE DEVELOPMENT POLICY OPERATION

35. The IDA single tranche Grant of SDR 62.1 million (USD 90 million equivalent) was approved on December 8, 2005. The Grant became effective on December 27, 2005 and was disbursed on December 29, 2005. The Grant supported selected strategic targets of the TSS, approved by the Board in February 2004, including the Government's reform programs in public finance management, in the mining, forests, education, health and forest sectors.

36. ***Implementation and Supervision.*** This single-tranche Development Policy Operation included nine prior actions and seventeen indicators of progress against which implementation progress continues to be measured, and which were expected to have become prior actions for a subsequent budget support operation. The Ministry of Finance implemented this operation in coordination with the concerned line ministries. Supervision of the forest conditions and indicators took place in the context of the overall country and forest sector dialogue, so as to ensure synergy with the other elements of the forest reform agenda. Supervision was supported by Management's continued dialogue with high-level authorities in Kinshasa and Washington, as well as by links with the Emergency Project and its on-site supervision.

37. ***Forest Elements of the Development Policy Operation.*** This operation included two forest-related conditions (out of nine); and five forest-related progress indicators (out of seventeen), set out in Box 2 below. Current status and next steps for each condition and indicator are shown in Annex 2.

Box 2: Forest-related Triggers and Indicators of Progress of the Development Policy Operation

The two forest-related prior actions met in November 2005 were:

1. *Launch of the Legal Review of forest concessions*, i.e., (i) publication in the Official Journal of a Presidential Decree with clear criteria and transparent and non-discretionary procedures; (ii) publication of the list of all existing concessions jointly by Ministries of Environment and Finance; (iii) recruitment of the Independent Observer to assist the Legal Review;
2. *Extension of the 2002 forest moratorium on new logging concessions* by publication in the Official Journal of a Presidential Decree (the same decree as the one mentioned above) stating that the moratorium will be maintained until: new auction procedures are adopted, Legal Review of existing concessions is completed, and a 3-year plan for future allocations is adopted based on a participatory process.

The five indicators of progress that are being monitored are:

1. *Continued observance of the moratorium on new forestry concessions*. 2.7 million hectares of concessions allocated after the 2005 Presidential decree were canceled in April 2007.
2. *Completion of the Legal Review* with the participation of an Independent Observer; including publication of the results; and cancellation of concessions found illegal – Ongoing.
3. *Recruitment of technical assistance/Independent Observer* to strengthen the capacity of the Ministry of Environment to enforce forest laws and detect illegal logging on the ground. Global Witness has carried out a scoping mission from July to October 2007. Government committed to make third-party forest monitoring a long-term assignment. Will be supported under the Multidonor Trust Fund and/or the IDA grant.
4. *Adoption of key implementation decrees* of the Forest Code – Six decrees and "arrêtés" have been submitted to the Prime Minister and Minister of Environment in 2007 following the consultative process led by FAO in support of the Ministry of the Environment.
5. *Continued implementation of the March 2004 fiscal reforms*, including the cancellation of concessions that do not comply with the area tax – Ongoing. Noncompliant concessions are included in the Legal Review. Bank advises conducting studies and consultations before making any change to the 2004 reform package.

38. The Development Policy Operation was prepared in accordance with OP 8.60 on Development Policy Lending. In the area of forests, the operation drew on forest analytical work undertaken by the Bank and others, such as the FAO, in collaboration with leading research centers and NGOs, circulated in draft at the Forest Forum in Kinshasa in November 2004. This report concluded that the Government agenda was adequate, emphasized the importance of the moratorium and the Legal Review, and highlighted setbacks that needed to be corrected, especially the breaches of the moratorium. From the Forum, a strong consensus emerged in support of the moratorium and the Legal Review, as evidenced by the Forum's final statement and by subsequent NGO statements (Annex 6). A Forest Sector Report on DRC, co-authored by 14 research centers, NGOs and the Bank, was finalized in 2007 (Annex 10).

39. The DPL supported the launch of the Legal Review, stalled for two years; and it strengthened the moratorium established in 2002 at ministerial level by transforming it into a Presidential decree. It helped mobilize the commitment of high-level decision-makers for improved sector governance and transparency in the forest sector. The operation also helped to consolidate forest reforms agreed in 2002 that were being challenged by individual initiatives that the new government was willing, albeit unable, to prevent. No funds were used for forest sector-specific investments. By supporting a strengthening of the moratorium, this operation is helping to prevent large forest areas of the DRC from being set aside for industrial logging. By

supporting the Legal Review and the rescinding of non-compliant concessions, it is helping to return large areas of forest to the public domain, and to open the way for participatory land use planning. By supporting an Independent Observer to the Legal Review, it is helping to introduce new transparency standards in the DRC natural resources sector.

40. As with other Bank-supported activities, the Legal Review has suffered delays since late 2005, mostly due to the 2006 elections and challenges to field-related activities. However, the Government's commitment to the Legal Review and to the moratorium has remained constant since the issuance of the Presidential Decree in October 2005. Progress on the Legal Review is presented in paragraphs 28, 32 and 34. The Government is also working towards achieving the progress described in Box 2 (For more details, see Annex 2).

IV. FINDINGS OF THE PANEL AND MANAGEMENT CLARIFICATIONS

A. FINDINGS OF THE PANEL WITH REGARD TO COMPLIANCE WITH BANK OPERATIONAL POLICIES

41. This section summarizes Management's understanding of the Panel's findings with regard to compliance with Bank operational policies. Detailed observations, concerns, and opinions expressed by the Panel are discussed in the Matrix (Annex 1).

42. *OP/BP 4.01 on Environmental Assessment.* The Panel finds that the failure to prepare an EA for Component 2 of the Emergency Recovery Project does not comply with OP 4.01. It also finds that the preparation and public distribution of the EA for Component 3 was finalized more than 24 months after the effectiveness of the project, and the EA ultimately prepared did not address the forest-related elements in Component 2. Finally, the Panel finds that there was inadequate consideration of the many important socio-economic and environmental issues of forest use, embedded within Bank safeguard policies, and this distorted the actual economic value of the country's forests.

43. *OP/BP 4.04 on Natural Habitats.* Until the time of the Request for Inspection, the Panel found very little evidence of attempts to involve local communities likely to be affected by the project. This does not comply with OP 4.04.

44. *OP/BP 4.12 on Involuntary Resettlement.* The Panels finds that Management did not analyze whether a resettlement framework was needed to provide for the potential case that Pygmy people lose access, even partially, to sources of livelihood as a result of concession titles or operations.

45. *OD 4.15 on Poverty Reduction.* The Panel finds that Component 2 of the Emergency Recovery Project is not consistent with the objective of this OD because it found evidence that the promised benefits to local communities from the forest concessions such as schools, clinics, and other facilities have not materialized.

46. *OD 4.20 on Indigenous Peoples.* The Panel finds that Management did not carry out appropriate screening as required in the early stage of the project to determine the possible presence of Indigenous Peoples; and that Management failed to identify the existence of

Pygmy communities in areas affected by the project. The Panel finds that Bank's failure to trigger OD 4.20 for Component 2 of the Emergency Recovery Project and to prepare an IPDP does not comply with OD 4.20. The Panel also commends the Bank for its efforts to encourage participation of Indigenous Peoples in the Legal Review process and notes that this is consistent with Bank policy.

47. *OP/BP 4.36 on Forests.* The Panel finds that given the focus of the project to improve institutional and policy capacity, the Bank could consider that it is not financing a project that involves significant conversion of critical forest areas or natural habitats and that it is in compliance with OP 4.36. The Panel agrees that this view has merit to date, but notes that there are important factors that could affect and alter this assessment with respect to the outcome of this project, even in the short run. The Panel also notes the importance of the Bank's intervention, before the start of the Economic Recovery Project, to advise the Government to cancel concessions that were illegal or had expired, and it notes that this was consistent with the Bank's Forest Policy. The Panel notes that developing a good quality legal framework is a high priority and is consistent with Bank policy. The Panel further recognizes the Bank's efforts to establish the role of the Independent Observer of the Legal Review, which is consistent with Bank policy. Finally, the Panel would highlight efforts by the Bank to help DRC monitor the problem of illegal logging, and DRC's recent decision to have a well-known international NGO study how to provide an independent monitoring capability for illegal logging, and it notes that this is consistent with Bank policy.

48. *OP 8.60 on Development Policy Lending.* The Panel finds that the Bank's determination that there were no significant environmental or social effects of the forest component of the Development Policy Operation is not consistent with the objective of Bank policies, especially when this component essentially carries forward a component of an investment project that was subject to full Bank safeguard policies.

49. *OPN 11.03 on Cultural Property.* The Panel finds that the Emergency Recovery Project did not comply with OPN 11.03 because project documents at design and appraisal did not identify cultural property and spiritual value of forest areas to Pygmy peoples or the appropriate measures to avoid impacts to areas that might fall within the definition of cultural property under Bank policy.

50. *OP/BP 13.05 on Supervision.* The Panel finds that the Bank's recognition of breaches of the moratorium and its responses in Aide-memoires through July 2005 were consistent with OP 13.05. However, the Panel also finds that Management apparently did not make timely follow-up efforts at a sufficiently high level to ensure necessary actions in response to its findings, and that none of the supervision documents after July 2005 refer to the "swaps" (of previous areas) or potential violations of the moratorium.

B. MANAGEMENT CLARIFICATIONS

51. Management concurs with a number of the Panel's findings, but wishes to clarify several issues. These are set out below, according to the applicable OP.

52. *Environmental Assessment.* Management agrees that with regard to the Emergency Recovery Project, the quality of the Bank's intervention in this case would have been enhanced

by triggering OP 4.01 and thus an EA should have been prepared for Component 2. Management also agrees that the EA for Component 3 was completed and distributed late. On Component 2, however, Management wishes to clarify that: (i) the pilot zoning was dropped before it started and before the EA was completed for other Components of the project; and (ii) had it started, the design of this pilot zoning activity included the elements required by OP 4.01, such as studies, baseline data collection, consideration for alternative uses, local consultations and disclosures (See Annex 4); and (iii) more broadly, the Bank's early engagement in the forest sector focused on removing the legacy of past mismanagement, tackling the risk of unregulated logging, and setting the stage for multi-purpose forest management in the future (see Sections II and V, and Annex 1).

53. *Natural Habitats.* Management clarifies that: (i) the design of the dropped pilot zoning emphasized the involvement of local communities as required by OP/BP 4.04; and (ii) a Consultation Protocol is being followed for the Legal Review. Had it started, the design of the Pilot Forest Zoning Plan would have been expected to pursue natural habitats conservation and improved land use in line with OP 4.04, paragraph 3.

54. *Involuntary Resettlement.* Management clarifies that: OP 4.12 was triggered during project preparation. Management acknowledges that the preparation of an RPF was not done on time. Management also notes that: (i) in January 2006, an Environmental and Social Assessment of Component 3 was prepared in close consultation with potentially affected peoples that includes a RPF, and (ii) the Emergency Recovery Project does not support any new logging concession or operation and no resettlement would derive from the forest-related activities supported by the project. Finally, Management notes that the Legal Review is designed to cancel illegal concessions and introduce additional social provisions in remaining compliant concessions for the benefit of local communities, including Indigenous Peoples groups.

55. *Poverty Reduction.* Management would like to clarify that, under the Emergency Recovery Project, Component 2 aimed at removing the legacy of mismanagement and at restoring essential governance and policy conditions to allow local communities to benefit more from forests in the future. Component 2 did not finance any forest concessions, and was not intended to deliver schools, clinics, and other facilities.

56. *Indigenous Peoples.* Management agrees there was no appropriate screening in the early stages of the project to determine the possible presence of Indigenous Peoples in areas affected by Component 3 of the Emergency Recovery Project; that OD 4.20 was not triggered during project preparation; and that an IPDP and a strategy for local participation were not developed during project preparation. With regard to Component 3, Management clarifies that an IPDP is being implemented. With regard to Component 2, Management clarifies that (i) the design of the dropped pilot zoning identified the possible presence of Pygmy populations in the pilot area and included the consultation, disclosure, baseline data collection and analytical work required by OD 4.20 (see Annex 4); and (ii) a Consultation Protocol is being implemented to ensure full participation of Indigenous Peoples for the Legal Review. Management also agrees that encouraging participation of Indigenous Peoples in the Legal Review is consistent with OD 4.20.

57. *Forests.* Management agrees with the Panel's finding that the Emergency Recovery Project is consistent with OP 4.36 for the following reasons: (i) the project did not finance any significant conversion of critical forest areas or natural habitats; (ii) the Bank advised the Government to cancel concessions that were illegal or had expired; (iii) developing a good quality legal framework, including the 2002 Forest Code and 2002 Decree creating a Moratorium on new concessions, was a high priority; (iv) the Bank helped establish an Independent Observer in the Legal Review of concessions and (v) the Bank promoted independent monitoring by a well known international NGO to help tackle illegal logging.

58. *Development Policy Lending.* Management clarifies that the policies supported by the Development Policy Operation regarding forests, namely, the extension of the moratorium and launching of the Legal Review of forest concessions, helped preserve forests and forest peoples' rights. Thus, Management considers that there were no adverse effects from the forest "prior actions" in the DPL. In Management's view, the determination made on likely significant effects of the Development Policy Operation, is fully consistent with the objective of Bank policies. Management wishes to clarify as well that investment lending and development policy lending instruments cannot be used interchangeably and that the choice of a development policy grant to support a small set of policy and institutional actions was appropriate and consistent with the objective of Bank policies.

59. *Cultural Property.* Management agrees with the Panel regarding the identification of cultural property issues raised in its report. It should be noted that the EA Report disclosed in January 2006 for Component 3 explicitly addresses impacts on cultural property, and includes mitigation measures and compensation to communities for affected cultural properties and sacred sites.

60. *Supervision.* Management notes that OP 13.05 was complied with, and clarifies that: (i) after July 2005 Management raised the issues of moratorium breaches at the highest level of Government including with President Kabila, who issued a Presidential decree in October 2005 that strengthened the moratorium and launched the Legal Review; and (ii) after a remedial action against the breaches in the moratorium had been agreed to, Management concluded that repeating these breaches in Aides-memoires would be unproductive and instead focused its efforts on supporting the implementation of the 2005 Decree; and (iii) continued to make its views on the moratorium and the need to correct the breaches known to all stakeholders notably through its website and through a publication "Forests in Post-Conflict DRC" distributed at a special meeting devoted to forest issues in the DRC chaired by the President of the Bank during the April 2007 Spring Meetings.

V. KEY ISSUES

61. This section addresses several key issues identified in the Panel investigation. The attached Matrix (Annex 1) lists each of the Panel's findings, concerns, and observations, along with Management's comments and clarifications. This section does not purport to discuss all the issues raised in the Panel's report.

A. NEED FOR CONTINUED BANK ENGAGEMENT

62. Throughout its report, the Panel noted the importance of the Bank's intervention in the forest sector, particularly with respect to advising the Government to cancel concessions that were illegal or invalid and to establishing and enforcing the moratorium on new concessions. The Panel also noted that developing a good quality legal framework is a high priority, as is the creation of adequate institutional capacity. The Panel noted the importance of promoting community-based management initiatives, testing innovative models that emphasize conservation and global environmental services, and securing the cultural identity and economic welfare of forest peoples, especially the Pygmies. Management is pleased to note that the Panel agrees that the Bank's forest work has contributed to initiating these policies in DRC.

B. IMPACT OF ZONING, MORATORIUM, AND LEGAL REVIEW

63. The Panel raises a concern that Bank-supported interventions may have facilitated the expansion of logging in DRC. Management wishes to clarify that the nature of the three activities supported by the two operations (moratorium, Legal Review, and multi-purpose participatory zoning) demonstrates that Bank support aimed at containing and regulating the forest industry rather than facilitating its expansion. Despite the breaches of the moratorium, which are being examined by the Legal Review, the area under logging concessions in DRC was reduced from 43 million in 2002 to 21 million in 2007, making it the largest cancellation of forest concessions ever accomplished anywhere in the world.

64. In 2002, half of DRC's rainforests were under logging concessions with no local consultations, little or no economic benefits to the public, no consideration for other uses and no provisions for environmental protection. Canceling these old concessions and tackling the legacy of mismanagement was the logical first step to pave the way for a more balanced approach that promotes community rights, biodiversity protection, and non-extractive uses. It was also urgent to introduce more stringent social and environmental obligations into concession contracts that could not be canceled for legal reasons, before they resumed. This is the purpose of the Legal Review. The moratorium and the Legal Review were designed to defend the interests of the Congolese people against grabbing of forest lands by private interests at a time of post-conflict institutional weakness.

65. The Panel has stressed the importance of participatory activities and concluded that the Bank should consider financing them. Management agrees on the importance of a participatory activity in the context of DRC. The pilot forest zoning activity was intended to demonstrate participatory approaches to multi-purpose forest management. However, as stated in paragraph 32, it was dropped before implementation and, as such, did not have any impact, positive or negative, on people or the environment. In line with the decision taken in 2005, the Bank intends to support the introduction of participatory zoning in the forthcoming IDA-financed forest operation. Since 2005, the Bank has continued to emphasize participatory multi-purpose forest zoning, help build consensus among the various actors involved, and strengthen the governance foundations that make participatory zoning possible, such as the moratorium on new concessions and the cancellation of illegal ones.

66. Logging production levels have been increasing gradually in the past few years, bringing official exports to slightly more than 1996 levels, driven primarily by the return of relative security and improved infrastructure. This post-conflict context entails high risks for sustainable forest management in DRC and there is a relatively short window of opportunity (a few years) during which basic governance and enforcement systems must be put in place. Global Witness, in partnership with local NGOs, is currently completing an independent monitoring pilot mission to help the forest department detect illegal logging and strengthen capacities in forest management, and the Government is committed to make third-party forest monitoring a long-term component of this management system.

C. CONTRIBUTION TO POVERTY REDUCTION

67. The Panel raises the concern that Bank-supported interventions may not help reduce poverty. Management clarifies that past and ongoing Bank work in DRC, including support to the PRSP, places poverty reduction at the core of the Bank's engagement in DRC. The recently approved PRSP highlights forests as a key sector for reducing poverty, and it integrates forest priorities into the country's overall agenda. The PRSP is based on three pillars: good governance, shared growth, and community development. The forest agenda is linked to each of them: fostering transparency and law enforcement as key elements of good governance; ensuring equitable access to forest resources; and promoting local development through community forests and other mechanisms.

68. The PRSP, as well as the forest strategy, recognize explicitly that most rural people in the DRC rely on forests for food, medicines, heating, cooking, and income. Accordingly, securing forest peoples' rights, while preventing the depletion of the natural resource base, is a prerequisite to reducing poverty. Maintaining customary users' rights, and making the harvesting of construction materials, fuelwood, bushmeat, and timber products sustainable and economically advantageous for the poor feature prominently in the DRC's poverty reduction strategy. Management notes that the risk of benefits from forest uses remaining marginal for forest-dependent people was greatest at the end of the Congolese conflict – when the colonial forest code was still in effect, most of the production forests were in the hands of speculators, and practically no social, environmental or fiscal obligations applied to logging. To address this situation the Bank engaged with the Government in a comprehensive reform agenda, which the Emergency Recovery Project and the Development Policy Operation helped strengthen; secured a strong role for forests and natural resources in the PRSP; and introduced investments and capacity building operations into the latest Country Assistance Strategy (CAS) (FY08-10).

69. The PRSP fully endorses the Priority Agenda for forests, including the moratorium, the Legal Review of remaining concessions, participatory zoning, the use of third-party monitoring to help detect illegal logging, and the need to innovative forest models. This Agenda is also reflected in the Multi-Donor Country Assistance Framework. Many development partners also support the Agenda (see paragraph 66).

70. Management agrees with the Panel's findings that traditional forest industry models have provided only modest and short-term benefits to local communities; that unless strong measures are taken to ensure that benefits reach local people, timber production would not make the expected contribution to poverty reduction; that people's access to non timber forest

resources should be maintained and improved; and that appropriate community forestry models and other innovative approaches to forest conservation and uses could provide significant benefits at the local level. Thus, any poverty strategy should involve complementary efforts at the national and sub-national level – rebuilding institutions, fostering local development initiatives, preserving biodiversity, and rewarding environmental services – as well as activities at the international level, such as regional integration, developing forest agendas, and agreeing to a coherent sector wide program, supported by donors and other partners. Management is committed to helping promote these innovative uses and approaches in DRC.

71. Management considers that the moratorium and Legal Review supported by the Emergency Recovery Project and the Development Policy Operation helped create conditions that will be crucial in enabling the poor to benefit from forests in the future, not only through community forest management at the local level, but as a result of enhanced public expenditures to improve livelihoods. Bank commitment to poverty reduction in the context of its forest work in DRC includes the cancellation of a large amount of forest areas previously under illegal concessions; blocking the unregulated expansion of logging concessions; introducing new social obligations in all contracts related to forest production; increasing previously symbolic taxation levels and establishing that a share of forest tax revenues should go to local communities; supporting a new Forest Code and the creation of an comprehensive body of regulations that respect the needs of the poor; expanding community rights; and, supporting new community-based forest models.

D. SEQUENCING AND TRADE OFFS BETWEEN LAWS AND CAPACITY

72. The Panel notes that approval of a new Forest Code, cancellation of concessions, the moratorium, and the Legal Review are important and positive endeavors. At the same time, it notes that drafting and adopting the implementation decrees for the new code are taking a long time, that there are instances where the moratorium was breached, that the Legal Review is being delayed and that its recommendations might be challenged by powerful stakeholders.

73. In supporting these observations, Management would like to place them in the context of a country that only recently emerged from decades of civil conflicts and institutional collapse. It is only in 2002 that foreign troops withdrew from DRC; only in 2003 that a transitional power-sharing arrangement was put in place; and only in 2006 that the country held the first democratic elections in its history. Delays, inefficiencies, and unorthodox decisions were to be expected in this context. Management notes that the forest reforms continued to enjoy support from the Presidency, the Ministry of Finance, the Parliament, and civil society, even at times of wavering commitment by the Ministry of Environment. This has allowed the Government to protect initial reform achievements, to identify shortcomings and to create instruments to correct them. Management agrees with the Panel that there are delays in the preparation of the implementation decrees of the Forest Code. The Government is making progress under difficult circumstances. As of end October 2007, eleven key decrees and arrêts have been adopted, six are ready for signature by the Prime Minister and the Ministry of Environment, six are submitted for stakeholder consultation, and nineteen others are being prepared. At the request of the Government, the Bank is reviewing the quality of this legal work

74. Management agrees with the Panel that there is little point in creating new laws if there is no capacity to enforce them; that both laws and capacity are equally important; and that institutional capacity is very limited in post-conflict DRC, including in the forest sector. In this particular case, sequencing the establishment of new rules prior to reinforcing the forest institutions responded to both necessity and opportunity. Rules in effect at the time of Bank re-engagement were inherited from the colonial era and out of step with the priorities of the reunified Government, as well as those supported by the Bank, especially with regard to social and environmental values. Strengthening the capacity of forest institutions to enforce those old rules would have reinforced an unsustainable, inequitable and nontransparent system. Management notes that in the absence of the Bank's focus on policy reforms, almost the entire Congolese rainforest would now be placed under old-style concessions with little or no consideration for social and environmental values. Large areas of forest which the cancellations have made available for new uses would still be under these contracts. The scenario of widespread grabbing of rainforests by powerful private interests was clearly underway in 2002, and the Bank's policy focus helped avert this scenario.

75. Finally, Management would like to highlight the positive and complementary roles that investment and policy instruments have played, and will continue to play, in advancing the forest agenda in DRC. Actions that require high political commitment will be best supported through policy lending or broader reform frameworks. Capacity building operations that require equipment, training, and technical assistance will be best supported by investment instruments.

E. OUTREACH TO STAKEHOLDERS

76. The Panel stresses the importance of participatory approaches and consultations with all stakeholders. Management agrees and underscores that significant outreach and consultation efforts have been undertaken since the early stages of Bank engagement, helping to build consensus and partnerships with civil society and within the donor community. Significant outreach efforts started in 2003. The Bank team met regularly with international and national NGOs in Kinshasa, in the field, and in Europe and Washington. Discussions were framed around the Priority Reform Agenda, the initial steps taken by the Government, and a draft forest sector review that the Bank team had started to prepare. In 2003, 2004 and 2005, Bank teams visited the recently-pacified Equateur, Orientale and North-Kivu provinces. In 2004, the Bank posted "Questions & Answers" on its forest approach in DRC online. In 2004, the Kinshasa Office organized a first event with the national press, radio and television, and distributed background materials on key forest issues. In July 2004, the President of the Bank met with local and international NGOs including Indigenous Peoples representatives, and in November 2004, the Bank helped organize the First Forest Forum in Kinshasa. These efforts helped develop consensus with civil society and the donor community in support of the reform agenda. Nevertheless, in a post-conflict country the size of DRC, many stakeholders especially in the field have had to rely on second or third hand information about the work of the Bank in general and in the forest sector in particular.

77. In 2006 the Bank developed a more proactive communications strategy (update of progress in Annex 11) in DRC. At the national level, it started to meet regularly with the Congolese media network for environment (MET) and held interviews with newspapers, radio channels and televisions. It also reached out to leading international media: BBC, Reuters,

AFP, Voice of America, Channel 4, The Financial Times, La Libre Belgique, De Morgen/Mo, Le Soir, Jeune Afrique, The Economist, Le Monde, and Nation Magazine. The Bank also continued to foster consensus with civil society and as a result, the forest sector review ("Forests in Post-Conflict DRC") was co-authored with 14 NGOs and research centers. It was launched in Brussels, Paris, Washington and the NGOs that co-authored the report will disseminate it in DRC. The Bank made a concerted effort to keep development partners well informed about its DRC forest work and to invite donors to join in. A Bank team visited Belgium, the Netherlands, Norway and the United Kingdom in addition to participating in regular meetings of the donors' thematic groups in Kinshasa. During 2006 and 2007, the Bank also helped organize high-level international forums such as the Second Forest Forum in Kinshasa in February 2006, and the Brussels Conference on Sustainable Forest Management in the Democratic Republic of Congo (co-sponsored by the Bank, Belgium, DRC, the European Commission, France, and the United Kingdom) in February 2007, which resulted in the Declaration of Brussels on Sustainable Forest Management in the Democratic Republic of the Congo. In April 2007, the President of the World Bank chaired a High-Level Congo Forest Side-Event during the Spring Meetings in Washington, and he recommended that the DRC forest agenda continue to be raised in similar high-level forums.

78. Overall, these outreach efforts helped bring clarity about the forest work supported by the Bank, and strengthened civil society and donor understanding of and support for this agenda. Since 2004, civil society has consistently expressed support for the moratorium, the Legal Review, and the participatory zoning, through a series of joint statements in 2004, 2005, 2006, and 2007. Final Statements from the Forest Forums in Kinshasa, 2004 and 2006, and the Brussels Declaration, 2007, were endorsed by all participants, including government, donors, the private sector, and NGOs (see Annex 6). The MDTF is being established with contributions from the European Commission, Belgium, France, Luxembourg, the United Kingdom, and Germany. In August 2007, a bipartisan group of six US Senators sent a letter to the President of the Bank in support of the DRC forest agenda and urging the Bank to keep up its work in this area.

F. ATTENTION TO INDIGENOUS PEOPLES

79. Management is devoting attention to livelihood and cultural issues facing people living in DRC forests, including Pygmies. The Bank began outreach efforts in 2004 and has expanded them since then. The Bank team regularly: (i) meets with Pygmy groups to exchange information and seek their advice; (ii) invites Pygmy representatives to events in which issues that affect their social and cultural situation are discussed; and (iii) promotes the inclusion of Pygmy groups in relevant forest regulations, institutions and decision-making bodies. In July 2004, the President of the Bank met with international, national and local NGOs including Indigenous Peoples representatives. Starting in 2005, Bank teams visited Pygmy communities in Beni, Mutsora, Epulu and Rumangabo in the newly-reunified eastern provinces, in an effort to establish direct lines of communication. In 2006, the Bank facilitated the collaboration of DRC Pygmy representatives in a forest sector review in neighboring Republic of Congo. In April 2007, the Bank helped organize the First International Central African Indigenous Peoples Meeting, in Brazzaville, Congo, and facilitated the participation of Pygmy representatives from DRC at this event. As part of the Bank's enhanced engagement with Pygmy communities, a special study was undertaken in 2007 to support integration of these concerns into the overall program of the Bank.

80. The Bank has worked closely with the Government to ensure that the new Forest Code recognizes and protects traditional rights of local communities, including the Pygmies, in all production forests. The Bank has also encouraged the Government to include Pygmy representatives in the Inter-ministerial Committee in charge of the Legal Review of concessions. This participation aims to help guarantee preservation of the rights of Pygmies in production forests and ensure that boundaries and management plans take into account their social, economic and cultural needs. Bank efforts are intended to defend the interests and rights of the Congolese people, including Pygmy populations, by canceling illegal concessions, strengthening the moratorium, supporting the services of Independent Observers in the Legal Review and in field controls, and promoting the participation of Pygmy representatives in the Legal Review. This is particularly important in a country with serious institutional and policy weaknesses.

81. The forthcoming IDA-financed Forest Project, GEF Grant for National Parks, and the MDTF will seek to ensure that Pygmies enjoy equal access to rights and socio-economic opportunities resulting from the new Forest Code, such as the right to manage community forests and to benefit from social responsibility contracts. The forthcoming Agriculture Project is expected to include similar provisions with regard to agriculture rehabilitation, while the new Road Sector Rehabilitation Project is expected to include an Indigenous Peoples Framework that builds on and expands work initiated under the Emergency Recovery Project.

82. Management recognizes that assisting the Pygmies to fulfill their socio-economic and cultural aspirations is a considerable challenge, and solutions cannot come from the forest sector alone and are likely to take time and concerted effort by the authorities, with advice and financing from external parties such as the World Bank. As is the case for other vulnerable groups, Pygmies need equal rights, protection against exclusion and discrimination, equal access to social services, and equal opportunities to access livelihood opportunities and engage in civic participation.

83. As part of this broader effort to reach Pygmy populations, the Bank is analyzing its experience in improving access of poor and vulnerable groups to social and economic services in DRC through the Emergency Social Action Project implemented through the Social Fund. During the first phase of the project (2002-2006) it became clear that Indigenous Peoples were hardly benefiting from these investments. Consultations were undertaken with 655 Indigenous Peoples and representatives from NGOs in the context of 19 workshops all over the country. The project is now putting in place an outreach and capacity-building program to assist Indigenous Peoples communities in accessing and utilizing project funds to obtain schools, health clinics, rural roads, and water points, based on their demands. It is also analyzing ways in which the project can strengthen the voice and participation of Pygmy communities.

VI. MANAGEMENT'S ACTION PLAN

84. Management has prepared an Action Plan that addresses follow-up at the country level and within the Africa Region. Africa Regional Management is committed to strengthening safeguards quality control to better monitor and manage environmental and social risks, as well as to undertaking more consultations so that the concerns of project-affected persons are adequately considered. The Action Plan includes ongoing and future efforts for addressing

Indigenous Peoples issues in the Congo Basin, remaining engaged in the forest sector of the DRC, and continuing outreach about Bank sectoral work and lending.

ISSUE	ACTION AND RESPONSIBLE UNIT(S)	TIMEFRAME
REGIONAL LEVEL		
SAFEGUARDS	<p>Continue to strengthen safeguards quality control across the AFR portfolio to ensure that: (i) projects are properly classified and relevant Operational Policies are triggered; (ii) EAs and other safeguard instruments are prepared on time, including for emergency operations; and (iii) implementation of safeguard instruments is adequately monitored. (AFTEN/AFTCS/AFTQK).</p> <p>In particular:</p> <ul style="list-style-type: none"> ▪ Ensure Task Team Leaders are adequately trained in safeguards ▪ Review the AFR portfolio. 	<p>Ongoing</p> <p>Ongoing</p>
COUNTRY LEVEL		
INDIGENOUS PEOPLES	<p>Integrate Indigenous Peoples as a cross-cutting theme across the Bank's activities in DRC (AFTCS/AFCC2). In particular, the Bank will:</p> <ul style="list-style-type: none"> ▪ Analyze the current situation of vulnerable groups in DRC, including Pygmies, and draw and disseminate lessons from ongoing efforts to reach and support them with: (i) the Social Fund in-terms of access to education, health and rural infrastructure; (ii) the Indigenous Peoples Plan of the Emergency Recovery Project; and (iii) the dialogue with Indigenous Peoples in the context of the forest reform agenda. ▪ Ensure upcoming Road, Agriculture and Forest Projects will include capacity building components to strengthen social safeguards and implement Indigenous Peoples Frameworks. ▪ Dialogue with Government on ways to address the special needs of Indigenous Peoples groups in the framework of the PRSP. ▪ Based on the above actions, discuss and agree with Government and other donors on measures to further strengthen development of Indigenous Peoples in DRC. 	<p>FY08 onwards</p> <p>FY08 onwards</p> <p>FY08 onwards</p> <p>FY08 onwards</p>
FORESTS	<p>Stay engaged in the DRC forest sector.</p> <p>Continue to monitor the Legal Review and the moratorium and assist the Government to help ensure compliance with the 2005 Presidential Decree; continue to mobilize attention of the highest level of government, and ensure that forest governance benchmarks feature in possible future policy lending or similar instruments (AFTEN/AFCC2). In particular, the Bank will:</p> <ul style="list-style-type: none"> ▪ Continue to provide advice on the Legal Review and follow-on steps ▪ Continue to support and monitor progress on five TSERO indicators ▪ Agree with Government on key benchmarks and policy instrument <p>Ensure that capacity-building, participatory zoning, customary rights, critical natural habitats, and law enforcement, and independent monitoring feature in forthcoming forest-related operations. Include provisions to help provide equal opportunities to Indigenous Peoples. (AFTEN). In particular:</p> <ul style="list-style-type: none"> ▪ Include in FY08-10 CAS a forest sector project ▪ Launch GEF Grant for national parks ▪ Launch Multi-Donor Trust Fund for Forest Governance <p>Continue to foster high-level public debate on alternative uses and innovative models, and to stimulate Government's commitment and donors' interest. In particular:</p> <ul style="list-style-type: none"> ▪ Help organize a Chatham House Meeting on innovative uses 	<p>Ongoing 2008</p> <p>Ongoing 2008</p> <p>Ongoing 2008</p> <p>CAS approval September 2008 September 2008</p> <p>December 2007</p>

ISSUE	ACTION AND RESPONSIBLE UNIT(S)	TIMEFRAME
	<ul style="list-style-type: none"> Help the DRC access the new Forest Carbon Partnership Facility Help pilot conservation concessions in DRC. 	December 2008 December 2008
OUTREACH	<p>Continue to implement the Congo/Forest communication strategy, with media, civil society and donors, in-country and internationally. Mainstream forests in Bank's core communication and high-level events (AFREX/AFTEN). In particular:</p> <ul style="list-style-type: none"> Disseminate the multi-author 'Forests in Post-Conflict DRC' Implement a strengthened outreach strategy, and update annually Conduct targeted meetings with Pygmy communities and their representatives to discuss forest issues. 	Ongoing 2008 Ongoing 2008 Ongoing 2007

85. The Management Action Plan was shared in Kinshasa with key counterparts from the Government, development partners, national NGOs, representatives of Pygmy organizations, and the forest industry. Counterparts confirmed their support for Bank engagement in the forest sector. These initial discussions took place on October 22 and 23, 2007, and were followed up by further meetings.

VII. CONCLUSION

86. Management welcomes the Panel's conclusion that the Bank should remain engaged in the forest sector of DRC. Management agrees there have been omissions in the safeguards review of the Emergency Recovery Project; however, Management believes that the Bank has made every effort to correct the situation, to deliver emergency assistance to poor communities affected by the conflict and to maximize the project's long-term beneficial impacts on poverty reduction.

87. With regard to the forest elements examined by the Panel, Management confirms that: (i) the pilot participatory zoning activity was dropped before it started, and, had it started, its design included provisions for undertaking the analytical work, baseline data collection, consultations, disclosure, and consideration for alternatives, consistent with the objectives of relevant Bank policies; (ii) the moratorium and the Legal Review, since they aim to cancel illegal concessions and to introduce more stringent social and environmental obligations in remaining legal concessions, are likely to have sustained positive impacts on the environment, forests, and other natural resources, as well as on poor people and vulnerable groups; and (iii) the overall forest work supported by the Bank since 2002 has benefited local people, vulnerable groups, forests and the environment by helping to remove the legacy of decades of mismanagement, and by laying the foundation for more sustainable, multi-purpose, and equitable forest models.

88. Given the difficult conditions in DRC since 2002, an alternative, such as waiting for generally more favorable conditions, would have let logging concessions, legal or illegal, continue to operate, expand and consolidate under the old regulations and practices. In this 'no-reform' scenario, there is reason to believe that a large part, if not all, of the Congolese rainforest would now be locked up under logging contracts. Participatory zoning would be precluded, and alternative models focusing on social and environmental values would no longer be an option. This scenario was underway in 2002 and the Bank's intervention helped avert its progression.

89. Management welcomes the Panel's finding that the various parties with whom it spoke, including the Requesters and other donors, believed it important, if not essential, that the Bank continue to be involved in the forest sector in the DRC. Management is committed to support the authorities and other relevant groups in DRC in implementing the work started in 2002 and to implement the Action Plan set out in this report. Given the importance of the action plan and the broad interest in its successful implementation, Management proposes to provide the Board with a Progress Report in a year's time, i.e., December 2008.

**MANAGEMENT REPORT AND RECOMMENDATION
IN RESPONSE TO THE INSPECTION PANEL INVESTIGATION REPORT**

**ANNEX 1
FINDINGS, COMMENTS AND ACTIONS**

	ISSUES / FINDINGS	Para. no	RESPONSE
1.	<p>Cancellation of Forest Concessions</p> <p>Panel notes importance of Bank's intervention, before start of EESRSP, to advise the Government to cancel concessions that were illegal or not valid. This was consistent with the Bank's forest policy.</p> <p>Panel also observes that cancellations do not mean that full reduction of some 25 million hectares contained forest cover. Panel was informed, during its investigation, that substantial areas in these concessions were not covered by forests, but had been previously logged and/or were agricultural lands, swamp lands and even villages. Substantial portion of concession areas canceled in 2002 that did have forest cover appear to have re-emerged as concession areas under consideration for validation in the concession conversion process supported by EESRSP.</p> <p>Panel observes that one can expect strong pressures for industrial logging, because resource is enormous and profit potential great. In this light, many people, including some who are critical of World Bank actions, indicated to Panel their hope that World Bank will stay engaged in the sector to support and help ensure that critical social and environmental needs are protected, while supporting needed economic development and progress in the country.</p>	117-118, 119, 127-128	<p>Comment:</p> <p>Management welcomes the Panel's assessment that the Bank's intervention to advise the Government to cancel concessions that were illegal or not valid, at the beginning of the reform process (before the start of the EESRSP), was important and was consistent with Bank policy. Management also shares the Panel's view that strong pressures from industrial logging, as well as other challenges, can be expected in the future, and welcomes the wish expressed by many people (including those critical of the Bank) that the Bank stay engaged in the forest sector. The Bank intends to do so.</p> <p>Management agrees that areas covered by canceled concessions also included villages and farmlands. This made cancellation of concessions all the more essential in restoring the rights of local people over land and forest resources. Available data showed that all existing concessions in DRC contained on average 19 percent of village, agriculture and swamp areas, and there is no evidence that concessions canceled in 2002 contained more of these areas than those not canceled. As to the cases where portions of canceled concessions re-emerged in contracts awarded after the moratorium, Management notes that these are currently being examined by the Legal Review, supported by the TSERO and the EESRSP.</p> <p>Management wishes to underscore the Bank's strong commitment to protecting forest social and environmental values in DRC. In 2002, 43 million hectares – i.e. half of DRC's rainforest, all the most accessible areas – were under logging concessions, allocated without local consultations, with little or no economic benefits for forest peoples and the country, and without provisions for environmental protection. Focusing on these concessions and effectively addressing the legacy of mismanagement was the logical first step in freeing up space for other forest uses and paving the way for a more balanced approach, including community rights, protected areas, and non-extractive uses. The cancellation of 25 million hectares of concessions in 2002 indeed created the opportunity to take a new look at forest uses and promote new models.</p> <p>Action:</p> <p><i>The Bank will stay engaged in the forest sector in DRC. It will do so in the framework of its overall</i></p>

	ISSUES / FINDINGS	Para. no	RESPONSE
			<p><i>country dialogue, and through capacity building and technical assistance operations – the GEF and IDA forest operations currently under preparation and the forest governance MDTF that is being set up in collaboration with the European Union, Belgium, France, Luxemburg and the United Kingdom. These instruments will emphasize forest governance, public participation, community development, biodiversity conservation and environmental services.</i></p> <p><i>Management will build upon the outcome of the 2007 Brussels Conference, the 2007 Spring Meetings Congo Forest Event and the ongoing DfID-led Roundtable on Alternative Uses, to help identify and promote alternative forest uses and related innovative financing models.</i></p>
2.	<p>Bank Engagement and Focus</p> <p>Bank's early interest in potential tax and revenue-generating value of increased industrial logging led to focus on developing a Project that would facilitate increased levels of industrial forest exploitation. Panel finds that there was inadequate consideration of many other important socio-economic and environmental issues of forest use, embedded within Bank safeguard policies, and distorted actual economic value of country's forests. This, in turn, contributed to problems of Bank compliance with its social and environmental policies at Project design and appraisal.</p> <p>Panel notes that there is wide agreement that industrial logging in DRC has profound social and environmental impacts. There is also widespread awareness that DRC lacks basic institutional, technical and field capacity to address social, environmental and other issues relating to logging in its forests.</p> <p>Project documents presented to Board upon approval of EESRSP contain virtually no information or analysis on critical social and environmental issues and risks that would inevitably arise in connection with a Bank project involved with tropical forest concession operations, especially one which was built on analysis that foresaw the value and need to increase industrial concession operations.</p>	124, 163, 165-166, 207	<p>Comment:</p> <p>Management would like to clarify that at no point in time has the Bank supported the expansion of logging in DRC. All its actions, policy dialogue and outreach, prior to and after the Request for Inspection, have been aimed at controlling this activity and curtailing the potential for unregulated expansion, protecting forests and forest peoples' rights, enhancing public participation, and opening the way to alternative uses of forests. The Priority Agenda, adopted in 2002 by the Government with Bank advice, focused on establishing a moratorium on new concessions, canceling illegal concessions, and finalizing a draft Forest Code that recognized local peoples' customary rights and introduced the concepts of community forestry, conservation concessions, and environmental services, among others.</p> <p>Management further wishes to clarify that the EESRSP was not built on an analysis that emphasized the need to increase logging. Indeed, EESRSP-supported activities (multi-purpose pilot participatory forest zoning and the Independent Observer's support to the Legal Review of logging contracts) make this point clearly. The Bank's intervention in the forest sector in DRC since 2002, even though the moratorium was not fully respected, countered the post-conflict grabbing of the entire Congolese rainforest for logging – a scenario that was clearly underway in 2002. With the reforms, although imperfectly implemented, the area under logging concessions in DRC dropped from 43 million hectares in 2002(out of 86 million) to 21 million in 2007. The ongoing Legal Review is likely to reduce further the amount of forest land under concession and integrate social and environmental considerations into all remaining concessions. This Legal Review is the continuation of the same effort undertaken in 2002 to remove the legacy of mismanagement and to promote more equitable and sustainable models.</p>

	ISSUES / FINDINGS	Para. no	RESPONSE
			<p>Management notes that the Bank's engagement in the DRC forest sector has sometimes been misunderstood, especially at the beginning of its involvement. Important outreach efforts started in 2003. The Bank team met regularly with international and national NGOs in Kinshasa, in the field, and in Europe and Washington. Bank teams visited the recently-pacified Equateur, Orientale and North-Kivu provinces. "Questions & Answers" on the Bank's forest work in DRC were posted online. In 2004, the Kinshasa Office organized a first event with the national press, radio and television, and distributed background materials on key forest issues. In July 2004, the President of the Bank met with local and international NGOs including Indigenous Peoples representatives, and in November 2004, the Bank helped organize the First Forest Forum in Kinshasa. In February 2005, the Country Office met with Indigenous Peoples representatives in Kinshasa, and Bank teams visited Pygmy communities on the eastern side of the country in an effort to establish direct lines of communication with them. In 2006 the Bank developed a more proactive communications strategy (Annex 11) in DRC. At the national level, it started to meet regularly with the Congolese media network for environment (MET) and held interviews with newspapers, radio channels and televisions. It also reached out to leading international media, and continued to foster consensus with civil society. During 2006 and 2007, the Bank also helped organize high-level international forums such as the Second Forest Forum in Kinshasa in 2006, and the Brussels Conference in February 2007. In April 2007, the President of the World Bank chaired a High-Level Congo Forest Side-Event during the Spring Meetings in Washington, and he recommended that the DRC forest agenda continue to be raised in similar high-level forums. Bank staff co-authored, with 14 NGOs and research institutions, a book entitled "Forests in Post-Conflict DRC," which was widely publicized. (See Annex 10).</p> <p>Action:</p> <p><i>The Bank will continue its proactive outreach efforts to ensure its approach to forests in DRC is well understood (see Annex 11). To this end it will:</i></p> <ul style="list-style-type: none"> - <i>Facilitate understanding of the Bank supported Government forest agenda by disseminating in-country and internationally the publication entitled "Forests in Post-Conflict DRC".</i> - <i>Organize information exchanges with civil society on the occasion of missions and/or other events related to the preparation and supervision of the GEF, IDA and MDTF operations.</i>

	ISSUES / FINDINGS	Para. no	RESPONSE
			<ul style="list-style-type: none"> - <i>Proactively seek exchanges of information with Congolese and international media, with the Congolese Parliament, the NGO community, and forest peoples organizations throughout the preparation and implementation of the GEF and IDA forest operations and the MDTF.</i> - <i>Contribute to the December 2007 Chatham House discussions on DRC and forests, and feature DRC and forests as a side event during the 2008 World Bank/IMF Spring Meetings.</i>
3.	<p>Legal Framework and Institutional Capacity</p> <p>EESRSP in component 2 and TSERO sought to support implementation of legal framework in DRC relating to forests, including 2002 Forest Code and 2002 Decree creating a Moratorium on the awarding of new forest concessions. Panel notes that developing a good quality legal framework is a high priority and is consistent with Bank policy. Much still needs to be done as of the date of Panel's Report to develop regulations implementing Forest Code.</p> <p>Panel also notes, however, DRC lacks capacity to implement legal framework, including its provisions designed to benefit local communities. During its investigation, Panel saw little evidence of enhanced government capacity to enforce the law and respond to social and environmental issues posed by logging. Panel is concerned about Project's potential impact in supporting actions to validate long-term concession contracts when capacity to ensure sustainable forest concession operations does not exist. Panel also notes that lack of capacity is likely to jeopardize collection and distribution of hoped-for revenues from logging.</p>	169, 202-212	<p>Comment:</p> <p>Management agrees with the Panel's finding that developing a good quality legal framework, including the 2002 Forest Code and the Decree on the moratorium, represented a high priority at the time of Bank re-engagement and that Management decisions were consistent with Bank policy.</p> <p>The 2002 Forest Code integrates new concepts which were absent in pre-existing forest legislation in DRC. These are: consultation and participation in decision making and land use choices; protection of customary rights, sustainable management of conservation and production forests; wildlife protection; community-based forest management, environmental protection and environmental services. A new Law on Nature Conservation is now being prepared to complete the body of legislation on renewable natural resources and the environment.</p> <p>Management agrees with the Panel that DRC lacks adequate capacity to implement the new forest legal framework. Building capacity is a major challenge in the forest sector as well as in any other sectors. Giving priority to creating a legal framework, to removing the legacy of mismanagement and to restoring basic governance conditions and political commitment, appeared the logical choice at the time of Bank re-engagement in DRC. At that time, several regions of the country remained inaccessible, and Bank support focused on emergency needs and framework setting policies rather than long-term capacity building.</p> <p>Following an improvement of the situation, at the request of the Government, and in collaboration with other donors, Management has now decided to move ahead with forest sector capacity building. To this end, the Bank is preparing GEF and IDA forest operations and establishing the Government executed MDTF. An institutional audit was recently completed to help prepare the above operations. In the meantime, to address critical needs in the short term, the Bank has advised the DRC to recruit a reputable international NGO, to work as a third-party forest monitor and help detect illegal logging. Global Witness is undertaking a scoping mission in</p>

	ISSUES / FINDINGS	Para. no	RESPONSE
			<p>that regard.</p> <p>With regard to the Panel's concern that the ongoing Legal Review may validate old concession contracts, Management wishes to clarify that the Legal Review is meant to ensure that old, invalid concessions are canceled and that stringent social and environmental requirements are introduced into concession contracts that cannot be canceled for legal reasons. Management wishes to emphasize that the alternative to the Legal Review was to let all existing concessions, legal or illegal, continue to operate and to do so under the terms of contracts bound to the pre-existing regulation with no proper social and environmental requirements.</p> <p>Action:</p> <p><i>Management will continue to assist the Government in undertaking the actions described above, including:</i></p> <ul style="list-style-type: none"> - <i>Help the Government complete the Legal Review, in compliance with the 2005 Decree;</i> - <i>Using the above mentioned GEF and IDA operations and the MDTF to strengthen the capacity of the Ministry of the Environment and the Congolese Institute for Nature Conservation to enforce the legal framework;</i> - <i>Help the Government test and adopt a third-party forest monitor to watch for illegal logging; and</i> - <i>Help develop implementation decrees of the Forest Code, as well as new Laws on Nature Conservation and Environmental Management.</i>
4.	<p>Indigenous Peoples</p> <p>While no reliable census data are available, Panel's expert estimates that DRC is home to between 250,000 and 600,000 Pygmy people. Panel's expert notes that size of Pygmy population may be larger than claimed because of discrimination against Pygmies.</p> <p>Project documents presented to Board for approval of EESRSP do not mention Pygmy Peoples, or assess potential issues or risks to them posed by Project activities, even though presence of Pygmy peoples in the forest areas of DRC was well known and documented. Panel finds that Management did not carry out appropriate screening as required in early stage of the Project to determine possible presence of indigenous peoples. Management failed to identify existence of Pygmy communities in areas affected by Project. This does not comply with OD 4.20.</p> <p>Even by the time of Management Response to Request for Inspection, some Pygmy groups affected by Project had not been identified. Moreover, only limited attention was given to the fact that, as a consequence of conflict and economic breakdown, current rural population of about 40</p>	96, 168, 222, 223, 227, 231, 234, 237, 243, 251, 282	<p>Comment:</p> <p>Management agrees that OD 4.20 should have been triggered in the context of the safeguards review process of the EESRSP.</p> <p>Management agrees that appropriate screening for the road component of the EESRSP was not done and that the Pygmy presence in the project area could have been detected. Management clarifies that the situation has been corrected, although with some delay. As the security situation made field work and local consultation possible, in 2006, an Indigenous Peoples Development Plan (IPDP) was developed in consultation with Indigenous Peoples groups, and complemented by a detailed Action Plan. A consultant is currently being recruited to help in the implementation of the IPDP and the Action Plan.</p> <p>With regard to the pilot participatory forest zoning, Management would like to clarify that this activity was dropped before it started and that no zoning activity was carried out in DRC with Bank support. Management further wishes to underscore that</p>

ISSUES / FINDINGS	Para. no	RESPONSE
<p>million people relies heavily on forest for subsistence.</p> <p>Panel reviewed whether Pygmy people qualified as Indigenous Peoples under OD 4.20. Panel observes that most of Pygmy people satisfy the criteria, with possible exception of language criterion. Panel observes that Pygmies in DRC should be considered as Indigenous Peoples under OD 4.20.</p> <p>Panel finds that Bank's failure to trigger OD 4.20 for EESRSP's component 2 and to prepare an IPDP does not comply with OD 4.20 on Indigenous Peoples. As a result, potentially critical interests and needs of indigenous Pygmy people in relation to these Project activities have been left unaddressed.</p> <p>A policy-consistent IPDP would have provided framework for improved baseline data on Pygmy people in DRC. Absence of an IPDP appears to have been a major contributing factor to problems that arose in early efforts to initiate a [Pilot Forest Zoning Plan] PFZP and in implementation of the concession review process.</p> <p>Panel notes that it was only after this Request for Inspection that Bank paid more attention to plight of Pygmy people and many others dependent upon forests. To its credit, Bank Management is now devoting attention to livelihood and cultural problems faced by people living in forest or dependent upon it.</p>		<p>possible Pygmy presence in the pilot zoning area had been duly identified during project preparation, and that the TORs prepared for this activity, if it had happened, included the type of analytical and local consultation work that is conducted when OD 4.20 is triggered.</p> <p>Also, consistent with Bank safeguard policies (OP4.10), a Consultation Protocol has been prepared to allow Indigenous Peoples to participate fully in the Legal Review. The Protocol is being implemented by CRON, which includes Indigenous People organizations and which is supported by the CARPE (United States) and SNV (Netherlands). This work, combined with the Bank's dialogue with the Government, led to introducing two seats for Indigenous Peoples representatives in the Inter-ministerial Committee (one permanent, one rotating) and identifying the 220 representatives (70 of whom are Pygmies) who will come to Kinshasa to participate in the committee. In addition to identifying potential participants, CRON will select, coach and assist the Pygmy representatives in participating in the Review and decision-making about concessions located in their territories or lands (see also Item 12).</p> <p>Particular attention is now being given to screening procedures early on in preparation of all Bank-financed activities that take place in or around forests. Where feasible, partnership with NGOs working with the Pygmies is increasingly being sought to address their specific needs and issues.</p> <p>Finally, Management wishes to stress that the general situation of the Pygmy population cannot be fully addressed through individual projects or in the forest sector only. Management is continuing to work with all stakeholders at both the national and regional level to help Indigenous Peoples obtain appropriate and substantial benefits from development activities and projects.</p> <p>Action:</p> <p><i>Management will continue to work with all stakeholders, including government agencies, Indigenous Peoples and other stakeholders, to ensure effective implementation, monitoring, and supervision of its safeguard policies.</i></p> <p><i>Management will continue to monitor the implementation of the IPDP along the RN4; and to support participation of local people, including Indigenous Peoples in the Legal Review and in the subsequent preparation of forest management plans for the legal concessions.</i></p> <p><i>Bank financed/co-financed projects will pay particular attention to the needs of Indigenous Peoples and other vulnerable groups. Management will also discuss with the</i></p>

	ISSUES / FINDINGS	Para. no	RESPONSE
			<p>Government the possibility to analyze the current situation of vulnerable groups in DRC, including Pygmies, especially to draw and disseminate lessons from efforts to reach and support them. This analysis will especially draw on experiences with (i) the Social Protection Project, in particular access to education and health services; (ii) components of road projects, especially the RN4 and the upcoming Pro-routes project; and (iii) an expanded dialogue with indigenous groups in the context of the forest Priority Reform Agenda.</p> <p>Management will also dialogue with Government on ways to address the special needs of Indigenous Peoples in the PRSP, and based on the above actions, discuss and agree with Government and other donors on measures to further strengthen development of Indigenous Peoples in DRC.</p>
5.	<p>Cultural Property</p> <p>Forest to Pygmy people is not merely the place where they obtain material benefits. Forest plants and animals are useful both in direct and indirect ways, for material as well as spiritual purposes. Forest provides people with basis of their cultural identity. Certain areas are of particular cultural and spiritual significance.</p> <p>Panel finds, however, that Project documents at design and appraisal did not identify cultural property and spiritual value of forest areas to Pygmy peoples or appropriate measures to avoid impacts to areas that might fall within the definition of cultural property under Bank policy. This did not comply with OP 11.03 on Cultural Property.</p> <p>Panel considers that it is not sufficient under relevant policies to defer consideration of these issues and impacts, and consultations with local Indigenous Peoples more generally, to later stages of Project implementation, e.g., at such time that zoning proposal is implemented, and/or after conversion of contracts during development of concession management plans. While consultation and appropriate action at these later stages would still be important, a safeguard postponed in design and appraisal stages may become a safeguard denied.</p>	287, 292-293	<p>Comment:</p> <p>Although the ISDS and the TORs for the EA for the Road Component failed to trigger OPN 11.03, the EA Report disclosed in January 2006 has explicitly mentioned and analyzed impacts of the roads component on cultural property. These references include chance find procedures, mitigation measures, and compensation to communities for affected cultural and sacred properties (See EA Report Pages 39,148, 213, 215, 217, 218 and 256 on "Compensation for cultural and/or sacred sites"). The EA also provides guidance on the recruitment of archeologists to supervise the works. The EA lists as cultural properties: cemeteries, tombs, sacred forests, and historical sites. The EA mentions specifically that these sites must be avoided whenever and wherever possible.</p> <p>Action:</p> <p>Management will review progress as part of IPDP supervision.</p> <p>Management will ensure that cultural property issues are adequately addressed in forthcoming operations currently being prepared in DRC.</p>
6.	<p>Poverty Reduction</p> <p>Panel observes that there have often been cases where local people have not really benefited from logging industries, except for a short-term benefit limited to a small number of people. Instead, as seen in the case of Cameroon, local people, in particular Pygmy peoples, are suffering from increased poverty. 2007 Report on Forests in Post-Conflict DRC also comments that industrial logging has a poor track record in Africa, and that there is little evidence that it has lifted people out of poverty.</p> <p>Unless strong measures are taken to ensure that benefits reach local people, concession system would not make expected contribution to poverty alleviation of local people. Panel also observes that economic value from timber</p>	123, 302-303, 307,-308, 312	<p>Comment:</p> <p>Management agrees with the Panel's findings that traditional forest industry models have provided only modest and short-term benefits to local communities; that unless strong measures are taken to ensure that benefits reach local people, the concession system would not make the expected contribution to poverty reduction; that people's access to non timber forest resources should be maintained and improved; and that appropriate community forestry models and other innovative approaches to forest conservation and uses could provide significant benefits at the local level. Management is committed to: helping DRC</p>

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	<p>production is only a minor part of total economic value produced from forest. Panel notes that if access to these non-timber resources were considerably restricted by timber operations, there would be no way of compensating for loss.</p> <p>Panel observes that establishment of “community forests” could have significant positive impacts, if they are designed to take into account needs of local people and to incorporate lessons learned from problems in other settings (e.g., Cameroon).</p> <p>Panel finds that there is a possibility that Project, in its present form, may not contribute significantly to alleviating poverty of forest people, because of risks mentioned above, and may instead contribute to adverse impacts on poverty to the extent that logging-related practices are unsustainable. Panel is especially concerned in this regard about delay in developing implementing regulations concerning customary forest rights, including for “community forests,” and in supporting small-scale forest-based enterprise.</p>		<p>change the way production forests are managed and benefits are shared; and testing and promoting innovative community-based forest management models, as well as models that emphasize marketing of environmental services.</p> <p>Management wishes to clarify that by helping cancel illegal concessions, countering unregulated expansion of logging concessions, and introducing new social obligations, the EESRSP and TSERO helped create conditions that are crucial for reducing rural poverty, asserting stronger community rights over larger forest areas, and expanding community-based models. The completion of the cancellation of illegal concessions and the changes in the terms of remaining contracts, and the enactment of a comprehensive regulatory framework, along with improved enforcement capacity, are expected to greatly increase the contribution of the forest sector to the livelihood of rural indigenous communities.</p> <p>Action:</p> <p><i>The upcoming forest operations will include measures to help ensure that forest benefits reach local people, that forest peoples’ access to non timber forest resources is maintained throughout the forest domains; that community-based forest models are tested and promoted; and, that civil society and local associations participate in forest-related decision-making processes.</i></p>
7.	<p>Environmental Assessment</p> <p>Documents presented to Board at the time of EESRSP’s approval state that Project is classified as Category B “because no activity funded under the Project is expected to have a significant negative environmental or social impact.”</p> <p>This “Category B” EA, however, covered the road-construction elements contained in Component 3 of the Project. When Project team later upgraded this EA to Category A, it still applied to Component 3. There was no EA analysis ever completed (whether of Category A, B or C) of the pilot zoning and logging concession elements contained in Component 2 of Project. Panel finds that failure to prepare an environmental assessment for Component 2 of Project does not comply with OP 4.01.</p> <p>Panel considered what type of EA analysis should have been prepared under Bank Policy for each of these two elements in Component 2 of EESRSP: pilot zoning element and logging concession element.</p> <p>Panel notes that at the time EA was completed, zoning element was an integral part of Component 2 of Project. Panel considers that forest land use planning should have been anticipated to have a potentially fundamental impact on land, forests, and people.</p>	340-341, 346, 348-350, 354, 356, 361, 366-367	<p>Comment:</p> <p>The EESRSP is an emergency operation consisting of five components: (i) budget support (23 percent); (ii) institutional strengthening (7 percent); (iii) infrastructure rehabilitation, including roads (42 percent); (iv) urban rehabilitation (14 percent); and (v) community empowerment (5 percent).¹ The institutional strengthening component covered 26 activities, including two forest activities, totaling 2 percent of the project. In keeping with regular practices for similar projects dealing with institutional strengthening, the safeguards review concluded that only the road component should be subject to an EA. Management agrees that the EA was completed late, but wishes to add that it has been done and the ESMP is being implemented.</p> <p>Management agrees that with regard to the Emergency Recovery Project, the quality of the Bank’s intervention in this case would have been enhanced by triggering OP 4.01; however it wishes to reiterate that the pilot participatory zoning activity was dropped from the Emergency Recovery Project before it started and before the</p>

¹ The remaining 9 percent of the project costs included implementation and contingencies.

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	<p>Panel finds that potential impacts of land use planning in DRC should have been analyzed as part of a “Category A” EA. Failure to develop an environmental (and social) assessment which addressed these issues, at the time when PFZP was part of Project, does not comply with OP 4.01. Dropping zoning element from Project has had important consequences, as detailed in Panel’s report.</p> <p>Component 2 of EESRSP also included a process to review validity of logging concessions in DRC, and convert old forest contracts, covering millions of hectares, into new concession regime. Panel finds that it should have been clear at Project design that Project’s involvement in review of logging concessions carried very significant environmental and social implications. Forests also have world-class biodiversity value and include large areas of habitat of endangered species of fauna, such as the bonobo. Panel finds that failure to prepare an EA for this component does not comply with OP 4.01.</p> <p>Panel observes that financing of policy and institutional reforms in a sensitive sector like forests of DRC, and related technical assistance, can lead to highly significant environmental and social impacts, even if it does not involve direct financing of mechanical and organizational tools for industrial logging.</p> <p>The Panel finds that a “Category A” EA would have been the appropriate, policy-consistent tool to assess these issues and to comply with OP 4.01. Even if the project were classified as Category B, OP 4.01 requires an environmental (and social) assessment for the forest related activities.</p> <p>Preparation and public distribution of the EA was finalized more than 24 months after the effectiveness of the Project, and the EA ultimately prepared did not address the forest-related elements in Component 2, as described above. The Panel finds that this does not comply with OP 4.01.</p>		<p>EA was completed. Had this pilot zoning started activity started, its design included the elements required by OP 4.01, such as studies, baseline data collection, consideration for alternative uses, local consultations and disclosure (See Annex 4).</p> <p>The Legal Review elements of Component 2 consist of securing the participation of an international observer (the World Resources Institute) to monitor the completion of the Legal Review, as well as the participation of local communities in the Review. The Legal Review is meant to either cancel concessions or introduce more stringent environmental obligations in concessions that cannot be canceled for legal reasons. This activity is considered to be favorable to the environment. It is part of the effort initiated in 2002 to clean up the legacy of forest mismanagement, and is expected to free up more space to promote biodiversity conservation, community-based management, and new models based on environmental services.</p> <p>A Consultation Protocol was prepared to ensure adequate participation of local communities and it is being implemented by CRON.</p> <p>Action:</p> <p><i>Management will strengthen safeguards quality control, not only for the DRC portfolio, but the Africa Region portfolio, with the aim of ensuring that safeguards are properly triggered and implemented.</i></p> <p><i>Management will also ensure that potential future Bank support to participatory forest zoning in DRC is adequately screened for applicable safeguards, including OP 4.01, before implementation.</i></p> <p><i>Management will continue to monitor and support the Legal Review and follow up processes, such as the preparation of forest plans, and ensuring compliance with the Forest Code and the October 2005 Presidential Decree.</i></p>
8.	<p>Forest Policy</p> <p>Large scale, generalized maps indicate that existing forest harvesting concessions do not overlap with existing national protected areas, although one of World Heritage Sites appears to be adjacent to two concession areas and close to others.</p> <p>Panel heard numerous statements by indigenous communities that existing operating concessions were felling trees and building roads in sacred groves (local community recognized protected areas). From Panel’s observations of operating concessions, it appears that they would often not respect local community sacred groves.</p> <p>Given the focus of Project to improve institutional and policy capacity, Bank could consider that it is not financing a project that involves significant conversion of critical forest</p>	371, 389	<p>Comment:</p> <p>Management shares the Panel finding that the EESRSP is in compliance with OP 4.36. It also wishes to make clear that the TSERO and EESRSP were not designed to promote, nor did they focus on forest harvesting. The EESRSP and TSERO focused exclusively on strengthening the moratorium on new concessions and supporting the Legal Review of existing concessions – two measures aimed at reducing logging areas and at clearing the path for alternative forest uses focused on social and environmental values.</p> <p>In line with OP 4.36, Management will ensure that future Bank forest and forest-related operations recognize and respect legally documented or customary rights, as well as the rights of</p>

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	<p>areas or natural habitats and that it is thus in compliance with OP 4.36. Panel agrees that this view has merit to date, but notes that there are important factors that could affect and alter this assessment with respect to outcome of this Project, even in short run. Project design put a strong focus on harvesting and the revenue it generates. Question of whether and how the Project might contribute to impacts on critical forest areas will depend, <i>inter alia</i>, on how concession review process is implemented and eventual related questions of land use and zoning.</p>		<p>Indigenous Peoples and workers. With respect to industrial forest operations, the Bank will continue to promote responsible forest management standards (including protection of critical forests, sound and effective community relations, and accrual of environmentally sound multiple benefits) and third party certification by internationally recognized bodies.</p> <p>Action:</p> <p><i>Management will continue to work towards an approach that strengthens transparency, law enforcement, local participation and community rights, and protects critical forest ecosystems. This approach will be implemented through the GEF and IDA operations and the MDTF currently under preparation, as well as through policy dialogue and policy instruments.</i></p>
9.	<p>Natural Habitats Policy</p> <p>OP 4.04 provides that Bank does not support projects involving significant conversion of natural habitats (as distinguished from critical natural habitats) unless a comprehensive analysis demonstrates that overall benefits from project substantially outweigh environmental costs. Panel notes that no such comprehensive analysis has been completed even though Project had potential to affect how logging operations take place in areas of very significant natural habitat. Potential risks in the Project are not addressed.</p> <p>Natural Habitat policy also provides that Bank expects borrower to <i>"take into account the views, roles, and rights of groups (...) affected by Bank-financed projects involving natural habitats, and involve such people in planning, designing, implementing, monitoring and evaluating such projects."</i> Until the time of Request, however, Panel found little evidence of attempts to take into account or involve local communities likely to be affected by Project. This does not comply with OP 4.04.</p>	397-398	<p>Comment:</p> <p>Management would like to clarify that neither the projects under investigation nor other Bank supported policies and initiatives in the DRC involve significant conversion of natural habitats.</p> <p>Management wishes to highlight that: the design of the dropped participatory pilot zoning included the type of analysis and local consultations called for by OP 4.01 (see Item 7 above) and by OP4.04; and that Articles 5 and 16 of the Decree of October 2005 on the Legal Review explicitly preclude the opening of new areas to logging.</p> <p>Overall, the rainforest areas under logging concessions in DRC were reduced from 43 million hectare in 2002, to 21 million hectare in 2007.</p> <p>Action:</p> <p><i>Management will ensure that OP 4.04 is triggered, where appropriate, for the preparation of the upcoming Bank projects in DRC dealing with forests, infrastructure and other relevant sectors, and carry out the corresponding analysis and consultations. These projects will include activities aimed at protecting critical natural habitats and creating new protected areas.</i></p>
10.	<p>Development Policy Loans and Forest Components</p> <p>TSERO is a Development Policy Loan (DPL), a component of which relates to forest issues at core of component 2 of EESRSP. Since TSERO is a DPL, it is not subject to safeguard policies in same way as investment projects. OP 8.60 on Development Policy Lending requires Bank to determine <i>"whether specific country policies supported by the operation are likely to cause significant effects on the country's environment, forests, and other natural resources."</i> Panel notes that Bank determined that the TSERO is not likely to cause significant adverse environmental effects. Program Document of TSERO initially relied on the analysis under EESRSP in making that</p>	404, 420-427	<p>Comment:</p> <p>Management considers that the specific policies supported by the operation – launching of the Legal Review of forest concessions, and extension of the 2002 forest moratorium – helped preserve forests and made it possible for the Government to initiate a participatory process for forest planning. The Bank's assessment during the corporate review processes – that these country policies would not cause likely significant effects on the environment, natural resources and forests – drew on analytical work undertaken in 2004-2005 and a multi-stakeholder forum in November 2004</p>

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<p>determination, but EA for EESRSP was not available until February 2006, after determination had to be made, and even then EA did not address forest-related activities under Project, i.e. Component 2.</p> <p>OP 8.60 emphasizes need to consider “the borrower’s systems for reducing such adverse effects.” Panel observes that a fair description of that would have concluded that systems were non-existent or extremely debilitated and ineffective. That might have led to some difficult discussions in approval process. Panel finds that Bank’s determination that there were no significant environmental or social effects of the forest component of the TSERO is not consistent with objective of Bank policies, especially when component essentially carries forward component 2 of earlier investment project, which was subject to full Bank safeguard policies.</p> <p>In light of issues raised above, however, Panel is doubtful whether choice of a DPL under its present guidelines was the right instrument for achieving agreed-upon goals of reforming this sector with its many social and environmental complexities.</p> <p>Panel finds that there are potential risks of including components such as forests in DPLs, which lack safeguards. Panel notes that formerly such forest components were generally handled as projects, subject to safeguard policies. Panel observes that use of DPLs for other natural resource components could raise similar issue.</p> <p>Panel recognizes that DPL is an instrument that can engage high-level attention of the Finance or other influential Ministry, which in specific country context can be important. Panel finds that in using a DPL, it is critical that process for assessing whether there are significant environmental and social effects be rigorous and thorough and that there be a willingness to undertake prudent assessments in order to avoid subsequent unforeseen impacts and unwelcome developments.</p>		<p>preceding the development of the TSERO.² Management acknowledges that the original documentation for the TSERO, which was corrected after its issuance to the Board, erroneously cross-referenced the EA of the EESRSP as additional analytical work.</p> <p>Management considers that there were no adverse effects from the forest prior actions in the DPL. In Management’s view, the determination made on likely significant effects of the Development Policy Operation, is fully consistent with the objective of Bank policies.</p> <p>Management also wishes to clarify that development policy lending and investment lending cannot be used interchangeably. The appropriate use of instruments is determined by the nature and content of Bank support. In particular, DPL operations support implementation of institutional and policy actions, whereas investment operations finance specific investment expenditures. Management believes that the actions supported by TSERO fall clearly in the domain of policy and institutional actions, and that the use of DPL was therefore appropriate and could not have been substituted by investment lending. In fact, DPL support for a limited set of policy actions was used to complement and enhance the impact of existing and planned investment lending.</p> <p>Management does not consider that the support of policy and institutional actions under a DPL <i>per se</i> reduces the Bank’s attention to social and environmental concerns. As was recognized during the introduction of OP 8.60 in 2004, Bank safeguard policies are designed to screen and review specific investment spending, particularly physical investments with geographically circumscribed impact. Management also notes that the policy for DPLs requires that, in case a DPL finances specific investments, the Bank’s safeguard policies apply to such investment subcomponents.</p> <p>Management agrees that a rigorous application of OP 8.60 is necessary to ensure the appropriate screening of policies for likely and significant effects on the environment, forests, and natural resources. The corporate review processes of DPLs are geared to ensuring Bankwide review of appropriate application of the policy. Management</p>

² As explained in Box 1 of “Forests in Post-Conflict DRC – Analysis of a Priority Agenda”, the research process included a desk review of literature, collection of original data through thematic studies and a consultative process to sharpen the analysis and test consensus on initial conclusions. The supporting thematic studies cover the following areas: Overview of the DRC’s forests and forest management system (Chezeaux 2003); Economics of the timber sector (Roda and Erdlenbruch 2003); Taxation and economic incentives (Karsenty *et al.* 2003); Interactions between rural populations and concessions (Yambayamba 2003); Small-scale artisanal forest operations (Djiré 2003); Indigenous forest people (Schmidt-Soltau 2004); Assessment of selected national parks (d’Huart 2004; Mwinyihali 2004); Economic valuation of forest goods and services (Bravi 2005). The process also included consultations with government, national and international NGOs, industry, forest people, and donors. This report was prepared in collaboration with and co-authored by 14 research and civil society national and international organizations (see Annex 10).

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			<p>agrees that natural resource policies are particularly sensitive areas requiring careful consideration and analysis. In this regard, Management believes that several DPL operations with strong forestry focus demonstrate that the Bank is identifying likely significant effects in this sensitive sector upstream and is addressing social and environmental concerns appropriately.</p> <p>Action:</p> <p><i>Environmental, forest, and natural resource aspects of policy-based lending will be reviewed again in the next biennial Development Policy Lending Retrospective, planned for FY09. The FY09 retrospective would also follow up on the FY07 retrospective and its recommendations.</i></p>
11.	<p>Post-Moratorium Concessions and “Swaps”</p> <p>During its investigation, Panel heard repeatedly that 2002 Moratorium on allocation of new forest concessions has been “bypassed” on a large scale. Reportedly, new concessions were granted by certain Government authorities and “swaps” took place in which logging companies exchanged forest areas that they deemed unproductive or that had been already logged for new, higher quality forest areas.</p> <p>2007 Report on Forests in Post-Conflict DRC, referred to earlier, confirms these problems. It indicates that 32 contracts covering 4.6 million hectares were reported to have been awarded in 2003, and similar transactions took place in 2004 and 2005. Furthermore, some of contracts canceled in 2002 were rehabilitated in 2004. These transactions affect an estimated 15 million hectares and involve areas where Pygmies and other vulnerable peoples live.</p> <p>Bank, in Aide-Memoires through July 2005, recognized that there were new contracts for concessions in violation of Moratorium, many of which were “swaps” of old contracts for new ones, and indicated that it did not believe contracts conformed to new Forest Code. It requested Government to take certain steps to address the problem. Panel finds that Bank’s recognition of this problem and its response in Aide-Memoires through July 2005 were consistent with Bank policy on supervision. However, Panel also finds that Management apparently did not make timely follow up efforts at a sufficiently high level to ensure necessary action in response to its findings. Panel also notes that none of supervision documents after July 2005 refer to “swaps” or any potential violation of Moratorium.</p>	429, 434-435, 443	<p>Comment:</p> <p>Management welcomes the Panel’s finding that the Bank’s supervision work was consistent with relevant Bank policy, and believes that the technical and governance findings of Bank missions were raised at the appropriate level in the DRC Government structure, especially around July 2005 in the context of the preparation of the TSERO budget support.</p> <p>Since 2003 when the first breaches of the moratorium were reported, the Bank never stopped expressing concern on the enforcement of the moratorium. In 2004, it became clear that the forest reform agenda was completely undermined by the lack of interest of the then Minister of Environment to implement policy decisions made by his predecessor with support of the Presidency and several ministries. Breaches of the moratorium continued to be reported, official information was no longer disclosed, and there was no progress in launching the Legal Review that had been agreed upon in 2003. Donors including the Bank expressed their concerns in a joint letter of March 2005 as did several international and national NGOs. The Bank used its leverage afforded by the TSERO and escalated the debate to the highest level of Government, President Kabila. The moratorium and the Legal Review were included as prior conditions for the TSERO; and a Presidential Decree was enacted in October 2005 that reinstated the initially agreed-upon criteria and procedures for the Legal Review, restored the full mandate of the Independent Observer, and strengthened the 2002 moratorium. The Decree concerns all concessions including the swaps and other similar transactions (Article 23 of the Decree). A reputable international NGO (World Resources Institute) was recruited to be an Independent Observer of the Legal Review. It is Management’s understanding that concessions re-instated, swapped or granted in spite of the moratorium will be challenged by the Legal Review</p>

	ISSUES / FINDINGS	Para. no	RESPONSE
			<p>in line with the provisions of the October 2005 Presidential Decree.</p> <p>After the Presidential Decree was adopted and the decision to recruit a reputable Independent Observer were made, Bank supervision focused on accelerating the implementation of the Presidential Decree. Now that remedial action against the breaches of the moratorium had been agreed upon, the Bank team concluded that repeating these breaches in Aide-memoires had become unproductive. The Bank continued, however, to make its views on the moratorium known to all stakeholders, including the Government through the Bank's website, Bank official statements in international forest events, including the speech of its President during the High-Level Forest Event he convened at the 2007 Spring Meetings. The Bank's continuous focus on the moratorium is also documented in a multi-author report "Forests in Post-conflict DRC", coordinated by Bank staff, widely publicized, and quoted by the Panel.</p> <p>Action:</p> <p><i>Management will continue to monitor implementation of the moratorium and the Legal Review as well as all other forest governance related indicators listed in the now closed TSERO operation.</i></p> <p><i>Furthermore, given that the maintenance of the moratorium requires not only technical support, but also enduring political commitment, the Bank will continue to raise this issue in the context of the overall country dialogue, and consider introducing relevant follow up measures in future policy lending or similar instruments.</i></p>
12.	<p>Concession Conversion Process</p> <p>Presidential Decree 50/116 of October 24, 2005 sets forth process and criteria for Legal Review by which former logging titles are to be converted into forest concessions, valid for 25 years. Those who hold old forest concession titles must apply for conversion to the Ministry in charge of Forests. A new Inter-Ministerial Commission will review the applications. There are 156 concessions covering about 20 million hectares under consideration in this process.</p> <p>While the Technical Working Group has reportedly completed its review and recommendations, Inter-Ministerial Commission had not become operational. As of August 2007, a new Decree specifying names of current members of the Commission still needs to be approved.</p> <p>Panel notes potential importance of concession conversion process. It appreciates the role of Technical Working Group and assessments provided by Independent Observer of problems that have occurred during this process. Panel recognizes Bank's efforts to establish the role for such an Observer, which Panel finds is consistent with Bank policy. Panel also finds, however, that concession</p>	<p>204, 462- 464, 469- 470, 473, 474, 478- 479. 484, 487, 490- 493. 496, 497- 499- 500, 508- 509</p>	<p>Comment:</p> <p>Management welcomes the Panel's finding that the Bank's effort to establish an Independent Observer in the Legal Review is consistent with Bank policy.</p> <p>Management shares many of the Panel's concerns regarding the challenges facing forests and forest peoples in the DRC. These make the Bank's engagement all the more important. As stressed by two Presidents of the World Bank in 2004 and in 2007, in the face of these challenges, inaction is not an option. Though progress is proving slow and achievements imperfect, Management believes it has been far better to attempt improving the situation, than to avoid the risks of engagement. Since 2002, Management has remained committed to helping DRC remove the legacy of mismanagement and poor governance, and lay the foundation for more equitable and sustainable models. To this end, it has helped cancel illegal concessions; introduce more stringent social and environmental obligations,</p>

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<p>conversion process set forth in the October 2005 Presidential decree has been beset by considerable and significant problems. These are noted below.</p> <p>Treatment of Existing Concessions</p> <p>Many large concessions were either allocated or swapped for after the 2002 Moratorium. Such post-Moratorium concessions, involving millions of hectares of DRC forests, are listed among concessions being considered for approval in concession conversion process Panel has been informed that an initial screening-out of such concessions that would appear to be invalid on their face will not, however, be done. If this continues to be so, it means that despite the review and recommendation of Technical Working Group, Inter-Ministerial Commission might decide to recommend such concessions for approval.</p> <p>Time Constraints</p> <p>Conversion process follows a rather short time frame, which does not leave much time for field verifications and consultation. Experts involved in technical report indicated that they were not given nearly enough time for these activities.</p> <p>Panel notes that there are villages and camps, roads, fields, fallow lands found in many of the concession areas under Legal Review. However, in most of these concessions, neither mapping of customary use of forests nor compensation for loss of such rights has been made. During its field investigation, Panel heard about social conflicts regarding logging concessions. Panel is concerned that such claims and conflicts could not be properly assessed during the short time given for field verification, and reflected in Report submitted for review by Inter-Ministerial Commission.</p> <p>Race to Extract and Swap for Higher Value Forest Areas</p> <p>Panel further notes that initiation of this process may have inadvertently created incentives for actions that increased potential impacts in forests in some areas. The process may have created an incentive for “swaps” by companies of “unproductive” or already logged in exchange for higher quality forest areas, noted above, so that these could be considered for conversion to legal titles in review process. There is also substantial anecdotal information to suggest that the process has contributed to accelerated logging within some existing concessions, in advance of determinations as to their legality.</p> <p>Lack of Meaningful Participation by Pygmy Peoples and Local Communities</p> <p>Inter-Ministerial Commission includes two permanent representatives of national nongovernmental organizations (NGOs). October 2005 Decree setting forth composition of Inter-Ministerial commission did not refer explicitly to Indigenous Peoples’ representation. After November 2006 Decree, Commission will now include a representative of Indigenous Peoples for each concession under review, if concession is in proximity to Indigenous Peoples. Panel also understands that under new draft legislation a permanent</p>		<p>where possible; and promote transparency and public participation. Had Management not done so, it is likely that the majority of the DRC rainforest would, by now, be under old style long-term logging contracts and no longer available for other uses focused on social and environmental values. This scenario was clearly underway in 2002.</p> <p>Management agrees that the Legal Review is facing challenges and delays, but notes that this review is taking place in an extremely delicate post-conflict state-building context where difficulties and delays are to be expected.</p> <p>As an alternative, Management could have waited for generally more favorable conditions to engage in the moratorium and Legal Review, letting concessions, old or new, legal or illegal, continue operating under the old forest regulations. This would have meant, however, accepting the likely lock up of the entire Congolese rainforest under long-term logging contracts to the detriment of other social and environmental values.</p> <p>With regard to the post-moratorium swaps, Management has encouraged the Government to conduct the Review in strict compliance with the Presidential Decree and believes that, in line with the moratorium, concessions exchanged after 2002 should be restored to their pre-moratorium status. According to the Decree, the reports of the Technical Working Group and the Independent Observer reports will be made public at the end of the technical verifications and before the Committee in charge of deciding on these matters is convened (Articles 8, 15 of the Decree).</p> <p>As for the timeframe of the Legal Review, Management wishes to clarify that: (i) clear time benchmarks are essential to keep the review process from being delayed or stalled, as was observed from 2003 to 2005; and (ii) according to the Presidential Decree, issues that go beyond the strict legality of concessions, such as the geographical boundaries, will continue to be dealt with during the 4-year period of preparation of management plans.</p> <p>Concerning the race to extract and swap for higher value forests, Management believes this point in fact strengthens the case explained above for a timely completion of the Legal Review. It also argues for using a third-party monitor to help curb illegal logging, and the Bank is helping DRC to secure the services of a reputable international NGO to fulfill this mandate.</p> <p>With regard to the Pygmies’ participation in forest management, Management welcomes the Panel’s finding that the Bank’s effort to encourage participation of Indigenous Peoples in the process is consistent with Bank policy. Management shares the Panel’s views that securing genuine</p>

ISSUES / FINDINGS	Para. no	RESPONSE
<p>representative and an alternate representative of Indigenous Peoples' organizations may be included in the Commission. Panel commends Bank for its efforts to encourage participation of Indigenous Peoples in the process and notes that this is consistent with Bank policy.</p> <p>Panel also notes, however, that there are significant issues and problems regarding how to choose a local representative from Indigenous Peoples who have been living in a number of scattered groups without much contact with one another and with little experience with a political system of representation.</p> <p>Panel is also concerned that these approaches may produce consultation processes that are inconsistent with basic Bank policy objectives and requirements described in other sections of this report. Panel is especially concerned that those who are selected may find themselves in a very weak situation in the Commission meeting.</p> <p>Unless these concerns are addressed, Panel is concerned that the inclusion of a local indigenous representative may legitimize a process under which the more powerful members of the commission would take decisions that could run contrary to the interests of locally-affected people. There is the potential that individual representatives in turn could be blamed by their own communities for participating in such a process. In light of these problems, the addition of permanent representative(s) of Indigenous Peoples to the Inter-Ministerial Commission could be regarded as particularly positive.</p> <p>Panel also heard concerns expressed regarding extent to which this decision-making process will operate transparently. Panel was informed that report prepared by the Technical Working Group and report of the Independent Observer will not be made public before the Commission's decisions are made.</p> <p>Asymmetrical Rights to Contest Concession Decisions</p> <p>Panel notes that the October 2005 Decree reserves a right to logging companies to contest decisions that have been taken by the Minister in charge of Forests. It is not apparent, however, that communities have parallel means of recourse to contest decisions.</p> <p>Additional Observations on Concession Conversion Process</p> <p>While Legal Review and conversion processes may be flawed and involve various problems, Panel finds that it contains elements that are important in Bank policies.</p> <p>Panel wishes to underline the extraordinarily high stakes involved in the forest concession conversion process.</p> <p>Panel also wishes to note extremely difficult institutional setting in which the process takes place. Panel notes critical importance of building capacity within vast tropical forest area to monitor and implement forest reform measures.</p> <p>Panel notes that while some concessions are said to be in hands of companies known for following laws in other countries, other companies may be different. Panel has</p>		<p>Indigenous Peoples representation in the DRC context poses many challenges, and it welcomes the Panel's conclusion that the addition of a permanent Indigenous Peoples representative to the inter-ministerial committee is particularly positive. The Bank has recommended, and the Government agreed, that the Pygmies will be represented by two members in the Committee – one (rotating) whose habitat is close to a concession who will participate in the discussion of that specific concession; and one permanent representative. This arrangement is built into the Decree that will designate the members of the Committee, which has been submitted for the Prime Minister's approval.</p> <p>Management wishes to underscore that, although the (still ongoing) process of identifying Indigenous Peoples representatives may turn out to be imperfect, it represents a first attempt towards greater participation of Indigenous Peoples in public affairs and will provide a source of precious experience for the future.</p> <p>As for asymmetrical rights to contest concessions, Management wishes to clarify that, according to Government officials and legal experts in DRC, it is a general principle of law that communities whose rights are impacted and/or violated by any Government authority's decision have the right to contest such a decision. Furthermore, the 2002 Forest Code explicitly gives civil society organizations the right to act in court for forest-related matters (Article XX). Management is also aware of the need for the DRC Government to be properly represented in case of disputes with the private sector, and will integrate this question into its dialogue with the Government.</p> <p>Action:</p> <p>See action under Item 11.</p>

	ISSUES / FINDINGS	Para. no	RESPONSE
	received disturbing reports and information about abuses committed against local communities and forests in certain concession areas.		
13.	<p>Zoning and Land Use</p> <p>Dropping pilot zoning element instead of bringing it into compliance with Bank policies and procedures delayed gathering of important information.</p> <p>Panel notes that, in this context, forest concession conversion process serves as <i>de facto</i> zoning under which legal and economic interests of logging companies will be considered for long-term recognition, while consideration and recognition of land tenure and livelihood rights of people living in forests or dependent upon them will be delayed.</p> <p>Panel found during its investigation that participatory mapping of indigenous Pygmy peoples customary forest uses has already been attempted in some areas of Oriental and Equateur Provinces with support of NGOs.</p>	513-514, 516	<p>Comment:</p> <p>Management wishes to clarify that TORs for the pilot participatory forest zoning plan, as defined in the TORs prepared before it was dropped from the EESRSP, provided for full consultation with the Pygmies and was compliant with OD 4.20, as well as with other applicable Bank policies (see TORs, Annex 4).</p> <p>Dropping the zoning activity did not influence EESRSP's policy compliance obligations, which related mostly to infrastructure rehabilitation, the largest project component.</p> <p>The pilot participatory forest zoning activity was dropped 7 months before the Request for Inspection, for the following main reasons: (i) the supervision arrangements under the EESRSP, a multi-purpose emergency operation where the zoning plan represented 2 percent of the cost, were unsuitable to support a delicate and technically complex process such as the zoning; and (ii) delays, combined with the then Minister of Environment's wavering commitment to basic reforms, such as the moratorium and the Legal Review, as well as his reluctance to collaborate with NGOs operating in the pilot area, seemed to undermine the potential for success. The decision was therefore made to support the participatory forest zoning activity at a more appropriate time, using a forest sector project.</p> <p>Management further wishes to clarify that the Legal Review/conversion and a participatory forest zoning activity are two important, but separate, exercises and that one cannot substitute for the other. The conversion of old forest exploitation contracts into new concessions complements the cancellation of invalid contracts. It ensures that contracts withstanding legal scrutiny are changed (converted) to include previously missing social and environmental obligations. According to Articles 19 and 20 of the 2005 Decree, local communities will be able to propose changes in the boundaries and projected use of converted concessions at the time of preparation and approval of forest management plans. These converted contracts would become final only after management plans are approved.</p> <p>The pilot zoning activity was to cover a broader landscape (valid and canceled concessions, current and potential biodiversity reserves, rural lands, community lands and all other conceivable land uses) and formulate an initial proposal regarding a wide range of possible uses of forest lands.</p>

	ISSUES / FINDINGS	Para. no	RESPONSE
			<p>Management agrees that participatory mapping of the Pygmies' and other forest communities' customary forest uses is necessary, and such participatory mapping was included in the TORs for the participatory forest zoning activity. Management is aware of a number of initiatives by various partners to undertake participatory zoning in DRC. In fact, the Loporima landscape was chosen as a pilot zone for the EESRSP so that the Government and local communities could expand and build upon the participatory zoning experiences of NGOs.</p> <p>Action:</p> <p><i>A forest land use planning activity similar to the one that could not be supported under the EESRSP, will be included in the forthcoming IDA forest operation, subject to the outcome of consultations during project preparation, and drawing lessons from the ongoing experiences of other partners in DRC.</i></p>
14.	<p>Implementation Decrees under the Forest Code</p> <p>Panel was informed that as of the date of this Report, implementing decrees on issue of community forests, sustainable management plans, as well as many other key decrees have not yet been adopted. Panel recognizes that basic legal and administrative steps may take longer than usual in the context of difficulties facing the DRC. However, delay in preparing decrees on community rights has given the impression that Bank support has been biased toward institutional reforms for reopening logging operations in DRC, while lacking a holistic vision.</p> <p>Panel recognizes important recent Bank effort to provide for monitoring of illegal logging, and DRC's decision to have a well-known international NGO study how to provide an independent monitoring capability for illegal logging.</p>	521, 526	<p>Comment:</p> <p>Since re-commencing its policy dialogue with the Government, the Bank has recommended development of alternative uses, including community forestry. The Bank has advised that the preparation of a legal framework for community-based forestry be considered a priority and include local consultations, studies, and pilots. In its dialogue with the Government, the Bank has reiterated that a participatory approach, including consultation of all stakeholders, be used to prepare, discuss and endorse draft decrees and regulations.</p> <p>Management concurs with the Panel that the process of preparing and adopting the Forest Code's implementation decrees is slow, and notes that additional time will be required to complete this regulatory framework. Management wishes to recognize that the Government, together with its partners, especially the FAO, is showing commitment to this task and is making progress under difficult circumstances. Some 42 decrees and regulations are needed to ensure implementation of the principles, rules and procedures of the Forest Code. To date, eleven decrees and arrêtés have been adopted, six have been submitted for adoption by the Prime Minister, and seven are being submitted to stakeholders for additional consultation, and the remaining 19 are being prepared. Developing such a comprehensive set of decrees and regulations is a huge endeavor which is difficult to achieve, even in a stable country.</p> <p>The Bank is committed to assist the Government in preparing the decrees and regulations to facilitate the implementation of the new policies embedded in the 2002 Forest Code, especially the emergence</p>

	ISSUES / FINDINGS	Para. no	RESPONSE
			<p>of alternative uses, protection of customary rights and nature conservation, as well as to ensure a smooth transition after the end of the Legal Review, sustainable practices in production forests, and to strengthen capacities for law enforcement and monitoring.</p> <p>Action:</p> <p><i>Management will support Government efforts to speed up the preparation and adoption of the key implementation decrees of the Forest Code, including by supporting local consultations, studies and pilots as needed.</i></p> <p><i>Through these operations, the Bank will also continue fostering collaboration between the Government and partners to assist in forest law enforcement and monitoring.</i></p>
15.	<p>Concluding Observations</p> <p>In its investigation, Panel noted that when Bank initially became engaged in DRC and decided to support work in forest sector, it provided estimates of export revenue from logging concession that turned out to be much too high. This had a significant effect, for it encouraged a focus on reform of forest concession system at expense of pursuing sustainable use of forests, potential for community forests, and conservation. For most part, foreign companies or local companies controlled by foreigners have been the beneficiaries of this focus. Those whose concessions are confirmed in concession review process will be beneficiaries of new 25 year leases.</p> <p>Panel is concerned that benefits from industrial harvesting of trees, which is at the core of policy and administrative reform, are not going to people living in and around forest. Panel found evidence that promised benefits to communities from concessions, such as schools, clinics, and other facilities, have not materialized. This is not consistent with objective of Bank's policy of poverty reduction.</p> <p>Panel notes potential importance of developing a more balanced approach by emphasizing appropriate models of community forestry as well as other actions to support community participation, land tenure and use rights in forests and by linking to recently proposed Bank administered fund to pilot instruments for reducing carbon emissions from deforestation and forest degradation.</p> <p>Panel also expresses its concern about instruments of a moratorium on new concessions combined with a reform process for confirming or canceling concessions to take place at a future unspecified date. In the absence of institutional capacity to implement and enforce a moratorium or to ensure prompt review of concessions, there is danger that some of those exploiting forests will expand their concessions, swap some areas for others with higher value forests, or obtain new concessions and harvest as rapidly as possible. This is particularly troublesome, where existing legal and institutional structure did not provide an effective way to hold title to tropical forest areas for conservation</p>	530-542	<p>Comment:</p> <p>Management understands and appreciates that the Panel is supportive of the moratorium and other fundamental measures the Government has taken with the support of the Bank and other development partners. Management also welcomes the Panel's wish that the Bank stay engaged in the forest sector in DRC. Management would like to reiterate that poverty reduction is at the core of the Bank's engagement in DRC, including in the forestry sector.</p> <p>Management concurs with the Panel that the moratorium has not been fully respected due to the wavering commitment by five successive line ministers in the transition government. Management also notes that the Bank's involvement was instrumental in protecting the achievements of the initial wave of contract cancellation and the moratorium and is confident that the breaches of the moratorium will be dealt with by the Legal Review now underway.</p> <p>Management also agrees that capacity building is crucial to implement forest reforms on the ground, and that this capacity is extremely low in DRC. Management notes that given multiple pressing priorities, financing a forest capacity building operation was not possible in the aftermath of the conflict, when the Bank resumed operations in DRC. The situation has now improved and the Bank has agreed to prepare such an operation for financing during FY09. This operation along with the MDTF for Forest Governance, will help strengthen the capacity of public institutions and civil society to implement, enforce and monitor the new forest policies on the ground.</p> <p>Management fully agrees with the need to develop new and alternative forest models including schemes which would help reduce carbon emissions, protect biodiversity, and reward local populations for the services that the forest they</p>

ISSUES / FINDINGS	Para. no	RESPONSE
<p>purposes.</p> <p>Bank staff have stressed that if a party wanted to conserve forests, it could return its concession to Government and have Government allocate it for that purpose. But that assumes that Government would be willing to do so and has capacity to enforce its protected areas, both of which are questionable. Panel observes potential importance of encouraging Borrower to explore conservation concessions or comparable instruments consistent with new Forest Code.</p> <p>Panel also notes its concern that in the end it may be difficult to cancel effectively some of the concessions that Technical Working Group, assisted by the Independent Observer, might recommend in its report to the Inter-Ministerial Commission as not qualifying for confirmation.</p> <p>Panel recognizes importance of a solid legal framework and difficulty of developing and establishing it. But an almost overwhelming problem in forest sector in DRC is lack of institutional capacity to implement and enforce laws and regulations, especially at provincial and local levels. Until this is developed, legal framework, although an essential step, cannot be relied upon to ensure sustainable development in forest sector or to ensure that people benefit from the forests.</p> <p>Panel also notes its concern that Development Policy Lending is being used for supporting activities which in earlier times have been regarded as projects. This effectively bypasses environmental and social safeguard policies that apply to projects. Activities such as support for a forest concession program have very broad and very significant social and environmental effects in country that cannot be ignored and need to be assessed.</p> <p>Panel recognizes that it is important for Bank to remain engaged in forest sector in DRC. It is also essential that Bank comply with its social and environmental safeguard policies, as well as its other policies, to ensure that forests benefit people in DRC and that they be available for both present and future generations.</p>		<p>inhabit provides to the global community. Since 2002, the Bank has advised the DRC Government to follow this direction. For example, it has advised the Government to introduce explicit reference to environmental services and conservation concessions in the 2002 Forest Code so as to facilitate the implementation of these approaches in the future. The Bank is now working with other partners to facilitate DRC's accession to the Forest Carbon Facility Partnership and to pilot conservation concessions in line with the 2002 Forest Code.</p> <p>At the same time, Management notes that in the wake of peace and a restarting of the economy, logging risks being driven primarily by market forces and rehabilitation of infrastructure. The Bank's intervention since 2002 has, therefore, focused on controlling this sector, removing the legacy of mismanagement, and freeing up space for more sustainable and equitable forest uses. It should be noted that, although harvesting operations are gradually resuming in DRC, it remains relatively modest compared to other forest-rich countries in the world, due mostly to persistent infrastructure bottlenecks.</p> <p>This context offers a window of opportunity of a few years to establish basic governance and enforcement capacity and to promote alternative forest models. This strategy is precisely the one the Bank helped put in motion, starting with the removal of illegitimate logging concessions that locked up the majority of Congolese forests until 2002. Although this initial effort faced resistance, it has helped to reduce areas under logging concessions by more than half, to secure Presidential commitment for a moratorium on new concessions, to establish third-party observers in the Legal Review and in forest controls in the field, and to create space for new forest models that were not given consideration until then.</p> <p>At no point in time has the Bank advocated for an expansion of logging in DRC. The Bank always made it clear – as the Panel also does in the present report – that, unless strong measures are taken, the current resumption of logging will most likely happen with little or no benefits to the Congolese people and to the detriment of the environment.</p> <p>Sector data mentioned in discussion with Government, put in the context of the broader sector strategy outlined above, helped draw the attention of DRC's high-level decision-makers to the forest and to mobilize the type of political commitment that was needed to put the ambitious governance reform agenda in motion. 2002 initial estimates were based on information available at that time, and were subsequently updated based on analytical work undertaken or supported by the</p>

	ISSUES / FINDINGS	Para. no	RESPONSE
			<p>Bank and shared with all partners.. Sector data will continue to be refined in parallel with the implementation of governance reforms and capacity-building on the ground.</p> <p>The alternative to the reform agenda supported by the Bank under difficult conditions since 2002, was to wait for generally more favorable conditions and let concessions, legal or illegal, continue to operate, expand and consolidate under the old forest regulations. This approach would not have benefited local communities and the environment.</p> <p>Without the reform agenda supported by the Bank, it is likely that the entire Congolese forest would now be locked up under long-term old-style logging contracts without meaningful social and environmental provisions. Participatory zoning would be precluded, and alternative models based on social and environmental values would no longer be an option. This scenario was clearly underway in 2002, and the Bank helped prevent it from happening.</p> <p>Management also believes that, in 2005, policy lending was the appropriate instrument to revive the top-level political commitment that was needed to strengthen the moratorium and launch the Legal Review, at a time when the then line ministry had moved away from these fundamental governance measures. Had the Bank not used the policy lending instrument to mobilize the highest level of attention and overcome inertia, there is reason to believe that the moratorium would no longer be in place and many more areas would be covered with logging concessions, thus reducing the scope for other more sustainable and equitable forests uses. Policy lending was used to support two measures that enjoyed broad support from civil society (as demonstrated by the November 2004 Forest Forum, held in Kinshasa) and within the Government at the technical and political levels.</p>

ANNEX 2

PRIORITY REFORM AGENDA

Update September 2007.

This table presents the current status of actions, and recommended next steps. This Priority Agenda is a mix of urgency, importance and practical feasibility in post-conflict DRC. While all items are high priorities, bold font signifies the areas that seem to be the most critical at this point in time, and which therefore require immediate attention by the Government and NGO and donor partners. It is believed that inaction in these areas would cause irreversible damage, and that concrete actions can realistically be taken in the short term in spite of institutional and logistical challenges, provided there is strong high-level political backing.

PRIORITY ACTION	STATUS	NEXT STEPS
Complete corrective and preventive measures to dispose of the legacy of mismanagement		
Maintain the moratorium.	Moratorium established by Ministry of Environment (MECNEF) in 2002. Reportedly bypassed in 2003 and 2004. Confirmed and extended by Presidential Decree in October 2005. 2.7 million hectares of concessions given after 2005 cancelled by new Government in April 2007.	Maintain the moratorium until conditions of 2005 decree are met: legal review completed; allocation plan adopted based on a participatory process; auction system in place. Extend the moratorium until satisfactory standards of governance and management are achieved in existing concessions. The allocation plan should establish whether new concessions are needed or not.
Complete the legal review/conversion of old logging titles, and rescind invalid ones.	Rules of the review set by Presidential Decree in 2005. Field and desk verifications completed by the Technical Working Group with the international observer (World Resources Institute). 114 local representatives identified including 14 indigenous peoples.	Designate members of the Interministerial Committee (Prime Minister decree). Identify local representatives for remaining 42 concessions. Enact Prime Minister decree and ministerial regulation on concession contract and <i>cahiers des charges</i> for use by the Committee.
Enforce the 2004 fiscal reform package, and secure tax collection.	Reform package enacted by interministerial decree in 2004 based on comprehensive economic review. Area fee and ONATRA charge adjusted accordingly in 2004–07. Other provisions delayed. Elements of the reform package proposed for modification starting 2008 (decree May 2007).	Publish 2006 tax collection report and cancel noncompliant contracts. Ensure full implementation of the package. Create a joint MECNEF-MINFI tax collection programme. Ensure adequate consultation and consistency with 2004 reform package before implementing decree of May 2007.
Regulate the timber sector as it restarts		
Deter illegal logging: monitor in the field and enforce penalties.	Growing risk of large-scale illegal logging and Min. Environment unable to curb the trend alone. MECNEF signed Memorandum of Understanding with third-party monitor (Global Witness) in January 2007. Scoping mission being	Publish reports from the scoping mission and enforce penalties. Extend scoping mission, and establish long-term third-party monitor. Revive MECNEF control brigades in combination with third-party observer and satellite

PRIORITY ACTION	STATUS	NEXT STEPS
	extended. Government committed to make third-party monitoring a permanent instrument.	monitoring.
Transfer 40% of the area fee to provinces and territories.	Not transferred in 2003–2006. No investment programmes or accounting systems at provincial and territory levels. New Constitution provides for <i>prélèvement à la source</i> by the provinces. Law on decentralization being drafted.	Ensure that new law on decentralization has appropriate provisions for use of forest revenues at provincial level. Assist pilot provinces in financial management and accounting. Support monitoring by NGOs. Publish reports and audits.
Implement the <i>cahiers des charges</i> .	<i>Cahiers des charges</i> often poorly negotiated, implemented and monitored in the field. NGO assessment completed.	Include new <i>cahiers des charges</i> in contracts found valid by the Legal Review. Support NGO monitoring. Create and disclose comprehensive database and monitoring reports.
Prepare and implement sustainable forest management plans.	Decree on forest management plans enacted in December 2006 - does not provide for civil society participation in the approval Committee. Several management plans in preparation in existing concessions.	Ensure participation of NGOs and local representatives in the management plans' approval committee. Build up capacity to review and enforce management plans incl. biodiversity and social measures. Define DRC certification criteria.
Set up a new, transparent allocation system.	Prime Minister decree pending approval – provides that sole-sourcing is strictly limited to conservation and research purposes.	Enact decree. Application dependent on how long the moratorium will stay in effect (see above).
Develop and implement a broader vision of multipurpose forest uses		
Conduct multipurpose land-use planning. Conduct local consultations before any forest use decision.	No existing land-use plan in DRC. Post-conflict recovery is left to individual, often uncoordinated initiatives. Risk of poorly informed, irreversible decisions with negative impacts on forest-dependent people and the environment. Various land use planning initiatives underway by national and international NGOs.	Support and scale up ongoing land-use planning initiatives based on local/indigenous people's prior, free and informed consent. Mainstream forests into national and extra-sector plans (mines, infrastructure). Conduct local consultations before any park or concession is created. Enforce new Code on protection of traditional rights. Follow-up on Legal Review with regard to adjusting boundaries to resolve overlaps with villages.
Promote non-extractive forest uses and innovative financing mechanisms.	Consensus that non-timber forest uses should be promoted. No successful model so far in Central Africa. High-level debate on alternative uses and innovative financing instruments initiated through DFID Roundtable Review, Brussels Conference, and 2007 Spring Meetings. Government expressed commitment to engage in innovative instruments for rewarding large-scale	Refine technical proposals for innovative instruments based on carbon storage, biodiversity conservation, and other services that reward local communities and the country. Support DRC's access to new Forest Carbon Facility Partnership, and pilot conservation concessions. Foster public donors' interest for supporting pilots and

PRIORITY ACTION	STATUS	NEXT STEPS
protection.		
Design simple frameworks for community-based management, and support pilot projects.	New Code calls for community-based forest management. Little experience in Central Africa, including in the DRC.	Draw lessons from other countries. Conduct studies and consultations. Assess customary rights and land tenure systems. Make regulatory framework for community forestry as simple as possible. Prevent risks of misappropriation by personal interests. Support information campaigns and pilot projects.
Support small-scale family enterprises.	Informal sector represents the majority of forest-based jobs, some based on unsustainable practices. Lack of knowledge/understanding.	Conduct studies and consultations. Identify programmes that can increase small businesses' income, and provide incentives for more sustainable practices. Make regulatory framework for community forestry as simple as possible. Support information campaigns and pilot projects.
Rehabilitate key protected areas, and preserve biodiversity in production areas.	Unique ecosystems and biodiversity threatened with extinction. Parks rehabilitation strategy supported by government, NGOs, donors. Emergency rehabilitation programs underway or in preparation in several World Heritage Sites and other key parks.	Support and expand emergency operations in World Heritage Sites and other key parks. Promote participatory management and improve livelihoods in buffer zones. Enforce wildlife protection clauses in production forests. Identify new ones based on free, prior and informed consent. Update law on nature conservation.
Design priority programmes for highlands, savannah—woodlands and aquatic ecosystems.	Ecosystems highly vulnerable. Growing population density depending on fragile resources. Lack of knowledge/understanding.	Undertake analytical work, mapping and consultations to help identify priority interventions. Draw on other countries' experiences. Promote community-based or private plantation initiatives in conjunction with emerging carbon market; as well as fuelwood management programs in conjunction with avoided deforestation/REDD mechanism.
Rebuild institutions and strengthen national leadership		
Rebuild public institutions and support civil society organisations (CSOs).	MECNEF and ICCN in shambles. Budget allocation and capacity extremely limited. Active advocacy and development of NGO networks. Institutional review of ICCN and MECNEF completed.	Support implementation of ICCN institutional reform plan. Design institutional strengthening plan for Min. Environment. Support CSOs' initiatives to monitor reforms, foster accountability, and pilot new management models.
Disseminate the Forest Code and prepare the implementation decrees.	Multistakeholder committee established in July 2006. Sixteen decrees and regulations enacted since 2002. Seven decrees pending Prime Minister's and Minister's approval. Seven	Enact pending decrees. Support multistakeholder committee, studies, and consultations for remaining decrees. Support Forest Code dissemination campaigns by

PRIORITY ACTION	STATUS	NEXT STEPS
Put in place a national sectorwide multidonor programme.	<p>decrees in preparation with FAO support including studies and consultations. Forest Code insufficiently disseminated.</p> <p>Document for National Forest and Conservation Programme (PNFC) drafted in 2004. National Forest Forums held in 2004 and 2006. Forest mainstreamed in PRSP, Governance Compact, and Country Assistance Framework. Donors' coordination group operational. Multidonor Forest Trust Fund being established.</p>	<p>MECNEF and NGOs.</p> <p>Revive MECNEF/ICCN Coordination Unit and update PNFC document based on studies, workshops and local consultations. Involve civil society and media networks. Hold third National Forest Forum. Complete socio-environmental impact assessment.</p>

ANNEX 3

SYNOPSIS OF ONGOING AND FUTURE BANK OPERATIONS IN THE FOREST SECTOR IN DRC

A. Support	B. Status
Emergency Recovery Project (EESRSP) – Component 2 (institutional strengthening) included a forest subcomponent (\$3m, i.e. 2 percent of the total project) meant to support: the independent observer of the Legal Review, and a pilot participatory forest zoning activity. No physical investment.	The pilot participatory forest zoning activity was dropped before implementation, in July 2005. The Independent Observer is assisting the Legal Review. In 2006 and 2007, additional resources were mobilized for the Independent Observer and for the participation of local communities. Identification of local representatives is underway by a Coalition of NGO Networks (CRON).
Development Policy Operation (TSERO) –Single-tranche development policy operation. Contained two forest related conditions (extension of the moratorium; and launch of the Legal Review); and five indicators of progress. No sector investment.	The two forest-related conditions were met in November 2005. Budget support was disbursed. Although this operation is formally closed, the Government continues to work towards the achievements of the five indicators of progress, in dialogue with the Bank, as part of the Priority Reform Agenda. No sector investment.
AFLEG Trust Fund – Bank-wide TF for forest governance. \$150K for an independent forest monitoring pilot mission to assist the forest department in detecting illegal logging and prepare for a long-term assignment.	Global Witness just completed a pilot mission (July-October 2007) in partnership with local NGOs. Discussions ongoing with Government, EC, Belgium, and DFID to support phase 2. Government committed to make third-party forest monitoring a long-term element of forest law enforcement in DRC.
GEF Grant – \$7 million full project under preparation. \$280K preparation funds (PDFB) mobilized in September 2004 for studies, consultations and field assessments.	Project design is completed. Will support ongoing partnerships in Garamba and Mikeno, including local communities' development in buffer areas. Social and environmental impact assessment being finalized. No physical investments underway.
Bio-Carbon Fund (BioCF) – The Bank's BioCF would purchase Emission Reduction Credits from a 3,000 hectare afforestation project on the Bateke highlands.	In preparation. Delays by the project sponsor in mobilizing additional financial support. Project was moved Tranche 2 of the BioCF. No physical investment underway.
Multi-donor Forest Trust Fund (TF070431) - In preparation. Contributions secured so far total about \$6m. Will provide technical assistance to Ministry of Environment to improve forest governance, and will support civil society participation in monitoring reforms in the field.	Administration agreements signed with European Commission, Belgium, France, and in preparation with UK, Luxembourg and Germany. Social and environmental impact assessment is about to start (selection is underway).
IDA Forest Project - In preparation. Proposed \$50m allocation for FY09. Will aim to help public institutions, civil society and local communities to implement, enforce and monitor the new forest policies in the field. Will provide capacity building, technical assistance and training.	Project Concept Note approved in November 2006. Social and environmental impact assessment is about to start (selection is underway). Being prepared in the framework of the DRC's National Forest and conservation Program. Preliminary design being discussed with Government, donors and civil society.
The Innovation Agenda. Support to development of innovative forest models and financing mechanisms based on carbon storage, biodiversity protection and other services to benefit local people and the country at large. Collaboration with CI/BCI on conservation concessions. CG meeting in November	Organization of a series of high-level events to build consensus and stimulate donors' interests: Brussels Conference, Washington Spring Meetings. Chatham House in December. Analytical work underway to help DRC access the new Forest Carbon Facility Partnership and to pilot conservation concessions.
Communication strategy. Devised in January 2006. Under implementation with EXT.	Under implementation. See update in Annex 11.

ANNEX 4

TERMS OF REFERENCE FOR THE PILOT PARTICIPATORY FOREST ZONING ACTIVITY, 2004

Technical assistance for the preparation of a forest land use plan

1. CONTEXT AND CHALLENGES :

The Democratic Republic of Congo contains half of Africa's moist humid forests. These Congolese forests cover about 880,000 km². The Government intends to realize a forest land use plan that is seen as a dynamic tool for consultation between actors and as a vehicle for the progressive field implementation of the new forest law. This land use plan needs to constitute a transparent and negotiated framework regarding access to forest space and resources. The operation consists not only in the delivery of tangible products (maps, databases) but even more so in the steering of a living process of analysis and consultation/concertation on land management and resource allocation.

This activity, for which the Ministry of the Environment, of Conservation of Nature, and of Water and Forest is in charge, will be conducted by a consultant for which the terms of reference of his mission are presented here.

The consultant will contact the whole set of other concerned Administrations: the Ministries that have in their prerogatives the Plan, Territorial/Land Management, other technical ministries and territorial Administrations. The activity is also a component of the National Program on Forests and Nature Conservation framework that is being prepared by the Ministry of the Environment.

The objective is to attain an indicative land use plan that distinguishes land use categories affected in priority to : (a) sustainable forest management in forest concession regimes; (b) rural development; or (3) nature conservation¹. This land use plan should be validated by the Government 'as an indication', so as to serve afterwards as a starting point for more detailed procedures related to gazettement of forest for sustainable management or conservation. Thus, the objective is to dispose of a cartographic basis, known and accepted by all concerned parties, and that can be used by the Government, for, e.g.: (i) to define the localization and the schedule of future auctions of concessions; (ii) to avoid the geographical overlap of non-compatible or competing land use types such as forest management and agriculture, or biodiversity protection and mine exploitation. The works should lead to a clarification and securisation of the rights of the different user of forest space in the DRC.

Given the context of rapid demographic growth in DRC, strong international demand for tropical timber, revival of the economy and the rehabilitation of infrastructure, land use planning is a strategic activity that will have a defining impact on the future of the Congolese

¹ The new (2002) Forest Law (chapter II) defines three main forest categories: classified forests (with ecological objective); permanent production forests (objective =timber production under sustainable management regime) and protected forests (all the other types of forest). The law introduces other important innovations such as sustainable management of production forests, the possibility for local communities to manage concessions directly, the gazettement of 15% of the national territory under protected areas, local consultation before attribution of new concessions, etc. (cf. annex 1)

forest, the development of the forest sector and on its contribution to the economic revival of the country and sustainable growth. It will determine the part of the national territory destined to stay under natural forest cover for the long term.

2. OBJECTIVES AND EXPECTED RESULTS²

The consultant will assist the Government to carry out a forest land use planning process, so as to develop a spatial framework that is recognized by all stakeholders and that will serve as a basis for the field implementation of a new policy of access to and management of forest lands: (1) at the national level limited to the very coarse level of ‘macro land use zoning’; and (2) at more detailed level in a pilot site so as to realize an indicative land use plan. This zoning will project on a map a spatial vision for developments for the next 10 to 30 years, in a very provisional way for the national macro-zoning, and in a more precise way, for the indicative zoning plan for the pilot site.

1. **Concerning the pilot zone:** the objective is to attain an indicative zoning plan that distinguishes the forest spaces attributed (in priority) to: sustainable forest management under a concession regime, to rural development; or to nature conservation. This zoning plan will be submitted by the Ministry of the Environment for validation ‘as an indicative zoning plan’ by the Government, so as to serve in the future as a starting point for detailed procedures leading to definitive gazettelement of the zoning units. The objective is to obtain a known and accepted cartographic basis that should be used by the Government (Ministry of the Environment, ICCN, as well as other Ministries and Territorial Administrations) to decide the localization and schedule for future forest concessions, the extension of existing and creation of new protected areas; the creation of new infrastructure, and the attribution of other types of concessions (agriculture, mining, other...); and to avoid the geographical overlap of competing and non-compatible use categories (e.g. agriculture and sustainable forest management, or mining concessions and biodiversity protection).
2. **At the national scale:** The objective stays grossly the same, but with a lesser level of precision, and of comprehension of challenges and issues, and of consultation between stakeholders. As a consequence, the national macro-zoning plan will stay provisional and evolving in nature. It might constitute the first draft of an eventual future plan of (national) land/territorial management, at least for the forest zone of the country. It will report on a map the presently available information and will form a provisional basis for reflection and vision on the socio-economic development of the country, susceptible to evolve in permanence. Macro-zoning will thus be the basis for an evolving process, and will be refined piece by piece as new zones will be covered with more precise land use planning exercises (similar to the one proposed for the pilot zones).

The assistance to the forest land use planning process will take place simultaneously in three dimensions:

- A. **The technical dimension** (maps, studies, field work, etc.). The principal result will be the delivery of a schematic macro zoning plan at the national level and an indicative land use plan for the pilote zone. The schematic macro zoning plan will cover the entire

²The present forest zoning operation is part of the forestry component of the Emergency Economic and Social Reunification Support Project which has the following general objectives: support the field implementation of the new forest law and the priority reform Agenda for the revival of the forest sector; to facilitate the social and economic reunification process and initiate an institutional reform process (in the field and in Kinshasa).

- dense humid forest zone and will serve as a permanent consultation/concertation platform on questions of forest land use planning and forest land management in the DRC. To both plans will be attached the data base that underpins them and (for the indicative land use plan) the results of the various field activities and demographic, socio-economic and ecological analysis.
- B. **The participative dimension and aid to decision making.** The focus of this operation is on the animation of a living process of collective reflection and collaboration within Congolese society and with the international partners. The consultant will assist the Government to drive this consultation and negotiation process, so as to prepare decisions that take into account the views of all actors. The wanted result is thus knowledge of and adhesion to the zoning proposals by the Congolese society and its international partners.
- C. **The institutional strengthening dimension.** The consultants mandate is to assist the Congolese institutions for which forest zoning is part of their prerogatives. Every activity carried out by the Consultant has to reinforce the capacity of the MINENV and the other Administrations to carry out zoning processes in an autonomous way in the future. The principal result expected by the end of the project will be that MINENV and the other concerned Administrations (in particular within the context of the ‘Consultative Provincial Council for Forests’, and the “Inter-Ministerial National Committee for Territorial Management”) will have acquired or re-acquired the institutional capacity (human, technical, organizational) to conduct themselves the future phases of forest land use planning in DRC.

3. TASKS AND ACTIVITIES

The consultant will assist the Ministry of Environment (the contracting authority) for the realization of the land use plan. He will work together with the different units in the Ministry (cf. section 3.4, section 6 and annex 2) and under supervision of the Secretary General of the Ministry via a type of organization that will be précised before the start of the project. He will facilitate inter-ministerial coordination and will assist, on its request, the Provincial Consultative Council on Forests, and the National Inter-Ministerial Committee of Territorial Management.

The works can be sub-divided in four types of services, which are not isolated or successive, but to the contrary intimately linked with each other, all along the execution of the mandate.

3.1.SUPPORT TO THE REALIZATION OF MACRO ZONING AT NATIONAL SCALE

3.2. SUPPORT TO THE REALIZATION OF AN INDICATIVE LAND USE PLAN IN A PILOT ZONE

3.3. SUPPORT TO THE ANIMATION OF A PROCESS OF CONSULTATION AND AID TO DECISION MAKING

3.4. INSTITUTIONAL STRENGTHENING / CAPACITY TRANSFER

3.1. SUPPORT TO THE REALIZATION OF MACRO ZONING AT NATIONAL SCALE

The objective of macro-zoning is to indicate on a map, at the national scale, the present use of forest and rural areas so that the different actors have access to a common platform to orient decisions and development projects in the years to come³.

The consultant should obtain Landsat or Spot images covering the entire dense forest zone of the country, and should report on a map existing information on present land use in the provinces covered with dense forest, and assemble this information in a consolidated data base (e.g. ArcView-Access). This operation does not include specific field work or studies. The outcome will be a map of the forest zones (potential scale: 1: 2 500 000). Data layers will include existing logging concessions, protected areas, communication infrastructure, industrial infrastructure, population density, urban centers, infrastructure projects, mining register, agro-industrial zones. This data base should be compatible with those of other interacting ministries. The data base should contain the information and have the functions necessary to build the forestry register (cadastre) (in the sense of article 28 of the new forest law).

This macro-zoning scheme will offer a large scale view of land use as it stands out presently, and can show incoherence or incompatibility in current land use projections. It will also provide an idea of the level of flexibility in planning land use corresponding to the non-affected forests spaces. He will produce, with the help of GIS and spatial simulation, visual and quantitative analysis so as to improve understanding, and rationalize and quantify land use planning challenges and trends (ex. Analysis of forest accessibility). He will assist the Ministry and other actors to identify the grand scenario's of macro land use planning that could be eventual outcomes.

The macro-zoning scheme will cover the provinces of Bas-Congo, Bandundu, Equateur, East Province, Nord-Kivu, Kasai and Maniema. The definitive limits of the zone to cover will be defined during the first two months of the operation by the Ministry of the Environment and based on the Consultant's advise.

This macro zoning scheme, including the analysis and the spatial simulation and the grand scenario's that might be outcomes, will be presented and discussed during a national workshop and within the National Inter_Ministerial Committee on Territorial Management. After that it will be diffused at large scale. A mechanism to progressively refine and update the macro-zoning scheme will be put in place, in a coordinated effort with all of the concerned ministries (in the framework of the National Inter-Ministerial Committee on Territorial Management) and by including an open consultation mechanism with the non-governmental stakeholders (private sector, national and international NGO's, other development partners). The macro-zoning

³ It is probable that the Government will be under pressure to take rapidly certain decisions (without being able wait for the realization of indicative land use plans) e.g. on allocation of a number of logging concessions in different areas of the country, on infrastructure works or other development or industrial projects. In order to ensure that these decisions are harmonious with current land use and rural development needs or conservation needs, the Government intends to start up a transparent and participative reflection process for the whole of DRC's forests. The schematic macro zoning plan prepared by MINENV with the assistance of the Consultant will help the Government to locate sites for forest concessions, sites for new protected areas, to plan roads or other works of infrastructure rehabilitation (drainage, railroad, etc.). The schematic macro-zoning plan allows the immediate initiation of a collective and participatory process on critical and urgent questions of land management: choice of zones for logging, localization of new protected areas, infrastructure works etc.

scheme will be established during year 1, and a first update will be produced during the second year of the project.

The Consultant will ensure that the different partners of the Ministry (other Administrations, non-governmental actors) have the possibility to contribute to the macro-zoning exercise.

3.2. SUPPORT TO THE REALIZATION OF AN INDICATIVE LAND USE PLAN IN A PILOT ZONE

The identified pilot zone is located in the Cuvette Centrale (map in Annex 2) and covers approximately 63,000 km². The limits and area are indicative at this stage and should be defined during the first six months of the project by the Government on the Consultant's advise. Whatever the case, priority will be given to the quality of the land use planning and participatory process rather than on the maximization of area covered.

The work will include a refined lecture of actual land use and will show: incoherence between different land use designations or different actors; the level of flexibility to plan for land use in not formally attributed zones. The Consultant will propose different scenarios to solve incoherence et to affect land use categories to non-attributed zones.

The analysis of present land use, and the analysis of potential scenarios together with different actors are intermediary steps. The final result will be an indicative forest land use plan that is validated by the Steering Committee and that will propose the limits of the conservation domain, the permanent production domain and the rural domain. Within the permanent forest domain, the Consultant will identify sub-classes corresponding individual forest management units that could be attributed to logging concessions or to different types of protected areas (national parks, nature reserves , etc.) and their buffer zones. Within the non-permanent forest domain, he will identify sub-classes corresponding to e.g. agricultural land, agro-forestry mosaic, mining, agro-industrial land, or others. He will develop criteria for the evaluation of the possibility of overlapping, or not, or to have nearby or not, different land use types (compatibility or not) (in particular important for multi-use zones and buffer zones).

This series of steps is dynamic and flexible. From the start on, based on available information (roads, villages, population density, forest concession limits), the reflection process can take off and be discussed with the different stakeholders. This pro-active approach will allow to identify from the start on the data gaps and allow the programming of field missions. It will allow to start as soon as possible the consultations and meetings on the difficult choices inherent to land use planning and to mobilize the parties around the process.

This component includes two types of activities, apart from the consultations:

- 3.2.1. Production of thematic maps and a geo-referenced data base.
- 3.2.2. Field work and socio-economic analysis

3.2.1. Production of thematic maps and a geo-referenced data base.

The Consultant needs to realize a satellite image cover (Landsat TM and/or Spot Vegetation) of the whole of the pilot zone. The images will be selected on catalog, on the basis of criteria of quality, recentness, and the relative homogeneity of the periods of acquisition. These images need to be given basic treatment (radio-metrically and geometrically) with the realization of a mosaic of ortho-rectified images and geo-referenced in conformity with the standards in DRC. At least two types of color composition will be proposed, via combination of the six multi-spectre channels. The ortho-images will be treated afterwards so as to be easily exploitable in GIS.

The Consultant will be using these images (Landsat TM and/or Spot Vegetation) as well as already existing interpretations (like the Africover series available on 1:200 000) so as to have a first reading of the present landscape. The image interpretation will distinguish different forest types useful for land use planning, in particular dense humid forest, swamp forest, already logged forest, secondary forest, agricultural land and young fallow, herbaceous vegetation. This interpretation will allow the estimation of the present extension of agricultural activity (community and industrial agriculture). This reading of the landscape will encompass all different socio-economic and ecological layers in relation with forest management and rural development. The data base and associated maps will include data layers on geological information, mining potential, soil potential, agricultural potential, on vegetation types, population census data, forest/mining/agricultural concession limits, infrastructure projects, roads, river navigability, past logging activity (or other activity), principal logging roads, known sites of interest for conservation.

The maps and thematic analysis thus obtained from the superposition of the different GIS layers will identify areas of potential incoherence, for example between soil occupation and the position of logging concessions or land use categories priorities. The consultant will propose and simulate zoning scenario's that contain solutions to restore coherence in the use of forest lands and that secure the rights and responsibilities of the different actors, and that show priority attributions as well as alternatives.

The result is the progressive realization of a georeferenced data base that contains spatial simulations and that is refined in an iterative process. This central database (for example Access-Arcview type) will be located at SPIAF with an satellite in the concerned MINENV Provincial Delegation.

3.2.2. Field work and socio-economic analysis.

This component completes the previous one. The field work in the pilot zone is aimed at:

- (a) Check correspondence between the results obtained from reading satellite and from various data interpretation with the actual situation on the ground;
- (b) Consultation of a wide variety of actors: villages, capitals of districts and 'territories', economic operators, etc., with the objective to conceive and evaluate the feasibility of different zoning scenario's; Special attention will be given to the consultation of pygmy groups while taking into account the particularities of their nomadic or semi-nomadic life style;

- (c) Acquisition of detailed understanding of the challenges linked to land rights and local agricultural dynamics, of the use of the forest by different ethnic groups – and in particular the pygmy groups, of the customs related to access to land and land rights, and customary use rights;
- (d) Updating the data on spatial population distribution (including taking into account an estimate of the population movements because of conflict) , and estimating the demographic trends in the future: population growth, migratory flow towards cities or towards rural areas;
- (e) Updating information on agricultural/forest/land/mining concessions and on other industrial or infrastructure projects that might impact on the forest zoning; and contribute with whatever field information necessary for the development of zoning scenario's.

The collected data will be geo-referenced and introduced in the general data base. Field missions could be of two types: socio-economic missions that meet villages and different actors in the field; and biological reconnaissance missions to identify critical sites for nature conservation.

All these missions and consultations will be realized by the Consultant in collaboration with the Provincial Delegation of the Ministry of the Environment or ICCN, as well as with other partners or sub-contractors that have been identified by the Ministry and the Consultant. During these field missions it is important not only to collect missing data, but also to exchange with local actors on zoning scenario's and ideas.

The Consultant will realize the necessary studies so as to acquire good understanding of socio-economic and land right issues at the local level. These studies will make use of national expertise (universities, etc.) strengthened by international experts as needed (in particular to analyze how to integrate community forestry issues in the design of the land use plan). The consultant will compile existing analytical work and will make up a synthesis of the data that is already available, so as to avoid duplication or replication of already existing research. The Consultant will look for collaboration with other organizations for the realization of the field work and the local consultations.

A delicate step in the realization of the indicative land use plan is the determination of the limit between the permanent and non-permanent forest domain. Three types of analysis retain our attention:

Demographic trend projection and estimation of agricultural land needs. As good as possible understanding needs to be acquired on the different factors that determine the area needed for agriculture and other uses by local communities for the next 30 years⁴. The Consultant will assist the Ministry and the land Administrations to analyze these factors and

⁴ These factors include: The present need for agricultural space, the customary land access/rights regulation, population growth, potential rural exodus, sedentary or nomadic life style, the way of life and the spatial evolution/wanderings of populations of hunter-gatherer pygmies, other migratory fluxes, agricultural intensification, agro-industrial potential, the need to maintain part of the rural domain under forest cover for local needs and to maintain a certain mosaic of forest-swamp-fallow-fields, and other parameters linked to land rights dynamics and demographic dynamics that might affect the forest zoning.

will develop a quantitative model to estimate the area to be reserved for agricultural and other uses by local populations for the next thirty years. As needed, different scenario's could be developed.

Issues specific to indigenous forest populations. A very good and as refined as possible understanding needs to be acquired and assembled on the dynamics of the use of the forest by indigenous peoples, and in particular the pygmies, that have a non-sedentary way of life . These particular dynamics will be taken into account in the zoning scenario's, by showing to what extent the fact of attributing a priority (but not exclusive) land use objective (like protected area, or sustainable forest management concession) is compatible with the respect for the traditional rights and the way of life of these peoples, and by showing how the land use planning process can help to secure the exercise of these rights.

Challenges linked to community concessions. Community concessions are an innovation in the new forest law that has not yet been put into practice, but that will have an impact on the delimitation between the permanent and non permanent forest domain. Should these community concessions belong to the permanent domain or to the non- permanent forest domain, or is an hybrid system more appropriate? The Consultant will identify the advantages and disadvantages of different approaches within the socio-economic and ecological conditions of the pilot zone, and will propose a well thought-through choice adapted to the pilot zone.

After these field missions and local consultations, the Consultant will assist the Ministry and the territorial Administration to propose zoning scenario's with priorities and alternatives, and point to the advantages and disadvantages of each scenario. The stakeholders will then be able to pronounce their opinion on these scenario's during workshops and bilateral consultations/concertations.

3.3. SUPPORT TO THE ANIMATION OF A PROCESS OF CONSULTATION AND OF AID TO DECISION MAKING

The first two phases, conducted as the gathering of factual data, will determine the degree of liberty that remains for making "choices" or "plan" land management in relation with the existing situation and with future projections. This will allow to develop and analyze different zoning scenario's. The eventual choice among these possible scenario's needs to be made in a transparent way and on the basis of public debate that includes all stakeholders and that should discuss also the consultation procedures. All along the process, the project will fund meetings organized by the forest services to inform the provinces on the objectives and challenges of forest zoning. Also, once the first cartographic products have been delivered that show the present situation, the project will organize awareness building meetings and consultations with administrations, private operators, civil society so as to build a process of collective thought on the zoning of the forest.

The Consultant will assist this process of consultation/concertation, of negotiation and of assistance to decision making that will take place at the local level and at the national level, along the following axes:

- **The Ministry of the Environment is the Master of Works.** This Ministry takes the leadership and carries out the zoning process as well as the mastership over the proposed zoning scenario's. The Consultant will work under the supervision of the Secretary General of the Environment, and in daily support to SPIAF, to DGF and ICCN, as well as to the concerned Provincial Coordination. The provincial services will be made responsible for the various field surveys and socio-economic studies, as well as for carrying out the consultation process at local and provincial level.
- **Formal frameworks for collective consultation, at the national and the provincial level.** The consultant will help to re-activate the National Inter-Ministerial Committee for Territorial Management, or, according to the Government's choice, other inter-ministerial instances while including in particular the Ministry of Planning, of Territorial Management, of Mining, of Rural Development, of Transport and of Public Works. In the same way, the Consultant will help the Ministry and the Governor in whose province the pilot zone is located to put into place the Provincial Consultative Council on Forests created by the new law (articles 29 and 30). These consultations and information sessions will be held during the same period, in Kinshasa (in particular for the national macro-zoning scheme) and at the local level (territories, districts, province) for the indicative land use plan.
- **Permanent consultation with the whole set of actors and local participation.** The Consultant will ensure that the various stakeholders are consulted and have the possibility to contribute their knowledge and can assert their rights, wishes and constraints. Apart from the different Administrations and local authorities, this also includes national and international NGO's, associations and local communities, academic institutions, logging companies, agro-industries, other private operators, and other development partners. The Consultant will help the Ministry to keep these groups regularly informed and associated to the evolution of the ongoing works, via the organization of bilateral consultations and (multi-stakeholder) workshops. Mechanisms for facilitation, negotiation and conflict prevention need to be put in place. As much as possible the project will valorize local expertise and know-how. For field missions as well as for provincial and local consultations the consultant will lean on the organizations and associations already active in the field. The team in charge of the activity must maintain a participative process from the beginning on and all along the way up to the end. Apart from the large information workshops and discussion seminars, the team must take care to consult a maximum of key actors (during the socio-economic survey for example).
- **Organisation of workshops.** In the beginning, a start-up workshop will be organized, as well as a regional ('provincial') workshop to inform stakeholders on the objectives and the methodology of the forest land use planning exercise. Once part of the field results are available and when the individual consultations will have allowed the realization the first draft zoning scenario's, an intermediate workshop will be organized to inform the stakeholders and to take into account their contributions. After this workshop, the work will continue to be refined and dialogue with the stakeholders will be maintained, so as to attain a satisfactory consensus. A provincial validation workshop will be organized. The consultant will operate in a pragmatic way, and make use of opportunities to organize local

consultation and to strengthen the approval and the recognition of the process at a national level. A possible schedule for national and provincial workshops is presented in section 5.

- **Public information.** The consultant will produce and assist the Ministry to diffuse the necessary communication and vulgarization supports to ensure sound comprehension of the zoning process and its results, before, during and after the operation. The final land use planning products will be made accessible to the public, on the website of the Ministry and by multiplication and distribution of maps.
- **Adoption by the Government ‘as an indication’.** Once the land use plan is validated by the stakeholders’ representatives, it will be transmitted to the Government for formal adoption ‘as an indication’. In practice all concerned Administrations will have been associated with the preparation of the land use plan via their participation in the Provincial Consultative Council on Forests and the National Inter-Ministerial Committee on Territorial Management.

3.4. INSTITUTIONAL STRENGTHENING / CAPACITY TRANSFER

This service includes assistance to and strengthening of the capacity of the Ministry of the Environment to be able to conduct the missions confined to it by the forest law. The project aims to re-activate the institutions in relation with clearly defined (land use planning) objectives. The institutional strengthening will thus intervene explicitly to attain the assigned objectives. As much as possible, the activities of institutional strengthening will be in coherence with the recommendations of the institutional review of the sector (to be carried out during the first year of the project).

The consultant assists the Ministry of the Environment, contracting authority, to put into place a forest land use plan. He will work together with the different units of the Ministry and in particular with the Secretary General, the Office of the Minister, the Direction of Forest Management (DGF), the Permanent Service of Inventory and Forest Management (SPIAF) and the Congolese Institute for the Conservation of Nature (ICCN) as well as its services/offices at the level of provinces, districts and territories.

In the beginning of the operation, the Consultant will start with a rapid assessment of the capacity of the different institutions that participate in the zoning process (at central level and at pilot province level) so as to define in agreement with the Ministry the equipment acquisition schedule and the training schedule that should then be subsequently launched. The duration of this initial assessment should not take more than 2 weeks.

The institutional strengthening program will use as a support the framing note presented in annex 3 and that will have been revised after the rapid initial assessment and in agreement with the Ministry:

- **Provision of equipment:** The consultant will supply equipment and supplies necessary to conduct the activity and attain the fixed objectives (cf. annexes 3 and 5). During the activity the equipment and supplies will be under management of the Consultant. After the realization of the activity, the equipment and supplies will be transferred to the Ministry of

the Environment. The Consultant will not only supply the equipment but also make sure that a management system of international standard is put in place and implemented (log book for vehicles and outboard motors, inventory lists, etc.).

- **Methodology and technology transfer – Training.** The consultant will deliver a training program to the agents of MINENV and ICCN so as to develop at the level of these institutions the technical, organizational and mediation capacity needed to conduct forest land use planning independently. This training will combine ‘learning by doing’ with more formal training sessions. The consultant will develop the skills and the existing expertise in SPIAF, ICCN, DGF and the provincial delegations, and in particular in the following domains:
 1. Implementation, design and utilization of data bases (e.g. ArcView-Access), image treatment, use of equipment and cartographic software, archiving systems, remote sensing methodologies, quantitative spatial simulation models, etc.
 2. Biological and socio-economic reconnaissance methodology and the quantitative treatment of associated data so as to update demographic data, agricultural and economic activity data, land rights issues-data, and the impact of conflict on human population distribution.
 3. Methodology for carrying out information sessions and for consulting local actors (ex. participatory mapping at large scale) so as to apprehend the feasibility of different scenario’s.
 4. Methodologies of facilitation, mediation, conflict prevention, and assistance to decision making processes. This training should be addressed in particular to the provincial directors of the Ministry who are the animators of the consultative process in their province.
- **Re-activation of the mechanisms for monitoring-evaluation and for human resource management.** In favor of these missions, the Ministry and ICCN should restore the communication lines (today cut off) and the programming and result evaluation mechanisms between central and outlying services. The Consultant will conceive and ensure the management of a system of performance based incentives to encourage the achievement of results and to mitigate the impact of the extreme low salaries in the civil service.
- **Stimulation of a collaborative platform between different services of the Ministry, and between different Administrations.** The aim is to create a sound framework for the exchange of information and ideas and for the coordination of the work programs of the different services of the Ministry of the Environment around the common mission of forest land use planning. In the same way, the Consultant will provide advise and will assist at their request the Provincial Consultative Council on Forests in the province where the pilot zone is located, and the National Inter-Ministerial Committee for Territorial Management in the exercise of their role of coordination and steering of forest zoning and territorial management.

4. SCHEDULE AND DELIVERABLES

The expected duration for the activity is two years. The contract might eventually be extended after these two initial years so as to cover other services in support to other forest land use planning phases in DRC.

In addition to the products indicated in sections 2 and 3 above, the consultant will produce six-monthly progress reports (printing a sufficient number) that outline progress, difficulties and solutions found, and updates of the work program and/or the methodology.

After having completed the two years, the Consultant will produce a final report, and issue a sufficient number of copies. The final report will be accompanied by an internal evaluation of the results and of recommendations regarding techniques and methodologies most appropriated for future phases of land use planning in DRC: at the national level, at the level of the evolution of the macro-zoning scheme towards a national territorial management plan, and at the zonal level via replication of the same type of exercise but with greater autonomy for the perennial institutions.

The acquisitions and deliverables of the project are the exclusive property of the DRC Government and will be put spontaneously at the disposition of the Government. Equipment will be managed by the Consultant during the duration of the project and transferred to MINENV at the end of the project.

The schedule below is proposed as a guide to the tenderers for the preparation of their chronogram and workprogram proposals:

Activities realized– Expected results
0-6 months after signature of the contract
• Start-up workshop in Kinshasa (national workshop) as well as in Mbandaka (Cuvette)
• Institutional assessment done; equipment delivered; offices in Kinshasa and Mbandaka operational
• National Inter-Ministerial Committee on Territorial Management re-activated
• Partnerships and sub-contracts concluded
• Field activities started; development of estimation of rural land needs in pilot zone started
• Training and capacity transfer ongoing
• Work plan and detailed budget (6-24 months) adopted
6-12 months after signature of the contract
• Macro-zoning discussed during national workshop and during meeting of National Inter-Ministerial Committee of Territorial Management
• Geo-referenced data bases (macro-zoning; pilot zone) operational at the level of the Ministry
• Field activities (socio-economic survey, local consultations) ongoing in pilot zone
• Spatial model for forecasting agricultural land needs, and specific related analysis in progress
• Training and capacity transfer in progress; system of performance fees operational
• Consultative Provincial Council on Forests meeting held in pilot zone. Communication to public

ongoing.
12-18 months after the signature of the contract
• Field activities (socio-economic surveys, local consultations) finalized in pilot zone
• Quantitative forecast of needs for rural lands in the pilot zone realized, discussed and refined
• Indicative land use plan scenario's for the pilot zone have been discussed in a regional (pilot zone) workshop
• Training and capacity transfer ongoing; performance fee system operational
2 years after signature of the contract
• National macro-zoning scheme updated in national workshop and recognized as a reference at the national level
• Land use plan of pilot zone adopted 'as an indication'; map diffused
• Technical capacity build at MINENV and at inter-Ministerial coordination level

Indicative chronogram – Suggestions for workshops

Workshops	6	12	18	24 months
Start-up workshop, Kinshasa	X			
Launching workshop, pilot zone	X			
Intermediate consultation workshop, pilot zone			X	
National workshop to present macro-zoning		X		
Validation workshop in pilot zone				X
National workshop to update the macro zoning and to validate the indicative land use plan of pilot zone, Kinshasa				X

TECHNICAL PROPOSALS, NEEDED SKILLS AND SIZE OF OPERATIONS

Technical proposals. In their proposals, the tenderers will present the technical specifications of the used technology and of the delivered products, as well as the methodology, the work program and the precise chronogram that they intent to develop so as to assist the Government in obtaining the results indicated in section 2 of the present ToR's. They will use as a support the key elements mentioned in sections 3 and 4 (while not considering this an exhaustive list).

They will present the remote sensing products hat they propose use, the image and base map treatments and rectifications, the characteristics of the data bases and of the spatial modeling methodologies. They will explain the reasons for this choice and the advantages for the beneficiary party.

The will outline the terms of reference of the major socio-economic analysis that they intent to carry out in the pilot zone, and the methods for demographic forecasting and rural land needs estimation.

They will describe the methodology that ensures participation of all actors in the land use planning process, for example methods inspired by participatory mapping at large scale.

The tenderers are invited to make known their remarks and suggestions on the present ToR's.

The proposed mandate being complex, the tenderers are invited to make use of their imagination and to learn from the experiences in other countries (Gabon, Cameroon, others). They are also invited to seek economies of scale and partnerships so as to seek the benefits of potential synergies with ongoing initiatives and so as to increase adhesion by actors to the process and the products. The tenderers will identify groups, associations, operators who are already active in the country or in the field and, because of that, dispose of a specific advantage to ensure work quality and the quality of the consultative process, and with whom they propose to collaborate. The project will aim to valorize ongoing initiatives as well as local expertise. Will be consulted, in addition to the ministries and the local administrations: academic institutions, associations and local NGO's, logging companies and other private operators based in the pilot zone.

The tenderers will indicate how they will treat the following challenges:

- **Logistical difficulties.** The pilot zone in Equateur Province should not present a significant security risk. However, real logistical constraints with regards to transport and communications will be encountered. The tenderers will describe precisely how they propose to conduct the operations and the consultations in the field. They will propose team leaders (or methods to identify team leaders) for the long field missions.
- **Communications and support to the economic and social reunification process.** The tenderers will indicate how they intent to ensure efficient communication, to ensure that land use planning is seen as an instrument benefiting social and economic reunification. The zoning plan will be the result of a negotiation and a compromise between different interest and should not become subject of political negotiation isolated from the technical priorities. The participatory process should start up-front and very soon with an active communication to ensure good understanding of the process, et to avoid the arousal of unfounded expectations or fears. Potential disagreement needs to be identified and resolved as soon as possible.

Institutional anchorage. Forest land use planning is carried out by the Ministry of the Environment, to whom the Consultant provides technical assistance and institutional strengthening as noted in the present ToR's. The Consultant will work under the supervision of the Secretary General of the Environment. He will work in coordination with other concerned Administrations, in particular within the context of the Provincial Consultative Council on Forests (in the province of the pilot zone) and within the context of the National Inter-Ministerial Council on Territorial Management. Before the start-up of the project, the Government will specify to the attention of the Consultant in a note on institutional organization, the mandates of each institution and each inter-ministerial authority involved, as well as the role of the Consultant with regard to these institutions. The consultant will provide a technical assistant for the duration of the activity who will come in support to the services of

the Ministry of the Environment and the inter-ministerial coordination authorities. The principal data base will be located at SPIAF, and copies will be regularly send to the different services and coordination authorities mentioned above.

Skills/Expertise. The mandate requires a large set of skills notably:

- Technical skills in mapping, remote sensing, GIS development and management, networking between institutions, spatial modeling.
- Ability to facilitate a consultation and negotiation process involving a large set of stakeholders around a cartographic tool with socio-economic, ecological, political, and land rights issues within a context of national reunification and economic revival. Demonstrated ability in facilitation, mediation and communication. Capacity to build and communicate a common vision with the different actors and institutions (local communities, administrative services, political and administrative authorities, etc.); Capacity to mobilize at the same time the administrative structures and civil society to conduct a collective thought process all the way until the decision making that results from it.
- Strengthening of public institutions at the level of central and field services, and transfer of technical and organizational capacity. Equipment purchase and transfer. Training.
- Capacity to facilitate the coordination between Administrations, with regard to authorities like the Provincial Consultative Council on Forests and the National Inter-Ministerial Committee for Territorial Management.
- Expertise in ecology, forestry, sociology, land use rights, demography, economy and rural development, and territorial management.
- Capacity to organize field missions in difficult logistical conditions and the capacity to build performing and motivated teams with at once a technical and a consultation/mediation mandate.
- Creation and distribution of maps and other supports for communication and awareness building.

Size of components. The table in annex 5 provides indications on the size of different components: Consultations and workshops (cost estimated at \$350,000), operations (cost estimated at \$370,000), training (cost estimated at \$120,000), equipment-rehabilitation (cost estimated at \$180,000) and needs to be included in the technical and financial proposals of the candidates.

The volume of technical assistance to mobilize will be about:

- Long term technical assistant (2 years)
- Short term international expertise (20 man.months)
- National expertise (equivalent to 50 man.months in addition to the participating staff of the administration). Part of this may be sub-contracted to local associations/NGO's or universities.

It is suggested to provide the Ministry with a polyvalent technical assistant. This assistant will work to support and under the supervision of the Secretary General of the Environment. His

office could be located at SPIAF as this service will ensure the most active role in the zoning work. Nevertheless, the technical assistant will work in relation with all other services and concerned Administrations. His missions will include for example:

- Refinement of methodologies and of the work program. Operational mentoring and advise on work and analysis; monthly monitoring;
- Acquisition and treatment of images, and basic cartography; Development of the national macro-zoning scheme database and the data base for the zoning of the database. Assistance to the analysis of land use planning scenario's;
- Management of the consultation/ mediation process and aid to the decision making process at local and national level;
- Coordination of field missions and socio-economic surveys/analysis, consolidation of the results, negotiation of collaborative agreements and sub-contracts
- Monitoring of intermediate products/deliverables; control on and validation of the quality of results;
- Mentoring and training of managerial staff during the different zoning phases; networking of the different concerned departments.
- Distribution of intermediate and final products;
- Administrative and financial management during the execution of the project; production of six-monthly and final reports.

TOR ANNEX 1. SOME CHALLENGES TO TAKE INTO ACCOUNT WHILE PREPARING THE TECHNICAL PROPOSALS

- (a) **Mastership/leadership of the Ministry of the Environment.** Preparation of forest land use plans is the Ministry of the Environment's responsibility (including ICCN). The consultant's role consists in supporting the Ministry in this mission, and ensuring optimum implication and participation of the Ministries services (in the capital and in the provinces). Also because it is this institution that will have to implement the proposed zoning and replicate it in other zones. The technical assistance role will contribute to necessary capacity building at the Ministry. Zoning equally is an exercise that allows to re-activate the different services of the Ministry and will request from all these services to think in an holistic manner on the future of Congolese forests. So zoning is not only a technical exercise, but also one in capacity building at MINENV.
- (b) **Piloting the sector and prevention of conflict over land.** The zoning plan is the instrument that will guide the Government for the implementation of the innovations brought by the Forest Law: Transparent allocation of concessions, sustainable management, participation of local communities, attaining 15% of the national territory as classified forests. To a certain extent, forest zoning will be the underlying framework for important issues such as opening up isolated rural areas, geographical distribution of employment, retrocession of fiscal revenue. It's also the instrument that has to guide the development of the forest sector and avoid conflicts between the interests of peasants, logging companies, conservation groups at the local, national and international scale. Forest zoning constitutes the geographical materialization of land rights and of management responsibilities of each group of actors. It needs to bring long term judicial security to the different users of the forest. It is a strategic negotiated framework that intends to secure rights and responsibilities, and to prevent conflicts over land. It needs to be ensured that forest sector development evolves harmoniously and responds to the legitimate needs and expectations of the interested parties.
- (c) **Coherence between different sectoral policies.** The land use plan needs to bring visibility needed for the Government and Congolese Society to make long term development choices at the scale of the country. It constitutes a basis on which might be designed a vision on the reconstruction of the country. The plan should allow to reinforce synergies between different sectoral policies (infrastructures and communications, mining development, agro-industries, rural infrastructure programs, etc.).
- (d) **Consultation and participation, support to the reunification process.** The proposed zoning will only become a pillar of rural development if it is recognized and respected by the stakeholders. In this view, the zoning process can also contribute to the social and economic reunification process. As such the proposed zoning plans will result from a participatory process with multiple concerned actors (local communities, political and economic forces at the local and central level, different ministries and government services, authorities and elites, national and international NGO's, etc.). The consultation and the collaborative work with the different stakeholders are not just an issue of organizing workshops, but should be an ongoing process that takes place everywhere (Kinshasa, provincial and district capitals, villages) and is managed by people who have a sound common vision on zoning questions. The activity is not only a

technical exercise, but also and foremost consists of assistance to a collective multi-sectoral process of collaboration to be validated ('as an indication') by the whole Government.

- (e) **Macro-zoning exercise.** The Government is in need of a vision on the zoning of the forests at national scale, and cannot necessarily wait that the detailed zoning plans are finalized for every part of the country. As an example, in the short term, the Government might feel pressed to allocate new forest concessions so as to satisfy demand for new concessions to stimulate productive activity. The present activity will thus include the instauration of a "continued process of macro-zoning" (covering all of the dense humid forests of the DRC) that will allow to influence the allocation of logging concessions in areas that have not yet an indicative forest zoning plan or to define zones with particular importance for nature conservation. It is hoped that the macro-zoning process will contribute to conflict minimization between the interests of logging, agriculture, mining and ecosystem conservation needs.
- (f) **Continuation of the ongoing reform process.** To ensure that the relaunch of the forest sector takes place on a sound basis, the DRC has put in place a Priority Agenda that contains measures to protect the national interest against speculation on and commerce of logging concessions. These measures include a moratorium on all new allocations of concessions by mutual agreement, and the progressive elevation of the area tax on the allocated surfaces. The Government has cancelled 25 million ha of contracts of concessions considered 'null and void', and that had been allocated without an effort of building spatial coherence. These forests have re-entered the public domain and need now be the subject of this collective thinking on territorial management, before being reattributed to logging concessions, or to the rural domain or to the nature conservation domain. The DRC remains the only country in the region that contains vast areas of exploitable forests that are free of logging contracts, and a large degree of liberty regarding forest zoning remains. The demand for logging concessions is growing, and forest zoning will be the framework that allows to program for the decennia ahead the progressive allocation of concessions, or the affection of forest lands to the rural domain and to nature conservation.
- (g) **Definition of the 'agro-forestry' domain, community forestry.** Zoning will lead to the definition of an agro-forestry domain that contains land that will not necessarily remain under forest cover and that might be utilized for agricultural and agro-forestry needs. The extent of the agro-forestry domain should take into account the future needs for agricultural lands, the needs for industrial agriculture, as well as the need to maintain part of the agro-forestry domain under forest cover (community forests, forest-fallow-swamp mosaic). This will be a delicate exercise with relatively large degrees of flexibility. The new forest law (article 22) foresees the possibility for local communities to manage forest concessions. The application texts still need to be developed to define the conditions of this type of forest exploitation. With regard to forest zoning, one of the questions is if these "community forests" should be located in the permanent forest domain or in the agro-forestry domain (non permanent) (see also tasks: studies to realize).
- (h) **Permanent forest domain and demographic growth.** According to UNFPA the DRC human population could grow from around 50 million people in 2000 to something like 200 million in 2050. Such an increase in population will have enormous impact on the forests. Forest land use planning is the system that will allow to define the permanent forest domain, legalized by gazettment decrees. Forest land use planning is equally a way to steer internal migratory

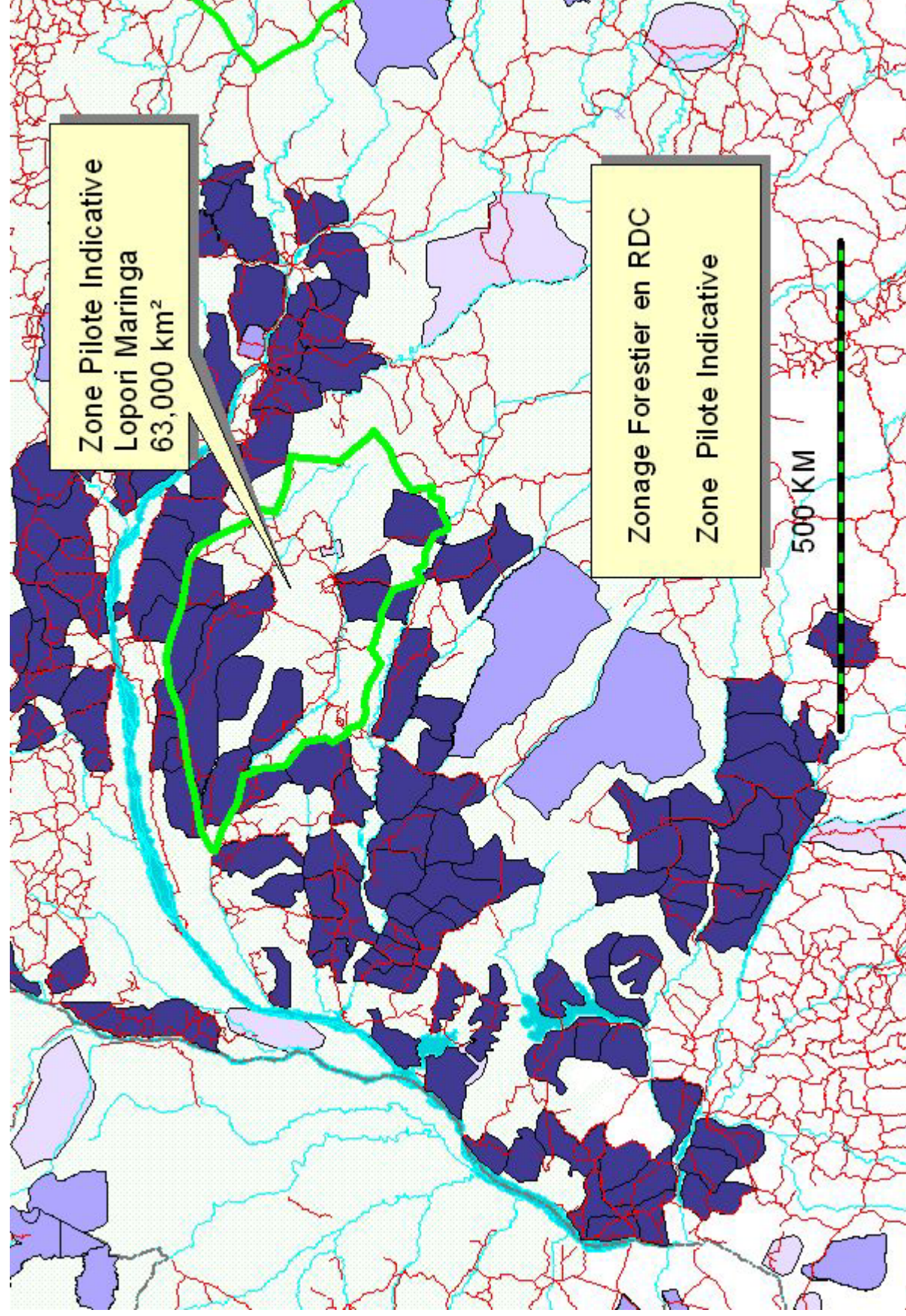
patterns and the installation of new settlements. Forest zoning will allow to plan for the maintenance of ecological connectivity between major forest blocks. Without a forest land use planning process that will lead to a protected permanent forest estate, the Congolese forest by 2050 will only be a vague reminder of what they once were. Zoning must lead to a national network of permanent forest based on sound principles: reserving sufficient space for agricultural development in the next 50 years and guiding the spatial dynamics of agriculture and settlement, locating protected areas in the most intact parts of the forest (the core of the major forest blocks is better protected against poaching) as well as in sites of particular ecological interest, buffering protected areas with logging concessions under sustainable management, and preserving ecological connectivity in between permanent forest blocks.

- (i) **Designing a national network of protected areas.** DRC's network of protected areas is still very incomplete and forest land use planning will allow to define a conservation domain that should attain, according to the forest law, at least 15% of the national territory
- (j) **The question of edaphic forests (permanently or seasonally inundated).** In the central basin, considerable expanses of swamp forests border the large rivers. They are relatively less rich in biodiversity and in merchantable timber. They contain relatively small numbers of large mammals and access is easy for fishermen and hunters. How does this type of vegetation need to be integrated in the forest land use plan? Understanding of the economic, social and ecological role of these swamp forests will be necessary to conduct the forest zoning in and near this vegetation type.
- (k) **The semi-final character of the indicative land use plans.** Most of the work will concern the realization of the land use plan for the pilot zone and should lead to validation by the Government 'as an indication' and by inter-ministerial decree. The experience of other countries shows that these indicative land use plans undergo changes before being confirmed by definitive gazettment decrees at the scale of the individual forest management units. However, it is difficult to make large scale modifications to the indicative land use plans given that these plans are based on a large amount of field work, photo interpretation and consultation/concertation/mediation work. This implies the heavy responsibility incurred in proposing limits for the rural domain, the permanent forest domain and the protected areas.
- (l) **Permanent production forests.** The production forest domain needs to be partitioned in forest management units (FMU). The size of the FMU will take into account the need to be able to propose appropriate sustainable forest management for these units. The forest law equally takes into account FMU's for objectives other than logging (example tourism, conservation, bio-prospecting, recreation, carbon sequestration) and the consultant will, if opportune, take this into account. The consultant will also use inventory data available at SPIAF.
- (m) **Conservation / Environmental services.** The consultant will ensure, through the socio-economic surveys and the biological survey missions, that sites thought to be critical for conservation, are identified and provisionally delimited. Also, the new forest law anticipates that forest management can not only be orientated towards timber production but also towards environmental services, tourism and hunting, and other objectives compatible with the maintenance of forest cover and the conservation of wildlife. The consultant will evaluate if this variety of options needs to be taken into account (for example is it feasible or opportune at this

stage to propose concessions oriented towards conservation or carbon sequestration or a mixture of these objectives).

- (n) **Community concession issues.** Do these have to be located in the rural domain or in the permanent forest domain? The consultant will identify advantages and disadvantages of different approaches and will proposed a will thought through choice taking into account the development of application texts in this matter. He will monitor and contribute to the development of these application texts where they concern forest zoning. He will take into account the experience of other countries in the sub region.

TOR ANNES 2. PILOT ZONE FOR INDICATIVE LAND USE PLAN



TOR ANNEX 2 (CTD) – PILOTE ZONE FOR THE INDICATIVE LAND USE PLAN

The criteria that have guided the choice of this zone are :

Criterion	Appreciation
• Importance for the reunification process	+++
• Future demand for logging concessions	+++
• Concessions that have been recently retro-ceded, necessity for re-zoning	++
• Important zone for timber production	+++
• Zoning relatively straightforward, low population density	++
• Necessity to prevent land rights conflicts	+
• Other land use issues (mining, agro industry) to reconcile	++
• Potential for protected areas and/or extension of existing ones.	++
• Accessibility, logistical constraints	-
• Security	+/-
• Potential for synergies and partnerships with other initiatives	+++

Description-Specificities. This zone is located around the Lopori and Maringa river basins and reaches up to the Tshuapa in the south and the Ikela-Opala road in the east. The area is accessible for logging because of the presence of navigable rivers. The area still contains relatively intact forest, some with high density of bonobo's (example : Lomako-Yekokora, Wamba Forest). Major parts have relatively low human population density. The Consultant will propose the precise limits of the area that will be the subject of the indicative land use plan, based on feasibility criteria and taking into account that more importance should be given to the quality of the zoning process, rather than to maximizing the size of the area covered. Zoning will request sound understanding of agricultural land needs including industrial plantations.

Suggestions for work organization and partnerships. The site overlaps with the Lopori Maringa landscape of CARPE/CBFP. The Consultant will seek active collaboration with the actors in the field, and in particular with the CARPE program (AWF, CARE) as this should strengthen the quality of the process and avoid duplication.

A logistical base might be set up in Mbandaka, in the premises of the Provincial Coordination of the Ministry of the Environment. Offices have to be refurbished and equipped with an electricity generator. Computer hardware and furniture need to be purchased. Short term support missions by a GIS technician of the Ministry will be needed. This field base will support the various field missions. The Consultant will ensure that the Provincial Coordination of the Ministry and the Ministry services in the districts and territories feel responsible for the zoning process. A vehicle or motorcycle could be based in Mbandaka for local transport and motorcycles, bicycles, and dugouts could be used by the field teams.

TOR ANNEX 3. FRAMING NOTE FOR THE INSTITUTIONAL REINFORCEMENT AND CAPACITY TRANSFER

The selected Consultant will assist the Administration to conduct a forest land use planning process through the provision of : (i) technical assistance and methodological support; (ii) training; (iii) equipment and operational means. These services aim to develop and repair the capacity of the Ministry and other concerned public institutions to carry out in an autonomous way forest land use planning in other areas in the future.

Within the Ministry of the Environment, The principal services in charge of forest zoning are: the Direction of Forest Management (DGF), the Congolese Institute for the Conservation of Nature (ICCN), the Provincial Coordination's, and the Permanent Service for Forest Inventory and Management (SPIAF). Given the multiple challenges of natural resource use, close collaboration will be necessary with other Ministries like these in charge of Rural Development and Agriculture, Territorial Management, Mining, Industries and Transport. This collaboration will be established in the framework of the National Inter-Ministerial Committee for Territorial Management and within the Provincial Consultative Council on Forests.

The Direction of Forest Management (**DGF**) is in essence responsible for management of forest resources. Its Division of Exploitation and Forest Allocation (DEAF) manages the requests for attribution. Forest land use planning will be an important tool for sustainable natural resource management by helping the forest administration with the definition and allocation of new logging concessions while respecting the socio-economic space of local communities, the development of other activities and of zones for biodiversity conservation. The Division of Forest Statistics (DSF) disposes since 2000 of a computer and an IT specialist for the compilation of statistical data on timber production, exploitation and allocation of logging concessions. The computer equipment of the DGF will be strengthened and a data base will be installed so as to improve the management of forest concession contracts in the framework of the support project for the conversion of ancient forest concession contracts.

ICCN is in charge of protected area management at the national level. These zones cover actually 9% of the country and should attain 15%, as written in the new forest law. ICCN has specialized conservators and technical staff in most of the protected areas. The zoning process will help ICCN with the extension of existing and planning of new protected areas while avoiding the geographical overlap with competing or incompatible land use types.

The **Provincial Coordination** of the MINENV is the principal intermediary with the authorities and the local communities, the logging companies and the Ministry of the Environment. It should be responsible for the field activities and notably for the awareness building operations, and the negotiations with the different actors in the rural environment. In addition, being involved in zoning will be useful for the provincial coordination, as it has to monitor attribution of concessions by the Ministry, as it has to discuss with logging companies on the attribution of new concessions, as it has to resolve conflicts linked to non-respect of concession limits and as it has to verify the exactness of certain data provided by logging companies. The provincial services of the Ministry of the Environment lack all means of intervention.

SPIAF is principally in charge of realizing, all over the national territory, forest resource inventories and management plans. For this SPIAF disposes of some recent cartographic equipment and has databases, as well as limited technical capacity (but of a good standard) in GIS systems, cartography and photo-interpretation.

Role of partner administrations

The zoning work will contain three major groups of activities: (i) collecting remote sensing data, production of thematic maps and the constitution of a geo-referenced data base (GIS); (ii) Field work to verify the accuracy of the satellite image interpretations, to define new protected areas and to realize socio-economic surveys in order to estimate the needed extent of the rural domain; and (iii) support to the consultation process and the decision making process together with all the interested actors (Administrations, private operators, civil society, local communities) at the local, provincial and national levels and through the organization of workshops, awareness building and consultation meetings, setting up of the provincial committee (on forests) and the re-activation of the National Inter-Ministerial Committee on Territorial Management.

Taking into account their prerogatives and capacities, the different concerned Administrations will be involved as follows:

- (a) **Secretary General of the MINENV:** given the multi-disciplinary challenges, it is proposed that the zoning work will be steered by the Secretary General of MINENV with the support of a specialist in land use planning and in animation of consultation processes. This specialist could set up his office at SPIAF, but will be under the direct supervision of the Secretary General.
- (b) The **DGF** (Direction of Forest Management): Being responsible for forest resource management, DGF will provide SPIAF with data on logging concessions and will steer the consultation/concertation work process around logging concessions.
- (c) **ICCN:** Being responsible for protected areas, ICCN will provide SPIAF with data on the protected areas and will lead the reconnaissance teams that will search for sites rich in biodiversity. It will participate in awareness building sessions and consultation sessions organized in areas close to the protected areas.
- (d) The **provincial coordination of MINENV** will collect necessary complementary data that is available in the different provincial and district administrative services. They will accompany and organize the field work as well as the different consultation meetings to be realized in their zone. The field missions will be composed of one managerial/technical staff representing the administration responsible at the national level (DGF or ICCN), one or two national experts, one technical/managerial staff from the provincial coordination, and local help as needed (data collectors, guides, trail pointers, conductors, porters, etc.).
- (e) **SPIAF** will be in charge of cartography and data base development. It will ensure complementarity of the data bases with other programs (ongoing or under preparation) such as Global Forest Watch, the Forest Information System (FIS) and the project for the

conversion of ancient logging contracts. In addition, to complete its capacities (expertise, cartographic data, equipment, etc.), SPIAF will work with other structures and programs like DPFRI, the Agronomic Faculty, ERAIFT, MONUC, METELSAT, CARPE, etc.). Some technical missions to refine or confirm the interpretation of the cartographic and satellite image data are also foreseen.

- (f) The **other concerned ministries** will facilitate access to data that is available in their department and will be closely associated with the consultation/mediation and decision process via their participation in meetings and committees that will be organized in the provinces and in Kinshasa as well as in technical workshops specifically linked to the problems that are their concern.

TOR ANNEX 4. SOME EXPERIENCES AND EXISTING PRODUCTS, ONGOING INITIATIVES, PARTNERSHIPS AND POTENTIAL SYNERGIES

- Forest zoning and territorial planning : FAO Africover program, zoning component of FAO's TCP project ; large scale participatory mapping conducted by IRM in the Equator zone, protected areas cartography program (ICCN/UCL)
- Field operations, socio-economic analysis and multi-actor consultations in the pilot zone: Executing agencies in the CARPE/CBFP program (AWF/CARE); Forest concession sustainable management initiatives (logging companies, WWF); Economic Conference of the Equateur Province.
- National concertation/consultation process: Forest Law vulgarization program (MINENV/FAO); National Center for Development NGO's.
- Institutional strengthening: Support by GFW to SPIAF in the context of ITTO and CARPE projects; institutional review and strengthening strategy conducted by MINENV; Training program supported by SCAC.
- Setting up of forestry register/cadastre : Ancient contract conversion program conducted by MINENV and supported by the Emergency Economic and Social Reunification Support Project.
- Remote sensing: Programs of Global Forest Watch and of Woodshole Research Center/NASA/University of Maryland for the monitoring of logging roads in forest concessions in DRC and other countries of the Congo Basin.
- GIS databases in DRC: ERAIFT, CARPE, WCS, University of Maryland, OSFAC.
- Field missions in isolated areas: experiences of certain ongoing projects (WCS/MIKE in Salonga National Park, survey experience of logging companies, CARPE (AWF), Zoological Society of Milwaukee, Bonobo Conservation International, Frankfurt Zoological Society.
- Tools: CyberTracker becomes more and more performing and robust and could increase the amount of collected data as well as data analysis speed.

ANNEX 5

CRITERIA AND PROCEDURES FOR THE LEGAL REVIEW, PRESIDENTIAL DECREE, OCTOBER 2005

DEMOCRATIC REPUBLIC OF CONGO

The President

DECREE No. 05/116 OF 24 OCTOBER 2005 LAYING DOWN THE PROCEDURES FOR CONVERTING THE FORMER LOGGING TITLES INTO LOGGING CONCESSION CONTRACTS AND EXTENDING THE MORATORIUM ON THE GRANTING OF LOGGING TITLES.

Having regard to the Transition Constitution, particularly its articles 71 and 203;

Having regard to Act 011/2002 of 29 August 2002 on the Forest Code, particularly its articles 21, 71, 74, 82, 88, 118 and 155;

Having regard to Decree No. 03/025 of 16 September 2003 on the mode of organisation and workings of the Transition Government as well as the practical terms of collaboration between the President of the Republic, the Vice-Presidents of the Republic, the Ministers and the Vice-Ministers, particularly in its articles 10, 50 and 54;

Having regard to Order CAB/MIN/AF.F-E.T./194/MAS/02 of 14 May 2002 on the suspension of the granting of logging titles;

Considering the need to lay down the procedures required for the implementation of the provisional terms of the Forest Code concerning the conversion of the titles held by logging firms into logging concession contracts;

Having regard to urgency and necessity;

CHAPTER 1: GENERAL CONVERSION TERMS AND CONDITIONS

Article 1

Under the terms of the Forest Code, the former logging titles are taken to be the agreements granting timber supply guarantees and the letters of intent signed or issued before the publication of this Decree.

Article 2

Any natural person or legal entity requesting the conversion of a former logging title into a logging concession contract shall file a request with the Ministry in charge of the Forests, and send a copy thereof to the Secretary General in charge of the Forests.

To be valid, the request must be accompanied by the following documents:

- 1) For a natural person filing a request: his trade registration, in compliance with applicable regulations, mentioning the logging or timber industry as part of his activities.
- 2) For a legal entity filing a request:
 - a) the notarised articles of association of the firm and its trade registration in compliance with applicable regulations, mentioning the logging or timber industry as part of its activities;
 - b) the minutes of the firm's General Meeting or, if applicable, those of the Meeting of the Board of Directors, duly signed, notarised and filed with the trade registry of the competent court confirming the appointment of the people in charge of managing or directing the firm, or any deed serving as such, in accordance with the rules pertaining to the appointment of company managers as laid down by commercial law.
- 3) For all applicants, a certified true copy of the old logging title for which the conversion is requested, including its schedules as well as a medium-term rehabilitation plan drafted in accordance with the terms of Article 7 of this Decree.

Article 3

The holders of the old logging titles have three months from the publication of this Decree to file a conversion request. Seven days after that deadline, the Forestry Administration shall publish in the press and post at the government offices concerned the list of titles for which a conversion request was received. The titles for which no conversion request was received at the end of the three month period stated above shall no longer be binding upon the Republic.

Article 4

Upon receipt of the request, the Forest Management Department, the Permanent Forest Inventory and Development Service and the Office of Administrative Revenues shall proceed with the verification of the related application. They shall seek the required information from the other departments concerned and attach to their verification report the certifications

produced by these departments with respect to the obligations under their responsibility. If the result of these verifications is positive, they shall prepare a draft concession contract. For each request, the verification shall include the following:

- a) conformity of the documents included in the conversion application in accordance with Article 2 above;
- b) the legal validity of the agreements for which a conversion is requested and of their transfer to third parties if applicable;
- c) compliance with the agreement's legal, environmental, social and fiscal obligations by the title holder or any third party to whom the rights may have been transferred;
- d) the existence and continuing operation of the processing unit in accordance with the terms of the supply guarantee and/or letter of intent, except in duly proven cases of force majeure;
- e) the analysis of the rehabilitation plan proposed.

Article 5

The verification of the legal validity of the titles shall be done in compliance with the legal and regulatory provisions in force at the time of their signing. This also applies to the conformity of their transfer and/or sale where applicable. Any request concerning a title which has not been validated with respect to the legal and regulatory provisions in force at the time of their signing shall automatically be rejected.

The applicant's compliance with the obligations stemming from the title shall be verified, particularly as concerns the following:

- a) full payment of the fees applicable to the logging areas concerned from the year 2003 to the present;
- b) compliance with the concession limits as laid down in the agreement and topographical map appended thereto;
- c) the existence and continuing operation of a processing unit in accordance with the terms of the title, except in proven cases of force majeure.

Non-compliance with any of these three obligations shall result in the rejection of the request and cancellation of said title.

Article 6

The Forest Management Department, the Permanent Forest Inventory and Development Service and the Office of Administrative Revenues shall be assisted by a qualified independent expert tasked with helping the administration in the verifications, the preparation of reports and drafting of concession contracts to be sent to the Commission.

The expert shall have free access to all documentation and information relative to the conversion process. He shall take part in all work sessions and on-site assignments.

He shall produce his own interim report in which he shall give his opinion on the validity of the technical verification and its conformity with the provisions of this Decree, as well as his recommendations. He shall also perform the assignments set out in Article 10 below.

Article 7

The rehabilitation plan presented by the applicant shall be used as an element for the preparation of the draft logging concession contracts for the successful requests. It shall comprise the following:

- a) a report pertaining to the statistical data available on the production, processing and exportation of forest products over the previous years;
- b) a report pertaining to the applicant's technical and financial capacities, particularly the structure of its share capital and the logging material and equipment used; its human resources particularly the number of employees and their duties; and its operating infrastructure and equipment, its processing units, as well as its safety material and equipment on the work sites;
- c) the estimate assessing whether the concession limits and surface areas are in keeping with the current technical and financial capacities and those planned as future investments, taking account of the areas already being exploited and the areas planned for future exploitation;
- d) the proposals relative to the adjustment of concession limits to comply with the rights of local populations and any land rights that may be held by third parties, and relative to the presence of agricultural or unusable areas. These proposals shall be accompanied by the reports of the local consultations conducted by the applicant;
- e) the proposals relative to the logging surface areas, volumes and species to be exploited over the next five years, as well as the products to be marketed;
- f) the proposals relative to the environmental and social conditions of the logging operations, including capital expenditures to be made and socio-economic services to be set up in favour of the local communities living around the concession and the procedures for consulting them. These proposals shall be accompanied by the reports of the local consultations conducted by the applicant.

CHAPTER II: CONVERSION PROCEDURE

Section 1: Study of the conversion request

Article 8

At the end of the technical verification operations and, at any rate, within a maximum of four months following the deadline for receipt of the requests, the Minister in charge of the Forests shall convene a meeting of the Interministerial Commission as provided by Article 9 of this Decree. He shall give the commission the conversion requests, the verification reports mentioned in Article 4 above and the independent expert's interim report mentioned in Article 6 above.

By that same deadline, the Secretary General in charge of the Forests shall publish in the press and post at the government offices concerned the list of titles for which a draft concession contract was prepared and those for which the verification report recommends a rejection, pursuant to Articles 4 and 7 above. The independent expert's interim report may be consulted freely at the Ministry of the Environment.

Article 9

An Interministerial Commission shall be set up and tasked with examining and approving or rejecting the verification reports drawn up in accordance with Articles 1 to 7 of this Decree and the draft logging concession contracts.

Article 10

The Interministerial Commission shall be placed under the authority of the Minister in charge of the forests and chaired by the Secretary General in charge of the forests. In addition to the Secretary General, it shall comprise the following members:

a) Four representatives of the Ministry in charge of the Forests:

- the Director in charge of Forest Management;
- the Director in charge of forest inventories and development;
- the Forest Advisor to the Ministry in charge of the forests;
- a representative of the provincial administration in charge of the forests in the area where the forest concerned is located.

b) a representative of the Ministry in charge of Justice;

Two representatives of the Ministry in charge of Finance including one Delegate from the Office of Administrative Revenues, Land Revenues and Shareholding Interests;

d) A representative of the Ministry in charge of the Plan;

e) A representative of the Ministry in charge of Industry;

f) A representative of the Office of the President of the Republic

g) A representative of the Office of the Vice-President of the Republic in charge of the Reconstruction Commission and;

A representative of the Office of the Vice-President of the Republic in charge of the Economic and Financial Commission;

i) Two representatives of the Professional Timber Committee of the Federation of Congo Enterprises, not directly concerned by the applications being examined;

Two representatives from approved national non-governmental organisations working in the forest sector;

k) A representative of the local communities affected by the title concerned;

l) The independent expert mentioned in Article 6 above.

The members of the Commission shall be appointed by Decree of the President of the Republic on the advice of the Ministries and bodies on which they rely for their competence, experience and established moral integrity. The members shall be entitled to an allowance whose amount and terms of payment shall be laid down in the appointment decree.

The independent expert mentioned in Article 6 of this Decree shall take part in all of the Commission's work as an observer, without any voting right. He shall produce a report on the conformity of the Commission's work and the compliance of its conclusions with the terms and spirit of the Forest Code and those of this Decree, along with his own recommendations.

Article 11

The Commission shall examine the verification reports. It shall use all pertinent documentation, particularly the applicable laws and regulations,

the request files, the proposed rehabilitation plans, and the independent expert's interim report. It shall reject any request whose technical verification shows that it hasn't conformed with the criteria set out in Article 5 of this Decree. It shall examine the other applications and make its decision on the basis of the verification report, the independent expert's interim report and any other opinion it may deem necessary to seek to this effect. The Commission shall give a decision on the pertinence of the draft concession contract and make amendments thereto where applicable.

Article 12

The Commission's meetings shall only be valid if at least three quarters of its members are present. The Commission shall set its own rules of procedure.

It shall deliberate by consensus. If no consensus is reached, it shall deliberate according to the qualified majority of two thirds of the members present.

In the event of a tie vote, the session Chairman shall have the casting vote.

The Commission's observations and recommendations shall be recorded as minutes signed by the members present.

Article 13

The Commission shall close its session within a maximum of 45 days following the date on which the verification reports are sent by the Administration in charge of the Forests. Within seven days following the closing of the Commission session, the Commission Chairman shall send the Minister in charge of the Forests the Commission's report. The independent expert shall send his report to the Minister in charge of the Forests by the same deadline.

As soon as the Commission session has closed, the verification report and the two reports of the independent expert mentioned in Articles 6 and 10 above may be consulted freely at the Ministry in charge of the forests.

Article 14

Within a maximum of 15 days, the Minister in charge of the Forests shall inform the applicant of the Commission's recommendations by registered mail or letter with acknowledgement of receipt.

Within the same time limit, he shall publish in the press and post at the government offices concerned a summary of the Commission's recommendations for each title.

Upon receipt of the Minister's letter, the applicant shall have a maximum of fifteen days to state its observations on the Commission's recommendations. These observations shall be sent in the form of an appeal by registered mail (or letter with acknowledgement of receipt), to the Minister in charge of the Forests who shall submit them to the Commission for a second examination. The applicant may voice its observations on its own request or that of the

Commission. The Commission called for a second hearing by the Minister shall have a maximum of fifteen days to state its recommendations on these appeals.

Article 15

Where the Commission issues a favourable recommendation, the Minister in charge of the Forests shall have a maximum of 15 days to invite the applicant, by registered mail (or letter with acknowledgement of receipt), to the signing of the logging concession contract.

Where the Commission issues an unfavourable recommendation, the Minister in charge of the Forests shall have a maximum of 15 days to notify the applicant by registered mail (or letter with acknowledgement of receipt) of the rejection of its request, and to proceed with the cancellation of the title.

The Commission's conclusions shall be published in the press and posted at the government offices concerned within a maximum of 15 days. The two reports produced by the independent expert pursuant to Articles 6 and 10 above shall be published at the same time.

Article 16

The conversion of a title shall under no circumstance bring about the extension of the surface areas concerned or their substitution with others. The surface areas may be reduced due to the adjustment of concession limits because of agricultural land or non-productive areas, or on the applicant's request.

Article 17

Without prejudice to the provisions of Articles 8, 13 and 14 of this Decree, the Minister in charge of the Forests and the members of the Commission shall ensure that the documents received pursuant to the execution of the provisions of this Decree are handled so that their content is not divulged to other logging firms or third parties. Except under request by the Government or a Court of Justice, the members of the Commission shall be held to secrecy in respect of their deliberations.

Section 3: Appeal against the Minister's decision

Article 18

The logging firm shall have the right to appeal the decision notified by the Minister in charge of the Forests. This appeal shall be lodged in compliance with the procedure applicable to administrative law.

Article 19

The logging concession contract shall be signed by the Minister in charge of the Forests and the concession holder for a renewable period of twenty five years. It shall be terminated automatically if, within 4 years following its signing, the concession does not have a development plan duly approved by the Administration in charge of the Forests.

The specifications of the social infrastructure and socio-economic services jointly agreed to by the local communities and concession holder shall be appended to the logging concession contract. These agreements may be amended by common consent between the local communities and the concession holder upon preparation of the development plan mentioned in paragraph 1 of this Article. Likewise, the concession limits may be rectified during the preparation of the development plan after consultation of the local communities, to take account of their customary rights, without any new surface area being added to the concession.

Article 20

The two originals of the duly signed logging concession contract shall be sent to the logging firm and to the Forest Cadastre service; a copy of said contract shall be sent to the Secretary General of the Ministry in charge of the Forests and to the Provincial Forest Administration responsible for the concession. Upon signing the contract, the concession holder shall send a copy of the concession contract and appended specifications to the heads and representatives of the concession's local communities

CHAPTER III: PENAL PROVISIONS

Acts of corruption, influence peddling as well as pressure or threats against the members of the Commission to hamper the conversion procedure laid down in this Decree shall be punishable in accordance with the provisions of Articles 147, 148, 149 bis, 149 ter, 150 and 150e of the Penal Code, Book II.

Without prejudice to the sanctions set out in paragraph 1 of this Article, any duly confirmed act of corruption, influence peddling, threat or any form of pressure as well as any attempt to commit such offences shall give rise to the automatic rejection of the conversion request.

CHAPTER IV: FINAL PROVISIONS

Article 22

Old logging titles not converted into logging concessions at the end of the conversion procedure, and at any rate, at the end of the one-year period following the date of enforcement of this Decree, shall expire as of right and the forests concerned shall return to the State's private forest holdings. The equipment acquired by the logging firm shall remain its property. The traditional and customary rights of the local communities shall continue to apply in those forests.

Article 23

The moratorium laid down by Order /AF.F-E.T./194/MAS/02 of 14 May 2002 suspending the granting of logging titles shall remain in force until the two following additional conditions are met: publication of the final results of the conversion process, including the effective cancellation of non-converted titles and the adoption, based on a consultation process, of a geographical program of future allocations in three years' time.

This moratorium covers any acquisition of logging rights, including through exchange, relocation or rehabilitation of old titles. Once the three conditions mentioned above have been met, the moratorium shall be lifted by Decree of the President of the Republic.

Article 24

All previous provisions contradicting this Decree are hereby superseded.

Drawn up in Kinshasa, on 2 October 2005

Joseph Kabila
For authentic copy
24 October 2005

The Office of the President of the Republic

Léonard She Okitundu
Chief of Staff

ANNEX 6

FOREST FORUMS 2004 AND 2006, BRUSSELS DECLARATION 2007 AND NGO STATEMENTS

Moderator's conclusion's

I thank you for the fruitful and constructive exchanges. I am at present trying to resume what we have heard, and what has come out of our work realized together today.

First, it seems that today's meeting has indeed confirmed the existence of shared observations and common objectives that unite us around this table.

The Congolese forest is the world's second tropical forest block and an incomparable biodiversity reservoir. But the Congolese people are also among the poorest in the world. It's a paradox that needs to be reconciled in the delicate post-war context. The post-war context appeals to extreme prudence and a pragmatic attitude. The Congolese forests and biodiversity are crucial for the world's environment: they need to be preserved. They are essential for the survival of the poorest Congolese populations : their rights need to be respected. They can have an essential role in poverty reduction, employment generation and realization of other benefits: this existence should not remain a slogan but needs to be concretized. The current economic revival in Congo does not only present opportunities, but also risks for local communities and the environment. In particular, the revival of the timber industry will not automatically generate benefits for the country and could degrade even more the ecosystems: one needs to be conscious of the risks and should work together so that benefits materialize in a sustainable way. Another common observation is that our priority is in the forest and in the villages: Kinshasa laws and reforms need to be applied in the field. To attain this, awareness building efforts need to be continued, and capacities strengthened of the forest administration, of ICCN, of rural communities and of civil society institutions that have an important role in DRC. The resolutions made in Kinshasa will have no sense if not followed by actions and results in the field. Finally, it is important to build a structured and transparent partnership including all of the logging companies, the civil society institutions and the development partners, under the leadership of the Government.

In my view, today's Forum has allowed to confirm the support by all of the actors for the implementation of the new Forest Law and the Government's Priority Agenda. It has allowed to identify the short term priority actions that have been expressed in the speeches this morning.

The Ministry of the Environment has presented a Priority Agenda centered on simple measures of governance and transparency. It prepares the full implementation of the new law for the benefit of the Congolese people and the conservation of nature. The Ministry of Planning has insisted on the importance of forests in the PRSP. It has expressed the wish that the opportunities but also the risks linked to the economic revival should be better reflected in the final PRSP. Therefore, it has invited the Ministry of the Environment, ICCN and civil society to join the consultations that will take place to finalize the PRSP. Different groups of actors have subsequently presented their

perspectives on the sector. They were satisfied with the adoption of the new law, that contains important measures for improved governance of natural resources; these measures being even more remarkable given that they intervene in a reunification and post-war context. In their support for the Government's Priority Agenda, they insisted on the importance of: maintaining the moratorium; realizing the legal revision of ancient logging contracts with the help of an independent observer; intensification of public information efforts; setting up an independent monitoring system; respecting the rights of rural and indigenous peoples; involving even more the private sector and civil society; setting up an assuring investment environment that favors responsible investors who are ready to respect the new rules of the game; putting in place the dynamics of sustainable management leading to certification; ensuring the integrity of protected areas; updating the law on the conservation of nature; searching for complementary alternatives to timber exploitation so as to valorize, for the benefit of the Congolese people, the environmental services these forests bring to planet.

After that we have held several thematic sessions that I will try to resume as follows:

Session 1 - Vulgarization of the forest law

I have noted a consensus on the forest law, which marks an important rupture with the past by introducing important innovations at the institutional level as well as on the management level. I have equally understood that the law favors responsible partnership with the private sector and civil society. I have taken note of the mutual interest of the Ministry of the Environment, of civil society and of the private sector to work together to vulgarize the law. Participants have raised questions on key themes concerning notably:

- The dichotomy between customary land rights and modern land rights.
- The need to take into account the rights of indigenous people in protected areas and while defining concession limits, on the principle of prior, free and informed consent.
- The relevance of taking opportunity from the moratorium period to refine good governance strategies and to find alternatives so as to manage forests sustainably.
- The need for systematic transparency in the concession allocation processes, in tax collection, and in implementation of sanctions by resorting to (the setting-up of) an independent monitoring system.

Interest has equally been shown for a schedule to finalize the application texts of the law. The need has been evoked to find new support sources for this task, as the TCP/FAO project will terminate in December. Finally, the importance has appeared of an annotated and commented forest law translated in local languages.

Session 2 – Zoning

I have noted the importance of the zoning process to secure different forest users and to prevent local conflicts, or 'despoiling acts'. The task will be carried out in a participatory

fashion. I have noted the mutual interest of the Ministry of the Environment and the NGO's of the CBFP-Lopori-Maringa project to unite their efforts to realize participatory zoning in the Lopori-Maringa pilot zone. A memorandum of understanding is currently under preparation and foresees reciprocal engagement to transmit field data, to take them into account to inform/contribute to all zoning decisions, and to implement joint work programs and consultations. The participants have evoked questions on key themes concerning notably:

- The link between research and the zoning process;
- The importance of forest zoning and of setting concession limits so as to open the way towards sustainable management in the DRC
- The importance for the zoning process of establishing partnerships between national NGO's and international NGO's
- The relation between participatory forest zoning in pilot areas and territorial management at the national scale

Session 3 – Nature conservation

We have listened to the strategy of the Congolese Institute for the Conservation of Nature to rehabilitate the national parks and to conserve the incomparable biodiversity of the DRC. I have noted strong NGO support for this strategy, as well as for the Institution in charge of implementation. ICCN and its partners have revived a concertation instrument at the national scale, the Coccoongo, and they implement a large number of joint activities and synergies to save DRC's biodiversity (that suffered heavily because of the conflict). UNESCO has presented the results of the International World Heritage Site Conference held in September 2004, during which several donors have expressed support for the rehabilitation of DRC's national parks. ICCN conducts long term activities, and it is urgent to find appropriate and adequate financing from the emerging world coalition, and that is sufficiently large to face the scale of the challenges and of the potential peril. Whatever the case, the Government should ensure a minimum of staffing costs, protect the limits of the protected areas and set an calendar objective for withdrawing the sites from the list of world heritage sites in danger.

Session 4 – Contribution to rural development

The conservation of the Congolese forests cannot be separated from its contribution to sustainable rural development, being understood as revenue generating activities that contribute to poverty alleviation. We have followed the presentation of the Ministry of the Environment on the mechanism of contractual specifications, on the development of the community forest concept in the DRC, as well as the presentation from the DGRAD of the Ministry of Finance on the retrocession of 40% of the area taxes to the decentralized local entities. We have heard the interest of all partners to see that these three mechanisms foreseen by the new forest law are effectively put into practice, because they are at the interface between forest management and the development of the poorest populations. The participants have stressed the risks that these mechanisms will not or be wrongly applied. These mechanisms need to be prepared in a participatory way, notably with the NGO's, and under the management of the Government. We have heard the willingness from civil society and the

private sector to collaborate with their complete and equitable implementation. A pragmatic thought process will certainly be needed to define precise, simple and transparent procedures, notably concerning community forests. Continued public information and independent monitoring will be needed, notably for the implementation of the clauses specified in the concession contracts and for the retrocession and allocation of the local entities share in the area tax.

To conclude, we were here to exchange views. But in fact, in addition to clear support for the new forest law and the Government's Priority Agenda, I also heard today great willingness to work together to implement the new instruments for the good of the Congolese people and to preserve a unique natural heritage. I have seen many reach out and offering to collaborate in support of the Government so as to work together towards common objectives. Today's Forum is in keeping with the participative process that we all wish, and is a mark passed towards the construction of a partnership. This forum should not be a thrust in the water. It needs to constitute one more step in the building of a sustainable partnership between all actors in charge of watching over the natural heritage to the benefit of the Congolese people, and in particular the poorest. It will certainly be necessary to get together again, without doubt each year, so that together we monitor the implementation of the new forest law, of the Priority Agenda, and of the different collaborative programs. Regarding these future meetings, I invite you already to focus systematically on the impact of these programs on the field and the villages.

We will now listen to the closing speech by his Excellence the Minister of the Environment.

Declaration of the Forest Sector Civil Society

We, representatives of non governmental organizations operating in the environmental and nature conservation sector in the DRC, through our respective networks (Natural Resources, REPEC, GTF and CNONGD);

Meeting today at Kinshasa, in the meeting hall of CRONGD/Kinshasa;

Considering the current stakes in the forest sector;

Taking note of Decree No. 5/116 of 24 October 2005 to lay down conditions for the conversion of former forest exploitation permits into forest concession contracts and to extend the moratorium in the granting of forest exploitation permits, and having analyzed it together;

Recalling our declaration of 14 November 2004 at the Kinshasa Grand Hotel, and confirming our clearly expressed stance on the moratorium and the conversion of forest exploitation permits;

Reasserting our will to support the government in the implementation of reforms undertaken in the forestry sector since 2002;

Bearing in mind the fact that forests constitute a national heritage of the people of Congo and that they should as such be managed and exploited in the interest of the entire Congolese nation, and especially the local peoples of the forest zones; and without sacrificing the needs of future generations;

Determined to contribute to a sound and sustainable management of the sector and to radically oppose any form of illegal exploitation and ecological-unfriendly use of the forests of our country;

Considering that many forest permits granted in violation of the moratorium since 2002 are not designed to consolidate the process of streamlining the forest sector;

Having witnessed the general atmosphere of malaise created in logging sites as a result of the establishment of logging companies to whom such illegal permits are granted;

Hereby DECLARE our support to Decree No. 5/116 of 24 October 2005 to lay down conditions for the conversion of former forest exploitation permits into forest concession contracts and to extend the moratorium in the granting of forest exploitation permits signed by the President of the Republic;

SUPPORT the principles of verifying the legality of former permits before any conversion, and of transparency in the process, as expressed in the above-mentioned decree; in any case, only illegal operators or those who are used to irregularities would want to contest the contents of the instrument;

SUPPORT the institution of an inter-ministerial committee in charge of examining and, if necessary, approving or rejecting the verification reports drafted by government services and appreciate civil society and relevant local community participation in this committee;

ENCOURAGE logging companies to abide by the provisions of this decree and promise them our collaboration for logging activities that comply with environmental laws and principles;

HAIL the contribution made by foreign partners who accompany the DRC in the implementation of reforms and encourage them to step up their support to the various forest sector-related programmes and projects.

Done at Kinshasa, on 4 November 2005.

Signatories

1. For Avocats Verts: Augustin Mpoyi and Déo Bukayafwa
2. For CENADEP: Joseph Bobia and Théo Gata
3. For GTF: Bienvenu Ngoy and Sylvie Kanzeu Luzua
4. For GACC: Botamba Essambo
5. For Toges Noires: Bwema Mbubu
6. For Femmes Juristes pour le Développement du Congo: Rose Mutombo
7. For REFADD : Philomène Mwamba Kyungu
8. For AMAR : Zéphyrin Leta Say
9. For CNONGD : Joseph Kakinda
10. For AREC : Jean-R. Mutombo
11. For OCEAN : René Ngongo
12. For CEP: Félicien Kabamba
13. For JPSC/CBFP : Freddy Lokwele
14. For GEDI : Prosper Munsala.

**DECLARATION OF INTERNATIONAL NON-GOVERNMENTAL
ORGANISATIONS WORKING FOR A SUSTAINABLE MANAGEMENT OF
FOREST ECOSYSTEMS IN THE DRC RESPECTFUL OF THE RIGHTS AND
INTERESTS OF LOCAL COMMUNITIES**

(Forest Forum of the Democratic Republic of Congo, Kinshasa, February 15, 2006)

International NGOs working for the sustainable management of DRC forests would like to thank the Government of the DRC and the French Cooperation for making this forum possible. This declaration aims to identify the challenges facing the DRC along with the priority areas that we believe require immediate action.

The Government of the DRC is being offered a great opportunity to develop a forest management model that is sustainable and at the same time enables the country's poorest and most marginalized communities to draw real benefit from it. As custodian of Africa's largest remaining area of tropical forest, the DRC is well-placed to be at the global forefront in implementing a sustainable forest management model that is based on genuine participation of local communities.

To attain this ideal, which we feel comes down to a simple issue of political will, the following priority actions need to be implemented:

1. Institutional assessment of the implementation of the Priority Agenda

a. Strict respect for the moratorium and thorough legal audit

We welcome the adoption of the October 2005 Presidential Decree reaffirming the validity of the moratorium on the allocation of any new forest concession. However, the repeated violations of this moratorium constitute a major setback to all ambitions to ensure the sustainable management of DRC forests.

Strict application of the moratorium is a precondition to the sustainable management of DRC forests. We reiterate our common position presented in our declaration to the Forest Forum organized in Kinshasa in November 2004 and reaffirm the importance of the priority actions we had identified at this occasion.

And yet even now, in the field, concessions granted in violation of the moratorium are fully operational. We fear that these operations, which violate, with impunity, Congolese law and the rights of local communities, may become established as a *fait accompli*. Such a situation must be avoided at all cost.

We insist that the legal audit refer strictly to the date of May 14, 2002, when the Ministerial Decree suspending the granting of forest concessions was signed, as well as the other criteria mentioned in the Presidential Decree of October 24, 2005.

We therefore recommend the ***immediate and severe punishment of logging companies that have violated the moratorium, including an immediate halt of their illegal operations.***

b. Need for participatory zoning

Pursuant to the Presidential Decree, a lifting of the moratorium is conditional upon two actions: “publication of the final results of the conversion process [...] and adoption, on the basis of a consultative process, of a geographical planning of future allocations in the next three years.”

We recommend that ***as a precondition to lifting the moratorium, a participatory zoning plan also be implemented with a view to recognizing the traditional rights of local communities, including indigenous peoples, on the basis of the principle of free, prior and informed consent.***

c. Active involvement of local communities

The crucial choices that are being made today for the future of Congolese forests and their inhabitants, call for the active involvement of these local peoples, who are the main actors and rights holders.

All partners involved in formulating measures to implement the Forestry Code of the DRC must undertake to place local communities at the heart of the forest management decision-making process, for it is on these forests that their development and that of future generations depend.

We recommend that ***the different processes for formulating the Forestry Code implementing measures should be undertaken in such a way as to take into account the rights of local communities, including indigenous peoples.***

d. Capacity building

We encourage the capacity building of State, academic and non-governmental institutions working for a better management of Congolese forests.

To this end, we recommend that ***a focus on local communities and their active involvement in managing their forests, and a diversity of forest utilization models (not limited to or dominated by industrial logging) should underlie this capacity building and, ultimately, the very work of these institutions.***

We also recommend that ***the operational capacities of these institutions be strengthened in order to ensure the impartiality, effectiveness and efficiency of their work on the ground.***

e. Independent monitoring

Independent monitoring is needed to ensure the proper application of the forest legislation, as earlier mentioned in our common position of November 13, 2004.

2. Forests and development

On the basis of our experience and programs implemented in other countries, we believe that the seeds of sustainable development and the achievement of the Millennium Development Goals lie not in industrial logging but in alternative forms of exploitation.

These alternatives must benefit local communities and preserve the integrity of forest ecosystems. They must focus on local communities as both their engine and primary beneficiaries. Mechanisms and institutions must be put in place to develop, finance and support the implementation of these alternatives.

We therefore recommend that *the Congolese State and its partners invest in researching and implementing alternatives to industrial logging.*

3. Rehabilitation of protected areas

We wish to encourage the Government to develop the new Law on Nature Conservation on the basis of the principle of free, prior and informed consent of the local communities, including indigenous peoples. The identification of new protected areas, like any other type of forest use, should be the result of a participatory zoning plan produced as described above.

In our opinion, *any model of forest ecosystem management should recognize customary and traditional rights, ensure the active involvement of communities, and avoid eviction of these populations from their ancestral lands.*

The identification of new classified forests (Article 14 of the Forestry Code) requires the active support of the international community.

Lastly, we would like to reaffirm our commitment to work together, alongside local communities, with partners motivated to ensure a sustainable management of DRC forests, respectful of the rights and interests of local communities, including indigenous peoples.

Signatories:

Rebecca Adamson, **First Peoples Worldwide** – United States
Dr. Sandra Altherr, **Pro-Wildlife** – Germany
Sylvain Angerand, **Les Amis de la Terre** – France
Lucy Baker, **Bretton Woods Project** – United Kingdom
Dr. Glen Barry, **Ecological Internet** – United States
Reinhard Behrend, **Rettet den Regenwald e.V.** – Germany
Javier Baltodano, **Coecociba-Amigos de la Tierra** – Costa Rica
Ricardo Carrere, **World Rainforest Movement**
Simon Counsell, **The Rainforest Foundation** – United Kingdom
Jef Dupain, **African Wildlife Foundation** – DRC
Peter Gerhardt, **Robin Wood** – Germany

Hermann Edelman, **Pro-Regenwald** – Germany
Bernhard Henselmann, **EarthLink e.V.** – Germany
Joël Kiyulu, **CARE International** – DRC
Wolfgang Kuhklman, **Arbeitsgemeinschaft Regenwald und Artenschutz** – Germany
Shannon Lawrence, **Environmental Defence** – United States
Josie Lee, **Friends of the Earth** – Australia
Raymond Lumbuenama, **WWF** – DRC
Lars Lovold, **The Rainforest Foundation** – Norway
Michelle Medeiros, **Friends of the Earth** – United States
Otto Miettinen, **Friends of the Earth** – Finland
Brant Olson, **Rainforest Action Network**, United States
Paula Palmer, **Global Response** – United States
Evelyn Schönheit & Jupp Trauth, **Forum Ökologie & Papier** – Germany
Carina Tertaskian, **Global Witness** – United Kingdom
Richard K. Tshombe, **Wildlife Conservation Society** – DRC
Stephan van Praet, **Greenpeace International**
Knud Vöcking, **Urgewald** – Germany
Hans Wasmoeth, **The Wasmoeth Wildlife Foundation** – Netherlands
Stuart Wilson, **Forests Monitor** – United Kingdom
Sylvia Hamberger, **Gesellschaft für ökologische Forschung** – Germany
Dr. Helmut Klein, **BUND/Friends of the Earth** - Germany

DECLARATION OF THE CONGOLESE CIVIL SOCIETY ON THE ONGOING REFORM OF THE FOREST SECTOR

Preamble

We, the representatives of civil society organizations working for the preservation of the environment, the defense/promotion of the rights of local communities, including the indigenous Pygmy population, and the sustainable development of the DRC, meeting today in the Conference hall of CRONGD Kinshasa, to examine the forest reform process in our country, in particular the ongoing conversion of forest permits;

Concerned to see that this reform process complies with the law, and respects the principles of transparency and participation enshrined in the forest legislation and the law on non-governmental organizations operating in the DRC;

Mindful of the fact that the ongoing conversion process will strengthen the reform of the forest sector and that the maintenance of the moratorium, even after the end of the process, will contribute to modernize this sector (capacity building of stakeholders, strengthening of forest control, participatory zoning of forest estates, etc.);

Convinced that participatory zoning is a precondition to lifting the moratorium on the allocation of new forest concessions and identifying new protected areas;

Considering the potential positive or negative short-, medium- and/or long-term impacts of the current conversion process on Congolese forests and the fate of present and **future** generations;

Reaffirming our determination to participate and add our voices to important decisions taken within the framework of the ongoing reform of the forest sector and to have free access to information relating to the management of our forests;

Driven by our determination to ensure that the interests of the entire Congolese nation, especially local communities and indigenous peoples, are taken into account in all government forest programs backed by international partners;

After assessing the overall situation of the forest sector and considering the ensuing major stakes,

ADOPT THE FOLLOWING DECLARATION:

1. Concerning the ongoing Conversion Process

1.1 On the list of companies having submitted requests for conversion

According to the provisions of Article 3 of the Decree to lay down modalities for the conversion of forest permits, the forestry administration is expected to publish, in the media or by posting in the governors' offices concerned, the list of permits for which a conversion file was received.

This list should have been published by February 2nd, 2006, including all references allowing for verification of the authenticity of the beneficiary, permit, location, and surface area of the concession, in compliance with the provisions of the aforementioned Decree,

While lauding the recent publication of this list, the civil society, however, questions the forest administration's reluctance to publish the list within the seven-day statutory deadline, and the wait-and-see attitude of the Independent Expert. They therefore demand that rules and deadlines be respected in the course of the process.

1.2. On the Procedures Manual

The civil society found out that the Independent Expert chosen to technically assist the forest administration in auditing and preparing reports and draft forest concession contracts for submission to the Inter-ministerial Committee was preparing a Manual to define guidelines for conducting legal audits.

During consultations with representatives of NGO networks working for the preservation of the environment, the defense of the rights of local communities, including indigenous peoples and sustainable development, the representatives of the Independent Expert promised to hold consultations with stakeholders, notably civil society actors, on the preparation of this Manual before its finalization.

Curiously, and contrary to all expectations, the attitude of the forest administration and the Independent Expert tends to make this Manual a secret and, therefore, inaccessible to the general public;

The civil society denounces the way the Manual drafting process is managed, considering that it presents major stakes, notably to clarify details not presented in the Decree to lay down the modalities of conversion.

They therefore demand that a copy of the draft Manual be forwarded to them, so as to enable them give their opinion on the contents of the Manual before it is finalized.

Acting otherwise would be tantamount to violating the Forest Law, which obliges the forest administration to involve NGOs in forest management (Articles 5 and 24).

1.3. On the setting up of the Inter-ministerial Committee

The civil society acceded to the principle of instituting an Inter-ministerial Committee to examine and, if necessary, approve or reject audit reports drawn up by the administration. However, they question why there is delay in setting up this Committee, considering that they had already forwarded the names of their delegates to the aforesaid Committee more than two months ago.

They recall that in accordance with the provisions of the Decree on conversion, the Minister in charge of forests is required to convene the Inter-ministerial Committee after technical verification, or in any case, within four months after the conversion application deadline date (January 25, 2006).

The deadline for convening the Inter-ministerial Committee is May 25, 2006, which implies that members of this Committee should have been appointed by this date.

The civil society therefore urges the President of the Republic and the Minister in charge of forests, who are responsible for appointing members to this Committee, to make haste so as to prevent those tempted to challenge the decisions of the Inter-ministerial Committee on the basis of the non-respect of deadlines for appointing **its** members.

1.4. On consultation with local communities and indigenous peoples

The civil society would also like to know the approach adopted by the Independent Expert in “his Manual” to verify the validity of reports on local consultations carried out by loggers, as well as modalities adopted to ensure that local communities are represented.

They demand that these details be clarified, so as they ensure that the interests of local communities, including indigenous peoples, are respected in the conversion process.

2. Concerning the drafting of implementing instruments

The civil society is concerned about the overall pace of preparing the Forestry Code implementing instruments, and the ensuing poor results obtained so far. After more than 36 months of work, only one instrument (concerning conversion) has been signed.

They still wonder why instruments that have already been examined and finalized in the TCP and FNPP projects Steering Committee, and forwarded to the Cabinet of the Minister in charge of forestry, have not yet been signed. Efforts made on several occasions to know the reason(s) for this delay have yielded no results;

They deplore this situation and demand that the instruments already finalized be signed to ensure the successful implementation of the Forestry Code.

It is not superfluous to recall that according to the provisions of the Decree on conversion, the Ministry in charge of forests should prepare draft forest concession contracts for submission to the Inter-ministerial Committee, whose model is yet to be made known, owing to the absence of a related instrument;

Furthermore, the Congolese civil society urges all public and private actors, including international partners, to ensure that the reform process is pursued in accordance with the law, principles of transparency, and respect of the rights of the entire national community.

They appeal particularly to The World Bank, which sponsors the forest permits review process, to ensure rigorous follow-up so as to guarantee the quality and objectivity of this exercise. Lastly, they invite other sponsors operating in the forestry sector in the DRC to heighten their support to ensure the reliability and credibility of the overall reform process.

Done at Kinshasa, on 13 April 2006

1. René NGONGO	OCEAN
2. Augustin MPOYI	AVOCATS VERTS
3. Joseph BOBIA	CENADEP / RRN
4. Théophile GATA	CENADEP / RRN
5. Bienvenu NGOY	GTF
6. Joseph KAKINDA	CNONGD
7. Jean-Paul MALU-MALUPGED	/ PF
8. Albert MAKUAYA	A-ED
9. Adrien SINAFASI	RAPY
10. Dr LYAKI NDUKUKWA	CIDB
11. Pierre BONKONO	CIDB
12. Mme Adolphine MULEY	UEFA / RAPY
13. Romain MINDOMBA	ASADHO / KIN
14. Mme Euphrasie AMINA	CDF / KIN
15. Richard LOKOTA	COCOM
16. Ir Leonel LOLEKO	COCOM
17. Dieudonné KANKU	LAPROEND
18. Mme SAYE BIONGO	Association des Mamans Artisanes
19. Pasteur Jacques BAKULU	CEPECO Bas-Congo
20. Jean-Marie BOLIKA	ILDI
21. Freddy LOKWELE	JPSC / CBFC
22. Ir MBUNGU MBUANGI	OAC / ACASE
23. Me ELEY LOFELE	GTF
24. Freddy MUMBA	CENADEP
25. Jean-Marie NKANDA	GEDI
26. Flory BOTAMBA ESOMBO	GACC / REPEC
27. Mlle Betty NYIMI	AMAR
28. NKOY ILOMBE Jean-Pierre	CEDILO
29. Alphonse LONGBANGO	CODHOD
30. Mariette TSHIBOLA	MET
31. Mme NGALULA	GACC
32. Me Bienvenu IMBOKO	CEDILO
33. Emmanuel PULU PULU	AVOCATS VERTS
34. Schola ATADRAOCEAN	
35. Valentin ENGOBOAPPL	

**STATEMENT OF THE REPRESENTATIVES OF CONGOLESE CIVIL SOCIETY
AND INTERNATIONAL NON-GOVERNMENTAL ORGANISATIONS WORKING IN
THE DEMOCRATIC REPUBLIC OF CONGO**

International conference on sustainable forest management in DRC

Brussels – Palais d'Egmont, 26-27 February 2007

Aware of the fact that the forests of the DRC are of capital importance for the way of life of the forest populations, for sustainable human development, for the preservation of biodiversity and for global climate regulation;

Considering that industrial logging and small-scale logging in the DRC are not activities which are conducive to the reduction of poverty and are still far from meeting the requirements of sustainable forest management;

Anxious to see that the DRC's forest sector reforms are pursued in full legality and transparency, with the effective participation of the local communities and native people;

Concerned that the customary rights and ancestral and traditional forests of the local communities and native people are not taken into account in the forest title conversion process and in all other Government programmes involving the forest sector and supported by our various international partners;

Aware of the fact that the legal review of forest titles initiated in the DRC is necessary to consolidate the reform and rehabilitation of the forest sector but that the process is threatened by a premature lifting of the moratorium on the granting of new forest concessions which would then impose "*de facto* zoning";

Given that participative zoning is a fundamental prerequisite for the lifting of the moratorium on the granting of new forest concessions and the creation of new protected areas;

Considering that the Congolese State has insufficient qualified personnel and lacks the appropriate tools to control and monitor forest activities, as well as the capacity for community management of forest resources;

Convinced that the new Congolese government stemming from the elections must strive to reinforce the capacities of its forest administration, fight against corruption, illegal logging, fraud and impunity in the forest sector, on both the administrative side and in the private sector;

Having taken part in the work of two Kinshasa forums and the International Conference in Brussels, and having failed to find concrete answers to the concerns expressed by civil society;

Wish to reassert our point of view on the development of the process for the implementation of the forest reforms in the DRC, by recommending the following:

1. **The preservation of and strict compliance with the moratorium** on the granting of new forest concessions for at least ten years, until (1) **the drafting of a national zoning plan based on the principle of prior, free and informed consent** of the local and native communities and on participative mapping and (2) **the set-up of an effective, legal and transparent system** for the control and good governance of the forest sector;
2. **The set-up of a favourable political, legislative, administrative and executory framework** for the sustainable management of the forests in the DRC based on a participative national zoning plan and on the alternatives to industrial logging;
3. **The process for the conversion of former logging titles must be implemented scrupulously**, in accordance with the legal criteria laid down in the presidential decree of October 2005. All titles allocated, extended or renewed after the coming into force of the moratorium in May 2002 or which do not meet all the conditions set out in the presidential decree must be cancelled. Logging must cease in the unconverted titles and abusive cutting must be sanctioned;
4. **Access rights and the use of the land and forest resources by the local communities including the native people** must be formally acknowledged and recognised. To this effect, **the full participation of these communities and the principle of prior, free and informed consent** must be ensured during the preparation and creation of a national forest zoning plan or the planning of forest land use;
5. **Participative mapping** of the use of forest land by the local and native communities **must be integrated in the method used to create a zoning plan** or the planning of land use and in any forest classification procedure. The results of this participative mapping process which has until now been facilitated by local groups must be **taken into account as a prerequisite**;
6. The extension of listed forests to at least 15% of the national territory with the active participation of the local and native communities in the set-up and day-to-day management of protected areas, along with fair compensation for restricted access to the resources and the land;
7. The adoption of alternatives to industrial logging through the promotion of non-timber forest products, community forestry and environmental services to combat poverty in an effective way;
8. The continuation of the drafting of Forest Code implementation measures, especially those concerning the local and native communities, zoning, community forestry and the transfer of taxes to the decentralised administrative entities;
9. Strengthening the capacities of the national and provincial forest administration for better effective control of developments and the monitoring of the converted logging concessions;

10. Improvement of the transparency of the forest sector and the set-up of a reliable collection and management system for the taxes stemming from the forest sector and the funds allocated to alternative projects to industrial logging;
11. The fight against corruption and impunity must be firmly initiated, with respect to any violation of the Moratorium, the obligations of logging firms vis-à-vis local communities and native people, as well as law violations by government services themselves;
12. The need to convince wood consumers in the DRC to demand wood of guaranteed legal origin and stemming from logging firms committed to sustainable and transparent forest management;
13. Financial and institutional support to schools and universities to train a sufficient number of foresters to meet the needs of the forest administration and private sector for competent managers;
14. The need to formally prohibit the cutting of "caterpillar trees" and draw up a specific assistance plan for native people;

Drawn up in Brussels on 27 February 2007 by the following organisations:

CED (Centre for the Environment and Development)
CENADEP (National Centre for Development and Community Participation)
CEPECO (Centre for the Promotion and Education of Basic Communities)
CNONGD (National Centre of Development NGOs)
DIPY (Pygmy Dignity)
Forests Monitor
Global Witness
GTF (Forest Work Group)
Heritiers de la Justice (Heirs of Justice)
Maniema Libertés
OCEAN (Concerted Organisation of Ecologists and Friends of Nature)
ODECOLA (Organisation for the Defence of Local Communities and Native People)
OSAPY (Organisation for the Promotion of Pygmies)
Rainforest Foundation
Réseau CREF (Network for the Preservation and Rehabilitation of Forest Ecosystems)
UEFA (Union for the Emancipation of Native Women)
Urgewald

**Brussels
The Egmont Palace
27 February 2007**

**Declaration of Brussels
On sustainable forest management in the Democratic Republic of the Congo**

The DRC conference on sustainable forest management, whose official opening was honoured by the presence of HRH Prince Philippe of Belgium, took place at the Egmont Palace in Brussels on 26 and 27 February 2007 under the aegis of, and with support from, the World Bank, the European Commission, the British Cooperation for Development, the French Cooperation for Development, the Belgian Cooperation for Development and the Government of the Democratic Republic of the Congo.

- The Government of the Democratic Republic of the Congo, represented by HE Mr. Didace PEMBE BOKIAGA, Minister of the Environment, and
- The Belgian Government, represented by HE Mr. Armand DE DECKER, Minister of Cooperation for Development, initiator of the Conference;

put forward the following conclusions concerning sustainable forest management in the DRC.

The Conference, continuing in a direct line from the forums on forests in the DRC held in Kinshasa in 2004 and 2006, in view of the presentation of initiatives currently in progress, also emphasised the need to focus even more on **innovative management and financing systems**.

The Conference gave rise to many rich and productive presentations, exchanges and discussions which brought to light the following points:

- ❑ **The forests of the DRC are a shared national heritage of inestimable value for both the people of the Congo and for humanity as a whole.** They need to be managed with the aim of reducing poverty and protecting the environment. This constitutes a great responsibility for the Congolese Government, the towns and cities of the Congo and the international community alike.
- ❑ **The maintenance of the biodiversity of the Congo's forests, their genetic potential and their contribution to the Earth's environmental balance** are also global issues that go far beyond the boundaries of the Congo itself. They highlight the relevance of innovative systems addressed during the conference, and the need for mobilisation on a regional and international scale.

- ❑ In the past, the management of forests, like that of other natural resources, focused on short-term advantages while ignoring **social equality and the durability of ecosystems and resources**. Local and indigenous populations were marginalised. Despite the efforts involved, biodiversity and natural spaces are continuing to deteriorate.
- ❑ Today, **the peace and democracy re-established in the DRC present unique opportunities**, but a number of risks as well. The forest can generate new jobs and revenue for the people of the Congo, serve as an example to improve governance in other sectors, restore the DRC's image on the international scene and underpin innovative partnerships for environmental protection throughout the world.
- ❑ However, these collective benefits cannot materialise as long former practices continue. The people of the Congo and the global environment are still in danger of being the losers. To reverse this trend, **there needs to be a radical change in policy and governance**.
- ❑ Any policy on the exploitation of wood needs to promote more sustainable practices, and **adhere to a modern principle of social justice, respect the laws, and be socially, environmentally and economically sustainable**.
- ❑ At the same time, it is vital to **stimulate innovative systems for managing and financing forests**, which will foster local development and transform the protection of forests into an attractive option for the DRC. This opportunity exists today, and needs to be grasped.
- ❑ It is necessary for all the stakeholders to join forces in achieving these shared goals. Given the complexity of the stakes at issue, a single party cannot meet the challenge alone. **Multi-player partnerships** are now more crucial than ever, and international involvement is a vital factor.
- ❑ Since 2002, President Joseph KABILA KABANGE has focused on establishing better governance in this sector. A new Forestry Code and a Priority Reform Agenda have been adopted. These have achieved some progress in practical terms, but have also met with a number of setbacks. Their **application must be continued**, their implementation speeded up and any **errors corrected**. However, we can take heart from the fact that a large number of non-valid forest concessions have been reviewed.

The Conference makes use of this occasion to congratulate the Congolese Government, associations and people for all the efforts accomplished in a difficult situation, and recommends continuing the important legislative work currently under way, and the implementation of the Priority Reform Agenda, in particular through:

- ☞ **The simultaneous implementation of the three pillars of the forest code:** the reform of industrial logging, decentralisation through community-based forest governance, and the safeguarding of biodiversity and environmental services.
- ☞ **The maintenance of the moratorium on the allocation of new concessions** until the accomplishment of the conditions laid down in the Presidential decree of 2005. The penalties stipulated by law must be applied to crack down on any infringements of this moratorium.
- ☞ **The completion of the legal review of former concessions** by rigorously applying the requirements of the 2005 decree, and **cancelling non-valid concessions** in accordance with this decree
- ☞ **The maintenance of the traditional rights of local populations** in all the forests. The initiation of a **participative zoning** effort on a national level. The introduction of **local information drives** to keep people informed of every new decision on the use of forests, according to the **principle of prior, free and informed consent**.
- ☞ **The reinforcement of forestry control**, in view of stamping out illegal exploitation and improving the economic climate, in order to welcome and assist **companies that are responsible** from the social, fiscal and environmental point of view, and offer them a framework favourable to obtaining **independent certification**.
- ☞ **The piloting of numerous community-based management initiatives.** These pilot experiments should be carried out in damaged zones as well as those that are virtually intact, where institutional measures that generate appropriate revenues for the inhabitants, while guaranteeing the preservation of the ecosystem, have not yet been invented.
- ☞ **The reinforcement of the power of public institutions and civil organisations** to fulfil their vital roles of control, creating awareness, and monitoring.
- ☞ **The promotion of scientific research** to provide material, as reliable and as validated as possible, for political decisions on the management of forest ecosystems. There are a number of top-priority areas of research. These include developing further knowledge on forest biodiversity as well as the socio-economic and cultural aspects of these zones; understanding and taking account of customs, rules and traditional practices; studying the dynamics involved in carbon sequestration; mapping out the plant life, and improving knowledge about the technical characteristics and opportunities of forest products.
- ☞ **The involvement of civil society**, the provision of information to the public in all its forms, and the participation of independent observers in monitoring resources and following up reforms.

- ☞ **Support for implementing the traceability process for forest products** in view of their legality (FLEGT: Forest Law Enforcement, Governance and Trade) and certification.

Above and beyond the pursuit and reinforcement of these actions, the Conference wishes to put the accent on the urgent need to implement certain actions such as:

- **The protection of the most threatened species and ecosystems**, the rehabilitation of national parks and World Heritage Sites and the identification of new protected areas, while fostering participatory approaches and the respect of traditional rights, and guaranteeing that no forest concessions will be allocated or confirmed in the buffer zones of protected areas.
- **The recognition of traditional forest land management methods and the establishment of their legal security** by local communities: support for small family or community forest-based businesses, in view of helping them to work their way out of poverty without exhausting the natural resources on which they depend.

In these areas, the Conference marks its **support for new approaches**, whereby the Government can delegate land management to local communities or private operators while continuing to fulfil its duty as a guarantor of public well-being.

The Conference stresses the **priority that should be given to reactivating the training programme for forestry engineers and other forestry technicians** which has been dormant for two decades, so as to ensure the sustainable management of the DRC's forests.

The Conference **acknowledges the innovative character** of several initiatives, such as **the creation of carbon sinks** through afforestation and reforestation, and avoiding deforestation; the creation of a fiduciary fund for conservation concessions and the set-up of a multi-donor trust fund for the forest governance, together with initiatives in the private finance sector, positioning the DRC as a supplier of environmental services, and which aim to set up market mechanisms to remunerate these services.

The Conference **notes**:

- the **foregone revenues** declared by the DRC Government, assessed at US\$1.5 billion, due to restrictions on logging activities;
- the commitment of the Government of the Kingdom of Belgium, in partnership with other countries of the European Union, **to provide technical assistance** to the Government of the DRC, including in the following areas: the **ongoing conversion** process, the set-up of a **national timber traceability system**, the strengthening of the national Administration's in terms of **forestry control** and the **implementation of the FLEGT process**, and support in various forms to the Congolese Institute for the Conservation of Nature through the creation of a **fiduciary fund for the conservation of nature**.

The Conference **recognises the urgent need to set up alternative mechanisms** for financing actions in favour of sustainable forest management in the DRC, **given that current innovative mechanisms will only be set in motion in the medium- and long-term.**

The Conference considers that **a meeting to follow up its conclusions** between the Conference organisers, including the Democratic Republic of the Congo, together with the other active or interested donors concerned by this important issue, **could be held at the upcoming Spring Meetings of the World Bank in Washington.**

The Conference recommends that the **important issue of sustainable forest management in the DRC** should be **included in the agenda of the upcoming G8 Summit.**

The Conference **stresses the importance of creating an institutional and legal framework** favourable to establishing partnerships that would involve civil society, the private sector, research institutions and State organisations, and which could lead to the emergence of mechanisms based on shared benefits and mutual obligations.

The Conference **encourages** the DRC, the investors concerned and the general public to make a commitment to such partnerships. It recommends that public development agencies assist the DRC and the investors concerned in making contracts legally secure, and in facilitating their implementation in the field. It also recommends that this issue be brought to the attention of the very highest Congolese and world bodies engaged in governance, environmental protection and the fight against poverty.

The Conference **thanks** the Kingdom of Belgium and the Belgian Cooperation for Development for organising the Conference and for the actions already set in motion in favour of sustainable forest management in the DRC, in partnership with the Democratic Republic of the Congo, the World Bank, the FAO, the UNEP, UNESCO, the European Union, the French Cooperation, the German Cooperation, the British Cooperation, the African Wildlife Foundation, the Conservation International, Greenpeace, the Rainforest Foundation, the SNV, the Wildlife Conservation Society, the WWF, and the Congolese Civilian Society.

The Conference **encourages the DRC** to unremittingly pursue the efforts regarding governance that it is undertaking as part of the Priority Agenda, and encourages partners in the public sector to help the DRC in a national sectorwide programme for forests and nature conservation, in accordance with the Declaration of Paris on the harmonisation of aid and in line with the Millennium Development Goals.

Executed in Brussels, on 27 February 2007

The Conference

**CIVIL SOCIETY STATEMENT AT THE WASHINGTON MEETING
OF 14 APRIL 2007**

We, the representatives of the non-governmental organisations of the Democratic Republic of Congo, operating in the forest branch of the environmental sector;

Having closely followed the forest reforms undertaken by the Congolese Government since the promulgation of the new forest code in 2002, and being gathered here today to assess the governance of this sector in the DRC, in respect of the numerous local, national and international stakes connected with the country's forest resources, at present and for the future;

Being aware of the undeniable value of our country's forests for the equilibrium of the planet and convinced of the significant contribution they can make in the fight against climate changes if they are managed in a sustainable way;

Having noted and welcoming the international community's growing interest for the DRC in general, and for its forests in particular;

Yet keeping in mind the context of widespread corruption, total impunity, vote-catching behaviour and ruthless dilapidation which have always characterised the management of the country and its resources, public enterprises and other decentralised administrative entities and considering the impact of these inflictions on the management of the forest sector;

Refusing to forget the abuses and excesses committed by the State authorities in the granting of rights to exploit the country's natural resources, particularly its forest resources, and most importantly considering the dramatic impact that such allocations have had on the country on an economic level as well as on social and environmental levels;

Reiterating our unfailing support for the moratorium on the granting of new forest titles, whose lifting may only be considered once all the conditions laid down in decree no. 05/116 of 24 October 2005 have been met, i.e. the publication of the final results of the conversion process and participative zoning;

Pondering over the new institutions' capacity and political will to rise to the challenges posed by the forest sector, and most importantly by governance in general;

Weary of speeches and declarations of good intentions and convinced that we need to act now to save the country, its resources and its population;

Alerting the entire community of fund providers of the extreme state of deterioration of the Congolese State and the poor management of credit and other international aid in the past and affirming our intent to see that the resources made available to the Congolese State are usefully allocated and managed without corruption and wastage;

Having learned from the failure of the Government's Economic Programme (PEG) which resulted in an enormous deficit with an incredible monetary muddle;

Condemning the lack of orthodoxy in the budgetary and financial management of the country, often resulting in breaches in the chain of public revenue collection and that of expenses; this applying to all territorial levels;

Aware of our mission before God and before history:

HEREBY DEMAND:

Everyone's commitment to help the DRC put an end to the culture of corruption and impunity which is undermining all efforts to rehabilitate the country and jeopardising all prospects of good management of public finance and natural resources that is required; *to this effect, the new institutions stemming from the elections are called upon to prove that they are worthy of the support and backing of civil society, the Congolese people and their bilateral and multilateral partners;*

That, in view of the past up to the most recent events, in terms of governance, the numerous forms of support contemplated for the forest sector as well as for other natural resources, infrastructure, budgetary and financial management, etc., be provided in such a way as to guarantee their proper allocation and avoid their dispersion; *fund providers are responsible for the monitoring mechanisms and control instruments to be set up to guarantee that their aid is not misappropriated and that it truly helps the country and the Congolese people;*

Having regard to the preceding conditions, that the Congolese government's loss of potential revenues (US\$1,500,000,000), due to logging restrictions on Congolese forests, be taken into account (see final release from the Brussels Conference);

That, to continue to effectively implement the reforms planned in the forest sector, the activities proposed within the scope of the Priority Agenda for the rehabilitation of the forest sector (sector analysis document), of which we support the analyses and recommendations, be given the full attention of the Congolese government and fund providing community;

That, from a global standpoint, the reforms expected in other sectors having an impact on the success of the forest reforms (political and administrative decentralisation, budgetary and financial management, environmental and social assessment, etc.), be initiated rapidly for the successful implementation of the new forest regime in the DRC.

That the 3,000,000 hectares representing the 22 titles for which no conversion request was filed be allocated to alternative uses, such as concessions devoted to preservation, bio-prospecting, cultural and recreational uses and local community forests;

Drawn up in Kinshasa, on 14 April 2007

For Avocats Verts and the REPEC network

Augustin Mpoyi

For GTF

Bienvenu Ngoy

For the Natural Resource Network and OCEAN

Cyrille Adebu

For

Adolphine Muley

For

Joseph Itongwa

For

Abbé Willy

Native Groups Dynamics Democratic Republic of the Congo

Concerns and demands of native Pygmy communities and other local communities in the face of the challenges arising in the management of the forests of the Democratic Republic of the Congo

Introduction

From time immemorial, the Pygmies, who are the first inhabitants of the Democratic Republic of the Congo (DRC), have been living in harmony with nature. Their identity is linked with the forest, a vital and nurturing resource they manage in a sustainable way through their knowledge and efficient traditional practices.

Many other communities of the DRC also depend on the forest. Thus, in addition to the Pygmies, over the decades of political and socio-economic instability in the DRC, millions of other Congolese people survived, as they still do today, on the resources provided by the forest.⁵

The forest of the DRC covers nearly 60% of the forests of the Congo basin, the planet's 2nd lung, after the Amazon rainforest. It is thus of planetary importance.

Yet, at present, industrial and small-scale logging, mining (and maybe soon industrial agriculture), are proven factors of deforestation, destruction of forest ecosystems and accelerated loss of biodiversity in DRC. These activities disrupt the environmental balance of the country, and even that of the planet. They also threaten the physical and cultural survival of millions of Congolese people who depend on the forest, the first of whom are the Pygmies. Moreover, these activities are the source of numerous conflicts between native and local communities for whom these forests are an *ancestral heritage*, and logging and mining contractors who see the forests as their *property acquired* from the State.

As land occupation has always been a highly sensitive issue and the cause of many conflicts in DRC, its management requires extreme caution in the current context of forest exploitation, wherein the stakeholders do not have the same views, nor the same objectives.

There are two opposing views concerning forest exploitation

On the one hand, some of the DRC's bilateral and multilateral partners as well as private timber industry players are trying to convince the Government that forest exploitation contributes to the reduction of poverty and speeds up the country's development.

On the other hand, national and international civil society NGOs, particularly the native Pygmies organisations and those supporting the Pygmies, as well as the native and local communities on site, uphold that *poverty increases with forest exploitation; it magnifies conflicts and frustration, thereby creating conditions which are unfavourable to development.*

⁵ It is estimated that 40 million Congolese (70% of the population) directly or indirectly depend on the forest for their physical, economic, cultural and spiritual survival – see the Greenpeace Report of April 2007 "Carving Up the Congo".

Congo's forests at the heart of the debate

The management of Congo's forests is the subject of national and international debates, which bring to light the concerns of the native and local communities.

A few major events on the subject:

- The two national forest forums held in Kinshasa in 2004 and 2006.
- The complaint filed with the World Bank Inspection Panel in November 2005 by the NGOs of native Pygmy groups.
- The international conference on the sustainable management of the DRC's forests, held in Brussels on 26-27 February 2007, following the two Kinshasa forums.
- The videoconference (Kinshasa) at the spring meetings of the WB, in May 2007 (the 2nd such event, after the one held in 2004 with the then President of the WB, John Wolfenson).

Ongoing worries

Even though the worries of the native and local communities of the DRC have been stated again and again in a variety of ways, they remain a hot issue as they were not allayed over the long transition period. The communities thus see the current political developments as an opportunity for the new authorities to address their concerns at long last and provide the appropriate responses that the transition institutions were unable to provide in their agenda on the forest sector.

At present, timid but encouraging developments are observed with respect to the native issue in DRC. Thus, the term "*native communities*" is starting to be used in the official language to refer to the Pygmy communities (Presidential Decree of 10/11/2006, declarations of the Minister and Secretary General in charge of the Environment, Water and Forests, at the Brussels Conference), etc.

However, despite this small step forward, the communities' legitimate concerns and worries remain, particularly concerning the *current conversion of logging titles, the continuation of the moratorium on the granting of new concessions, the participative zoning of the forests, the current and potential conflicts concerning logging concessions*, etc.

1. **The logging title conversion process⁶** is necessary to rehabilitate the forest sector. But the communities are worried about how the process is being conducted.

Worries	Proposals
- Disregard for customary rights and traditional ancestral forests in the process implemented to convert the logging titles	In the Interministerial Commission's standing regulations, include provisions laying down that the existence of conflicts with the communities in a concession is a criterion for the non-
- Numerous unsettled conflicts between the	convertibility of a title, without the need for an

⁶ Instituted by Decree No. 05/116 of 24 October 2005 to convert the former logging titles (supply guarantees and letters of intent) into logging concession contracts.

communities and the concessions	official report. In other words, as long as there is a conflict between the concession and the local communities, the title should not be converted, until the conflict is settled, with the possible redefining of the limits.
2. Too many illegal titles granted, extended or renewed after the institution of the moratorium in May 2002 (107 titles out of 156, i.e. 70%), and titles which do not meet the conditions laid down by the Presidential Decree of October 2005	Simply and utterly cancel the illegal titles.
3. Delay in the process giving rise to plunder and excessive, uncontrolled logging by concession holders who fear that their titles will be made invalid	Take protective measures like stopping all logging until confirmation of the title
4. Absence of an official mechanism for the capacitation, protection and security of the representatives of the native and local communities bordering the concessions at the Interministerial Commission	Set up mechanisms whereby the approval of the communities is required for any commitment made by their representative; in the event of any acknowledged or proven act by the latter against their interests, remove him from his duties
5. Representation of native and local communities within the Interministerial Commission	The President of the Interministerial Commission must abide by the choice made and method of selection used by the native and local communities and organisations assisting them
6. Effective participation of the communities in the Interministerial Commission and taking account of their opinions	Ensure that the opinions and considerations of the communities are taken into account; failing that, the representatives could reconsider their participation
7. Risk of using a semblance of community representation to legitimate a process whose conception and implementation hint to a pre-set outcome in favour of logging firms	Ensure that the opinions and considerations of the communities are taken into account; failing that, the representatives could reconsider their participation
8. Place and freedom of expression of native community representatives in the work carried out by the Commission	Enable the representatives of the communities affected by the exploitation of their forests to express themselves as a priority and freely.
9. Various forms of pressure on the work of the Independent Observer	Guarantee that the Independent Observer can perform his duties in full responsibility and without interference

10. The moratorium on the granting of new titles: Instituted by Order CAB/MIN/AF.F-E.T/194/MAS/02 of 14 May 2002 suspending the granting of logging concessions; reaffirmed and extended by Decree No. 05/116 of 24/10/2005.

Worries	Proposals
The possibility of an early lifting of the moratorium on the granting of new logging concessions within the three months following the	The moratorium must be maintained and strictly complied with for at least ten years, in order to (1) establish a national zoning plan based on the

end of the legal review of the 156 titles (See De Decker speech)	principle of the prior, free and informed approval of the local and native communities and on the methodology of participative mapping and (2) set up a legal and transparent system of control and good governance of the forest sector
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11. Participative forest zoning

Worries	Proposals
<ul style="list-style-type: none"> - Discontinuance by the WB of the planned zoning programme without any apparent reason and <i>sine die</i> - Delay in the adoption of texts on the implementation of the Forest Code which would be favourable to the communities (community forestry) 	<ul style="list-style-type: none"> - Put zoning back on the agenda as a prerequisite for any new land allocation - Support participative mapping with the collaboration of the civil society NGOs already experienced in this area - Speed up the adoption of the Forest Code implementation texts - Develop a form of forest management by the communities themselves by acknowledging and legally protecting their rights to their land and to their forests

12. Impact of forest exploitation

Worries	Proposals
<ul style="list-style-type: none"> - Forest exploitation increases poverty - Destroys the environment and biodiversity - Is accompanied by the violation of human rights - Is a source of numerous conflicts 	<ul style="list-style-type: none"> - Develop alternatives to forest exploitation, including the promotion of non-timber forest products, the preservation of the community, ecotourism, the carbon market, etc.

13. Conflicts surrounding concessions

Worries	Proposals
<ul style="list-style-type: none"> - Widespread open or latent conflicts due to non-compliance with traditional rights, non-compliance with specifications, profanation of sacred sites, etc. - Lack of effort on the part of logging firms and the administration to settle the conflicts 	<ul style="list-style-type: none"> - Lay down mechanisms for the prevention and solving of conflicts including judicial procedures to compensate victims and prevent further conflicts

14. Brussels Conference

Worries	Proposals
The resolutions of the Conference go unheeded. They are just political declarations which are not implemented by the players concerned	- Strict compliance with the commitments made in Brussels by the representatives of all stakeholders More active involvement on the part of civil society NGOs for the implementation of the resolutions of the Conference

For Native Groups Dynamics

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ANNEX 7

INDIGENOUS PEOPLES REPRESENTATION IN THE LEGAL REVIEW

BAMBUTI COMMUNITY (PYGMIES)
PROVINCE OF NORD-KIVU
Tel: (00234) 813860824, (00234) 997714967
E-mail: barazabambutink@yahoo.fr

Ref. No. 023/COM/BAMBUTI/NK/07

Goma, 28/06/2007

Re:
Our support to the candidature
of Mr. MPIYA on the Interministerial
Commission for the conversion of logging
titles

To the Secretary General
Ministry of ECNEF
Kinshasa

Mr. Secretary General,

We, the native people of the province of Nord Kivu, gathered within the native Pygmy community of Nord Kivu, were informed of the dealings of the various opportunists pretending to defend our rights, wanting to avert the procedure of the Ministry of the Environment, Nature Preservation, Water and Forests on the confirmation of the delegate chosen by the native people to represent us within the Interministerial Commission on the conversion of the former logging titles. This being so:

- We categorically oppose the appointment of a non-native to represent us, for fear of putting in doubt the few good initiatives already launched by the current government in our favour in the reform of the forest sector.
- We take note, and urge you to consider the proposals made by our charismatic leader and president of UNAPYCO, who has confirmed our second choice in the person of Mr. MPIYA, native of the Equator, when the president himself who made his first choice expressed the wish, as any altruistic leader, that another native person replace him.
- We wish to draw the attention of all those who want to represent us without our consent that the current recognition of native rights in our country is the result of the efforts made by our leader KAPUPU who fought for our interests by joining the international movement of native peoples of the world, from the time our country was under dictatorship to the present. Non-natives merely imitate his work and take advantage of the attention focused on us by the international community. Our leader has a vision for our community and has demonstrated it through his strategy promoting the emergence of native leaders in each province.

- We do not want to be represented by a person who is unaware of our traditions, our sacred sites and our traditional rites which we want taken into account in the reform of the forest sector. We wonder what such a person would defend when he/she has to talk about the interests of the native people, the practices and way of life of the Pygmies linked to the forest where he/she has never been and never lived. Didn't the president say that playtime was over.

Hoping that our concerns will draw your attention, we would like to extend our most patriotic native greetings to you.

For the BAMBUTI COMMUNITY (Pygmies)

KAMENA BADAHWA

Pierre NKUBA KITWANDA

President

Secretary

Members:

1. MUHIMA SEBAZUNGU: Vice President
2. KUMENDE RWAKITARE: Treasurer and Representative of Pygmy women
3. IMANI KABASELE: Territory of NYIRAGONGO
4. MUKUMBWA MAYALIWA: Representative of the Pygmies of the WALIKALE territory
5. Déo MAFULUKO: Representative of the Pygmies of the MASISI territory
6. Thierry KAMENA: President of native Pygmy youth of Nord Kivu and Representative of the Pygmies of the Rutshuru territory
7. YUSUFU MUKANGI: Representative of the Pygmies of North RWAMIKO KALEHE

In Mbandaka, this Thursday the Pygmies went down in the streets to protest against the appointment of a woman as their representative on the national Interministerial Commission for the management of the forests. According to the terms of the new forest code, the Pygmies, who are the country's first inhabitants, must be represented by one of their own on this commission. They organised a march to appeal to the authorities against this appointment that they deem illegal. They maintain that this woman, who is the coordinator of an NGO which supports the Pygmies, is not actually a full-blooded Pygmy. Below are the words of Emmanuel Bola Bobonda, President of the Union for the Development of Ekonda Minorities

"The peaceful march was aimed at supporting the candidature of a native person because the national Interministerial Commission has specified that a native person should represent the Pygmies in its midst. Kinshasa wants to impose Mrs. Adolphine who is not a Pygmy to represent us at national level. Mrs. Adolphine Muley is from the East. She runs an NGO called Union d'Emancipation des Femmes Autochtones (UEFA). For this reason, all the Pygmy associations of the Province of Equator in general and Mbandaka in particular have been mobilised this morning for a march from the Ekunde Market to Place des Martyrs in the Municipality of Wangata to say no. We've had enough. Today among the Pygmies, there are people with degrees and State diplomas who can represent us. Why not one of us Pygmies? "

FOOTNOTE: The Provincial Environment Coordinator on the Equator Pascal Biseka deems that this complaint is premature since the commission has not yet been instituted. And elections will be held so that the Pygmies can democratically choose their representative on this commission.

ANNEX 8
TRANSCRIPT OF VIDEOCONFERENCE WITH WORLD BANK PRESIDENT WOLFENSOHN, JULY
2004



VIDEO-CONFÉRENCE

Concerning the role of the World Bank in the forest sector of the Democratic Republic of Congo

With Mr James Wolfensohn, President of the World Bank

8th July 2004

Participants / Sites :

- **Office of the World Bank, Washington DC**
 - ❑ ***African Wildlife Foundation***
Lynn Foden
 - ❑ ***World Bank***
 - James Wolfensohn
 - Emmanuel Mbi
 - Giuseppe Topa
 - Jim Douglas
 - Laurent Debroux
 - Nils ?
 - Xavier Devictor
 - [??? Representative of Calisto Modavo]
- **Office of the World Bank, Brussels**
 - ❑ ***Greenpeace France***
Illanga Itoua
 - ❑ ***Greenpeace International***
Filip Verbelen
 - ❑ ***Network for Support to Pygmy People, Bukavu (RAPY)***
Pacifique Mukumba
Adolphine Muley
- **Office of the World Bank, Djakarta**
 - ❑ ***CIFOR***
David Kaimowitz
- **Office of the World Bank, Kinshasa**
 - ❑ ***African Wildlife Foundation***
Jeff Dupain
 - ❑ ***BBM***
 - Onno Rühl
 - Emilie Mushobekwa (sp?)
 - [Others ?]

- ❑ **Civil Society**
 - **Avocats Verts et REPEC**
Augustin Mpoyi
 - **CENADEP**
Joseph Bobia
Maître Kabuya
 - **CEPECO Bas-Congo**
Pasteur Jacques Bakulu
 - **Working Group on Forests (GTF)**
Bienvenu Ngoy
- **Office of the World Bank, Libreville**
 - ❑ **WWF Central Africa Regional Programme Office**
Pauwel de Wachte
- **Office of the World Bank, London**
 - ❑ **Rainforest Foundation UK**
Simon Counsell
Cath Long
- **Office of the World Bank, New York**
 - ❑ **Worldlife Conservation Society**
Jefferson Hall
- **Rainforest Foundation Norway, Oslo**
Lionel Diss

Interventions

James Wolfensohn, World Bank

Well first of all let me welcome you all, and let me thank colleagues in the Rainforest Foundation for making this suggestion. And I want to thank everybody for a willingness to participate; I think all of us are joined by the concern relating to this huge and important resource and I hope that in the course of this discussion we can get out the observations of just about everybody here and we can make this the beginning of a very constructive and I hope positive dialogue. So why don't we go back to the people that initially asked for this conference in the Rainforest Foundation in London, I guess Simon Counsell and Cath Long and Lionel Diss is involved by audio if they would like to introduce this discussion. So its over to London.

Simon Counsell, Rainforest Foundation

Ok, well thanks very much James, and as you said we are very glad that this discussion is taking place. As you all know we have been raising these issues and our concerns with the Bank since November, December of last year and its been a bit unfortunate that its taken quite so long for this discussion to have happened. Perhaps if it had been a little sooner more constructive approaches could have been found all round the table.

I don't really want to detract from the concerns that the people in Kinshasa, our colleagues in civil society groups there have themselves. In a way I would rather that the voice of those people including Joseph Bobia and others, some of whom also are in Brussels at the moment, should be heard. It is the resources of their country that we are discussing here.

Our concerns are firstly that, as yet, in the approaches that the Bank has so far taken there has been in our view much too little consideration of the views of Congolese people, particularly those whom the Bank itself recognises, rightfully recognises, as being heavily dependant on the forest resources of the Congo. The proposed changes to the legal structure of forestry in the Congo, the new developments concerning the zonation and potentially the impacts that they will have on the rights, land rights regime in Congo, will affect potentially tens of millions of people. As yet almost none of those people are aware of the major changes that may well be coming their way. And so we fear that this is potentially creating a dangerous situation that may fuel conflict in coming years, as indeed similar kinds of changes have fuelled social conflict and tensions in other comparable countries such as Cameroon. That's one of our major concerns.

The second one is that we very much question the whole approach that's being taken to forest sector, lets say 'development' for want of a better term. The kind of model that appears to be being introduced by the Bank with the Congolese government is one of large scale industrial forest exploitation. It appears to be very much modelled upon the approach that's being taken in other countries such as Cameroon and the Republic of Congo.

I think, to all intents and purposes, and to most credible commentators, including in fact the Banks' own Evaluations Department, these kinds of approaches and interventions in the past have proven to be entirely unsuccessful. They have not helped to alleviate poverty; new evidence suggests that large scale industrial logging in countries such as Cameroon and Congo probably perpetuates and even deepens poverty of some of the poorest people in those countries the forest communities.

Evidence that we have seen so far is that, even in terms of the national economic benefits that may accrue through the expansion of industrial logging in the DRC, will be minimal; the experience in other countries such as Cameroon suggests that they may prove eventually to be entirely illusory.

We see, in countries such as Cameroon, the logging industry providing a potent vehicle for corruption, economic mismanagement, resource mismanagement. We fear that, with the expansion of logging that the Bank is apparently paving the way for at the moment, it may exacerbate these kinds of problems in the DRC before proper regulatory and governmental mechanisms have been put in place to ensure that the forest sector can be properly managed.

Those are our principle concerns. There are many other specific concerns about the process by which these Bank initiatives have been pursued over the last 18 months-2 years or so, but perhaps as I said I would rather our colleagues in Kinshasa can raise their own voices and their own concerns about this. Thank you.

James Wolfensohn

Well thank you very much Simon. Why don't we go directly to Kinshasa to hear the views of our friends in that location. So perhaps we can move now to Kinshasa.

Joseph Bobia, CENADEP

OK I agree wholeheartedly with what Simon said earlier, to say we would also like to understand. The World Bank has worked in Cameroon. The World Bank has financed this programme of industrially exploiting the forests of Cameroon.

We ask ourselves the question that if the same policy were applied here to DRC, would it or will it lead our population out of this cycle of poverty? Because we think it's the same policy that was used by the World Bank in Cameroon. And today the World Bank comes to us [.....] is it the same policy? Will the results be like what happened in Cameroon? We see results leading to conflicts between ethnic groups, between populations. Will the policy applied to us be any different to that which was applied to the Cameroon? I stop there.

James Wolfensohn

Thank you for that intervention, are there any others there who would like to speak?

Maitre Kabuya, CENADEP

I am Maitre Kabuya. With reference to the policy of the World Bank in DRC, and to the support it gives the industrial exploitation of forest resources, I notice that the people who live around the forests are among those who live in total ruin, in inhumane conditions. However, the forest law, for example article 89, asks the logging companies to, as well as their industrial exploitation, provide some socio-economic infrastructure that would benefit the local people.

But what do we see out there? The local people are the worst dressed, lack medical help, that there are no medical centres and that there are no schools. I think that, as we have some representatives of the indigenous people here with us today, we think that they will confirm what I said; later. This means that the forest policy for the DRC was not accompanied by the necessary social impact. For example, the arrangement included the building and maintenance of roads and the repair of the equipment of medical and school centres. We have noticed in the area around the forest that these basic infrastructures are really lacking.

So will the policy of the World Bank in this area continue in this direction? Is it not necessary to listen to the local population a bit more and maybe respond better to its aspirations, notably the humanitarian ones?

James Wolfensohn

I thank you, I think there is someone next to you who wants to speak

Jacques Bakulu, CEPECO, RDC.

Yes thank you. Jacques Bakulu.

I just wanted to back up what my friends have just said. We, the civil society of DRC, are very happy that the World Bank is helping us. And we really want to collaborate. But, what we propose is that the World Bank incorporates us into its programme of financing the forest in DRC.

Because the logging companies come to make money. They exploit, and then they leave. When they've exhausted the forest, they go somewhere else. But we live with the forest, we use the forest, we are ourselves foresters.

Our sole demand is that the World Bank looks at how it can apply our programmes for the protection of the environment, directly through us. It would please us, it would interest us a lot and really, we are ready to collaborate with the Bank, because we do not want to be against you. But we would like the WB to use our programmes to help our people, as the Rainforest Foundation does. I stop there.

Bienvenu Ngoy, GTF

Bienvenu Ngoy, coordinator of GTF, DRC. I would like to say with reference to [...]... I know that the issue of the management of the forest resources in DRC has at

least a basis for improvement. This is none other than the new Forest Code which opens up a pathway to the rational management of our forest resources.

The role of the WB can only be seen as beneficial, but I would like to take up the second point my friend Jacques Bakulu made. It is true, we have felt, no one can ignore the fact that at the moment, the Congolese government just doesn't have the capacity to manage the forests of the DRC sustainably. When you look at all the initiatives carried out today, by the WB trying to clean up the forestry sector of the DRC, we can but praise the WB.

But this does not mean we are without problems. It's true that there are a certain number of problems that we are raising here, but most of these stem from the application of current and future policy. We salute the efforts for reform and most importantly with reference to the government's priority agenda.

But I would say that in this so called play, there are multiple actors: the government, the civil society, and the private sector. And it's true that ideally, the WB should deal with the Congolese government. But we would also like the WB to consider how it can reinforce the civil society so that elements already in the Forest Code, but still at the theoretical stage, can become a reality. For example if you look at all the problems linked to the mechanisms of the "cahier des charges". At that level the logging companies are not the only ones who can play a role. NGOs, and the civil society can also help practically, to see how we can apply these sorts of processes to the field. Similarly for the question of retrocession of taxes, of the 40% of taxes, which is of course a good thing, but realistically how will it work? We don't think it should be the preoccupation, so to speak, of the logging companies, but that NGOs and the civil society should be able to monitor it, to make sure the 40% are properly retroceded.

It is true, we know, that it is difficult for the WB to work directly with NGO's and the civil society, but we think it can serve as a lobbying body to pressure our government into allowing us to serve not just in the discussion stage, but in a qualitative way, not only at the conception stage, but all the way through to implementing the measures, and the division of resources. We observed that when we go to conferences, there is a "cahier de charges" for the logging companies, the so called private sector, for the NGO's, the civil society, but also for the government.

The first two, because of their position, are able to act, but the civil society has to work hard to be involved in all the good things that are written into the forest code.

Augustin Mpoyi, Avocats Verts and REPEC

Well thank you, I am Augustin Mpoyi.

I would like to complete what has been said before, and make a point that they might not have made. It's about the management of the forest conflicts.

We are personally involved in projects which have required us to go into the field. We have been in contact with the people, and I can tell you that there is not one area, where the logging companies have set up shop, where there is no conflict between the

indigenous peoples and the logging companies about the exploitation of the forest and the supposed benefits the indigenous people get out it.

We have several complaints that have been... that we have adopted, by these people, because really we work for the defence of the rights of the communities in the management of natural resources. Generally what happens is that the people are the victims and they are not defended. When they try to organise themselves in order to take their case to the tribunals, the logging companies bring in their lawyers, and the end result is farmers vs. lawyers, farmers who understand nothing, who know nothing about the law, and who lack structures at government level. Therefore nothing is done to make sure their rights are respected, and they are left to fend for themselves.

Therefore I would like to recommend that if, at the level of the WB, we can help, in any case the government to develop a policy of managing the conflicts. It is true that the Forest Code tried to resolve a number of problems, but the main recurring problem is that the indigenous people are not organised. They are not structured, they are not organised, and they lack quality, even when they go in front of the tribunal. So we need to orientate ourselves towards the organisation of the farmers, that's the first step, and we need a global approach to the management of conflicts, one that permits what is effectively laid down in law. It is absolutely necessary to succeed in organising the farmers, so that they can stand up in courts, and fight for their legal rights, rights that are guaranteed by the Forest code and land ownership law.

James Wolfensohn

Thank you very much Kinshasa, and who would be next? Libreville.

Pauwel de Wachte, WWF

Thank you. Here at WWF, we appreciate the reforms the government of DRC has made, with the support of the Bank. I can cite the halting of 25million acres of forest concessions, the moratorium on new concessions, or the setting up of an area tax to discourage speculation on the existing concessions. I can also cite the governments' intention to set aside 15% of the national territory as protected areas. We estimate that these reforms have set the base line well above its previous position... And that it will lead to the development of a forestry sector which would find the balance between economic, social, and environmental profit.

We estimate that the zoning of forest territory, how it is proposed today, a gradual zoning starting with a pilot zone, to test the methods, should not represent a danger but an opportunity for all those involved to discuss the future of the forest. We estimate that zoning is necessary and that it might, if it is successful, be of significance comparable to that of the creation of state parks in the US at the beginning of the 20th century.

We also think the government would be under a lot of pressure from the demand for tropical timber to attribute large parts of forests to the logging companies, and we would like that process to happen slowly and carefully. We also expect demographic pressure to increase over the next 50 years, from the 57 million people today, up to 250 million in 2050.

In that light, we estimate that the presence of the Bank, the NGO's, and other backers, partnering the government in its reforms and especially to help it resist outside pressures, would give the best chance for a correct development of the forest in DRC.

Finally, we would also like to express our concern with reference to the situation of the wildlife in DRC. Reports show a high rate of poaching of the large mammals; as a result some of them are on the verge of going extinct. And we think a great effort is needed to give the government the capacity to enforce the law, either in the domain of the forest sector, or in the wildlife sector.

Thank you very much

Emmanuel Mbi. World Bank

It's New York.

Jefferson Hall, WCS

Yes well, thank you. In fact we at the Wildlife Conservation Society see that it's... to seek the financial aide of the government of DRC in forest reforms, we see that the old code, if you like, wasn't that good. And, as I see it in the discussions today, there are many people here who think, even local NGO's, who think that the new Code is a step forward in the management of the forest. Of course you need to get the civil society and the local villages involved. We, at the WCS have worked for about 30 years, or even more, in the forests of DRC, in the isolated zones. We know a bit about the reality of life there. We also know what happens with the logging companies, and we are acutely aware of the suffering of the indigenous people.

But what is important to emphasize is the fact that we cannot adopt a policy of "laissez faire". In fact if we see the forest reforms, if we try to stop the forest reforms, there is some sort of peace in DRC, and the benefits of peace are the opening up of, the use of the forest, immigrants come in, logging companies and mining companies come in. The point is how to rationally manage it, and to try to defend the rights of the population, and of course to safeguard the flora and fauna, because it is important to see, everyone here knows the importance of the DRC's forest at an international level.

So we see that if we talk about roads and the things that come with logging companies... colleagues have discussed, not in this particular discussion, the problem of poaching, and the type of question such as the fact that roads can facilitate the exportation of bushmeat. But there is already a network of rivers. There is already a large amount of exported bushmeat, and that is something that is very worrying.

Now about zoning, we see where we work that there is already immigration, there has been for around 20 years, even more. There are people who have lived nearby, who are not... native to the forest, who are emigrating to it. And that's also linked to the exploiting of resources, of ore, that it be gold, diamond, coltan, and this leads to the in-migration of people, Congolese of course. They come, set up settlements, start to exploit the resources, start farming, and slowly but surely they suppress the indigenous people, the Bambuti, the Efe, and the Bantu, who aren't as sophisticated as

them. And it's something worrying to see how we can respect the rights of the people who are actually living in the forest.

So, from our point of view, we see that the proposed zoning, is an important way that enables us to try to solve the problems. Naturally the participation of the civil society and NGO's is important. But to not go ahead with the zoning policy is to let forest exploitation descend into chaos, and people will go there, who will exploit the forest, whether it's for timber or for minerals.

So to finish off, overall the new Code is for us a good step forward, and the zoning project is similarly good, but the question is how we are going to apply, and elaborate on, the zoning project, and also the decrees that will follow with the Forest Code.

Thank you

Emmanuel Mbi

Next on the list is the African Wildlife Foundation. We have two people one in Kinshasa and one here. So I suppose Lynn, would you like to speak first?

Lynn Foden, AWF

Yes thank you. For us, the African Wildlife Foundation, to put it briefly so I don't repeat what others have said before, because we too support the efforts of the government, we congratulate the WB on its work, and all the reforms that the government has started.

We are involved in the pilot zone for the zoning policy, and for us what is really interesting is to see the participation of local NGOs and to see the studies that will begin, we hope soon, because for us it's really important that the pilot study begin as soon as possible, because the... the indigenous population is ready, it is asking for action, real concrete action, and first the sociological feasibility studies, wildlife studies have to take place because for us it is very important that this begins right away; the population is asking for it and demanding for it so that there is a fair and appropriate regime put in place. So that the work that's being done; so that the forest exploitation that's going to occur is going to be done, will take place in a rational manner that will have the least biodiversity impact.

So for us it's very interesting to be involved in the participatory aspect to ensure that the local population is involved, that there's appropriate training that's going to occur so we are pleased to part of the pilot zoning and I'll pass it to Jeff Dupain in Kinshasa.

Laurent Debroux, World Bank

Jef?

Jef Dupain, AWF

Ok thank you very much Lynn and the others, I won't add much. I agree with what I have heard so far, with what Jefferson said, and also what Lynn just said. For AWF, it

is clear that a large part of the forest will be used; one way or another it will be exploited. People talked about 15% of the land being protected, other forests will be exploited.

I understand what reservations Mr Bobia and the Rainforest Foundation have. That's why we at AWF were very happy when the World Bank and the Ministry of the Environment asked us if we were interested in partnering the micro-zoning project they were going to do near the equator... errr... soon. And I think that that is very important for AWF that we take responsibility, and that we try and collaborate with the process in order to make sure there are positive responses to the problems you raise.

For us also, the Forest Code is a good tool, but it is very open and I think that this period in time is very important because there are many discussions on the decrees, and the application of the law. It is at this point in time that that it is important to be in contact, and to reflect on the best approach so as to ensure, and this is for me the main worry, so as to ensure that there will truly be an application of these rights upon which we are currently working on.

I think that's it, that's all I want to, or all I can say at the moment.

Emmanuel Mbi, WB

Yes thank you Jeff, we still have two speakers to go, maybe three. Let's go to Jakarta...David? Can you hear us?

David Kaimowitz, CIFOR

Yes, hello everyone. Unfortunately I think it's better if I speak English, if the colleagues allow me.

I think what we have heard so far in this discussion is a lot of agreement. There is general agreement that there has been made great progress by the government of DRC and the World Bank on trying to put an end to the speculative forest concessions. That the new Forestry Code represents a significant advance compared to the previous legal situation and that the concern to put in place a zoning process that will guarantee the rights of local communities to their forests is a topic and a concern that's shared by all of these groups.

I think also what we have heard, and I think is shared by all of the groups is a concern that industrial logging may not provide the benefits that some might hope, and that it could in fact create social problems.

Where I think there has been some confusion or disagreement seems to be on the question of: "will logging happen anyway? Will industrial logging happen anyway?" or is this something that's being promoted by the WB. My understanding from my colleagues in the WB is that this is not something being promoted by the Bank but something they just believe is going to happen, and so needs to be directed in the correct direction. This is something that needs to be made very clear because in the statements from the Bank sometimes it sounds unclear or confused.

I think a point that needs to be made very clearly in this discussion is that given the very weak institutional capacity of the government in the country it would be quite difficult to implement a number of the reforms that look good on paper. We all have to recognise that fact and look for appropriate solutions. Clearly one of the appropriate solutions is to increase the involvement of Congolese civil society.

I think also one thing that has confused a little bit this discussion have been some rather high numbers in the discussion about the possibility for logging in DRC in the future: talking about 10-15-20 million cubic metres. This may have been at some point but its not going to happen any time soon in CIFORs view and given that fact we feel it is not useful to talk in terms of those sort of numbers.

Finally let me say that the main concern of CIFOR in this discussion is that any discussion of forest and forestry in the DRC should have as its primary focus the fact that the vast majority of people in the DRC depend on wild plants and animals for their health, for their energy, for their medicines, for their food, and in many cases for their cash income. The informal forest and forestry sector in the DRC today, and over the next 5-10 years, will be much larger than the formal sector. So we are a little bit concerned that the informal sector and the support that needs to go to provide for livelihoods in the informal sector is not getting the attention it should get compared to issues like the formal logging sector and protected areas.

That's all from Jakarta, Thank you.

Emmanuel Mbi, WB

Thanks a lot, and finally we have Greenpeace. Filip Verbelen, you are in Brussels.

Filip Verbelen, Greenpeace International

Thank you very much. I would like to comment a little bit from being a global organisation, a global prospective not just about forest policies reform, but I'd also like to make some observations on corporate behaviour, the multinational logging companies that may soon also become a lot more active in the DRC.

First of all I think we have to question what role logging can play in the fight against poverty which is at the heart of the WB's mission, I think. In a lot of discussions our impression is that there may be quite some optimism that logging, with some safeguards in place, can indeed contribute to the fight against poverty. We can fight against illegal logging if we put some monitoring systems in place. We can fight against illegal bushmeat trade if we put some programmes in place. Some of these elements are currently being discussed in deep, and Greenpeace also recognises that in the new Forestry Code in the DRC there are some elements indeed that have potential to involve the civil society to better protect nature etc etc.

However I need to repeat what several people around this table have said already that most, and that's the case of several countries in the Congo basin, may look good on paper but what matters at the end of the day is the implementation. I think we've observed in a number of countries in the Congo Basin where logging is dominant,

indeed places like Cameroun, where a lot of forestry legislation elements that are now put in place in DRC have in fact been tested. And show us what may be the future in the DRC if we don't learn lessons and if I hear the discussions here and there I am deeply concerned that indeed these lessons are not yet fully understood.

I will give quickly a couple of examples; for example its good on paper that 40% of the taxes that the logging companies have to pay trickle down to the local communities. This is also the case in Cameroon on paper. I have been there myself, we visited all the logging towns just a few weeks ago, there was a mission of the International Monetary Fund looking at the same issues: how taxes are used for the local communities. The conclusion is quite alarming and should lead to rapid action to remediate this, because the conclusion is that despite the fact that indeed quite some logging companies pay taxes, because of corruption because of criminal elements at various levels in the governments these taxes do not trickle down to the local communities.

I think a core word in this whole debate that I haven't heard much is corruption. If you don't understand the issue of corruption and if you don't acknowledge it in this whole debate I think we are quite pessimistic that indeed you will succeed in protecting the environment and making sure the local communities benefit from what you have tried to implement on paper.

I think there is enough evidence now to really conclude that: Yes, monitoring is important, we have to do it. Yes bushmeat mitigation is important; we have to do it. But as soon as we recognise that our systems put in place are not robust enough we have to take conclusions, be more firm, and also be more coherent as a donor, as an NGO, whatever, in taking conclusions out of that. For example I think World Bank has clearly seen in Cameroon that they have failed to convince the Cameroon government to sanction some major cases of illegal logging that made the state lose millions of dollars, years after these conditions were put in place to control it, it hasn't been stopped.

So to conclude, I think yes the forest reform in DRC is necessary, yes, logging with or without the WB will happen, but it's a call for more realism and less optimism. We have to put really strong safeguards in place otherwise I think what we have seen in the rest of the Congo basin will simply be repeated in the DRC.

We've just last week announced one major case of a multinational logging company that is active in the DRC, how they behave. I will quickly pass on the word to my colleague who was involved in this research.

Illanga Itoua, Greenpeace France

Yes if I can quote Odin Knudsen of the WB last October I think at AFLEG: "*We know how difficult it is to apprehend the endemic corruption of the most powerful, concrete progress must be shown*". We've seen how a major multinational company which is part of the WB CEO initiative is involved in corruption and illegal exploitation. In the context of this reform we have to ask the World Bank to look at the reports that we've come out with, and really take stock and really reflect on how, when their own companies involved in their own CEO initiatives are not abiding by

the law, are involved in corruption and illegal logging, how can one expect better from lower, less well placed companies.

So if the World Bank CEO fail to clean up their own stable, how can we expect the other, presumably less responsible companies in the DRC set the example and to actually abide by the law and provide all the benefits which logging should bring to the forest and the peoples of the DRC?

So I put that question to you to investigate that matter and I think we also need to hear from the indigenous people's representatives here, what have to say about this reform, thank you.

Adolphine Muley, UEFA and RAPHY

Thank you very much

As Greenpeace just said, we represent the indigenous peoples in DRC, and we are very happy to be in front of the screen with the representatives of the World Bank. We think it's a great opportunity for us, so that they may really understand the worries of the indigenous pygmies.

For us, for a pygmy, to speak about the exploitation of the forest is to reinforce its misery and its poverty. Its like the current problems in the east of DRC: when we created the protected areas and the national parks, for the government and for, I don't know, the standards that brought in the system of protected areas, they said that it was an advantage for the country. It's a good thing, but they have forgotten that there is a whole population that lives in the forest, and that they sidelined, without adopting strategies which would allow that population to live, despite the fact that they are no longer in the forest they want to protect. We think there's a risk that the same thing will happen with the World Bank, as the people of the civil society in Kinshasa pointed out.

Already in Cameroon the system did not succeed like it should have. And we visited there multiple times; we met our colleagues the indigenous peoples of Cameroon: they are suffering. They have not benefited one bit from the system which has been put in place. So what guarantees can the World Bank give us that the system will work well in Congo?

You must not forget that the life of the indigenous people depends on the forest, and that forest is primarily for the indigenous people. Therefore you must adopt strategies that do not wrong the pygmy people. So we would like to know what are these strategies and guarantees that the World Bank will give us, with the Congolese government, which will prevent wronging the indigenous people by the system that you are putting in place.

There was someone at AWF, Jeff, who just said that they had been invited to help with a micro zoning project in Equateur. Well, I want to remind you that Equateur has a large population of pygmies. So, I imagine with the project you plan to start there.... What's to say you have not already destabilised them? So what can you promise, and

what can you guarantee about, on one hand the success of your project, and on the other that that we will be able to continue to live?

My colleague Pacifique wants to add something.

Pacifique Mukumba, RAPH

Yes there is something I wanted to add. It's about the international conventions the DRC signed. Basically it's a reminder, because for us indigenous people, these conventions are guidelines. We cannot remind you that DRC has signed conventions on biodiversity, and these conventions are, for us, guidelines for projects, for example for projects like the WB ones, and all the reforms must take the conventions that DRC has signed into account; and that these conventions also support the indigenous peoples in DRC.

There, I thank you.

Emmanuel Mbi

Thank you very much

James Wolfensohn

Well firstly I would like to say that I am struck by the interventions that have been made today. And I would like to explain a little that the CEO Group, "the Chief Executive Officers", are not in partnership with the WB, it's an attempt by our Bank to converse with the CEOs. There is no implication that they are the international companies of the Bank itself. Personally I've tried to invite people to discuss the manner in which they use the forest, and quite frankly, to have direct relations with them in order to change the way they use the forest. I would like to add that the CEO Group is not a WB group. Actually, it's an opportunity for us to discuss with the logging companies the manner in which they use the countries. And I heard about this German company this morning, and quite frankly I have to say I agree with you that the manner with which that society was involved... is terrible. And I'm working on it, but I have to tell you that relations between the WB and that organisation are not great at the moment. We tried to change the way in which they use the forest, and at the moment we're having a battle with this society.

That was a point on the side, but I wanted to say it. And maybe I can continue in English...

Let me say that, first of all, I believe that the objective of the Bank and really everybody that has spoken is to have a socially responsible exploitation of the forests. When I say socially responsible it is because if nothing is done there will be an irresponsible exploitation of the forest. And I believe, and would ask you to believe, that the intervention of the Bank is made to try and improve and not to worsen the situation.

Now the experience in Cameroon has been very difficult for everybody, and the question is what would it have been without intervention? But that is history, now the

question is what is going to happen in this enormous country the size of Europe with huge and valuable resources that not only have a monetary value, but constitute the life of millions of people. So we're not just dealing with a resource for exploitation, we are dealing with the lives of people who own the forest, who live from the forests, and as our colleague in Indonesia said, I think very correctly, one should look at this whole challenge not just from the point of view of timber but from the point of view of livelihoods in the informal sector in the forests as being central.

So that is the first thing is I think... And the second thing I should say is I believe that the government in general does not have great capacity. I think you all know that, I need hardly tell you that we are hopefully emerging from war, that even the basic fabric of the society is not yet fully established in DRC. That certainly the government is not yet fully established and is not strong in a number of areas and one area of course is in the administration of the forest. This is not like the US forest service, this is something quite different. And, so we are all dealing with a government situation which is not strong, and where frankly the role of civil society becomes paramount in a way, in terms of both information and control. And there I think is the opportunity that we would certainly do well to follow up on, to try and see how the combination of the leverage of local NGOs, of international NGOs that are ourselves can influence the government and the private sector to be more constructive, more sensitive and more in tune with the damage that can be done by industrial logging.

The next thing I want to say is that we are clearly not trying to encourage industrial logging. What we are trying to do is stop irrational logging. And here, if we are not doing it in the way that is optimum, is the best way, there is probably room for more discussion; what is clear is that there is a lot of misunderstanding on all sides. And coming out of this I will certainly encourage my colleagues to have further dialogue, not just in this 1hr discussion, but further deep dialogue to see if we can, within this group, come out with greater in-depth understanding, and a greater coherence in how we move forward.

The interest of the Bank is not to be confrontational with civil society. The interest of the Bank is to help, significantly, to improve the situation not to worsen the situation. And I think what comes out of this morning's meeting to me, is the acute need for additional dialogue, to try and see if we can weld a better consensus.

The other thing is that I think we should all understand that again as mentioned by our colleague in Indonesia, that this is not a one day problem. We're talking here about a framework that will exist for years, because of the size and complexity of this issue. And so I'm not suggesting we delay the discussions, I'm suggesting that we quickly increase the discussions to weld a consensus, but we do need to have I think in mind an ongoing system that will allow us to have some sort of cooperative enterprise between the Bank, civil society, and hopefully a strengthened government. And this we should work on quickly, but have enough flexibility in it that we can run it for years, because this issue is a decadal issue, this is not an issue from today to tomorrow.

And so I will encourage my colleagues to meet with you, to try and see how we can establish some flexible framework in which we can exchange information, we can

agree on the objectives, engage the government, deal with the issues of capacity building which I believe are essential both in government and in civil society, and very importantly coming through to me monitoring what is going on in a way that we can alert each other and then the government to what is happening. And monitoring not just in cubic metres of timber, but in terms of social dimensions, in terms of benefits, in terms of problems so that we can become a force in terms of balancing what is being done in which I believe the Bank can be very helpful to you.

I'm struck by the discussion, and let me deal lastly with the pervasive question of corruption. I think you know that one member of the government was shot; I think you know that a number of people have been physically challenged in our place and in others, and the question of corruption is endemic. It is a huge problem in the world in terms of timber exploitation and maybe our friend in Indonesia can give us some help on that. But there is no doubt that corruption is absolutely central to the issues that we face, and that it is part of a much broader fabric; and I just want to say to the gentleman from Greenpeace that I've spent 9 years understanding the issues of corruption. And if he has any magic formulas that I can have to help eradicate corruption in ways that we are not doing then I would be more than happy to receive them.

I have not given up on the fight against corruption, I am vigorously engaged, but it is my observation that in countries that emerge from conflict, where there are very valuable resources, and where there is a limitation in the strength of government, that these are preconditions for the practice of corruption being extreme and we have to fight it every day. So I just want to observe that I am not naïve about the corruption question at all, but I think it is a common battle that we must face.

What I need to do is to have my colleagues respond as they are ready to on a number of specifics, but let me say that I am personally ready to participate again, after some time in trying to bring together the issues, and to follow-through with you, if you wish, on this subject because the issue of forests to me in Africa and in particular in central Africa is crucial and combines within it not the question of an economic resource, but a huge social issue affecting the pygmies, affecting indigenous people, and I can assure you that my colleagues and I here in the Bank are conscious of these problems and are doing our best. Now if our best can be made better we would love it. And I can assure you that we would be open, and not defensive, in trying to have discussions with all of you, to reach a better path in the DRC.

Now I have to tell you that I have to go and deal with the Board of Directors of the Bank. I would prefer to stay with you but I have to go deal with them and I will leave you with my colleagues and I thank you very much for the opportunity to participate in what I hope is the first in a series of meetings. Thank you very much.

Emmanuel Mbi, World Bank

Thank you very much Jim for staying with us and thank you very much to our colleagues.

Here we are caught in a technology warp because in 5 minutes our connections are going to go off, we have the connections until 9.30 but maybe two or three quick

points and then for the minute or two that's left we could see if somebody has any pressing points to make. I would like to perhaps, Onno [Rühl], you have been unusually quiet... I would like to say maybe a thing or two from the field, given that you are sitting with the largest group of people.

First of all I think following from what Wolfensohn has said, what I'm going to do and what we are going to do is ask our team, clearly, we need to intensify consultation, and much more openly. I mean, we can do this offline and find a way to add appropriate mechanisms for these consultations.

But what I'd like to do, beyond that, is to be able to take stock of progress on this front very openly. What I propose that we do is during our next consultative group meeting for DRC which would be in October, or October/November that we actually organise that we have the discussion at that time. We did this the last two years with the business groups, via business forum which was... you know... they have their events... and we found out that a lot of issues have been raised by? from the governors around the table, the NGOs, local and international etc all around it... And there were decisions that would be taken, and with all the donors, 40 donors around the table decisions would be taken. And so we could perhaps take stock of progress at that point. But between now and then we can work out a mechanism where we are sure that we have this consultation. Should we do this every month? Should we all sit around a table?, in what format, in what forum etc?. But I think that beyond that, to avoid perhaps the kinds of misunderstanding that have been here would actually come at the time of the consultation group meeting which basically focuses everybody's attention, basically to take stock of... It worked very well for us on the business side and it just might work very well here.

I think that ... one point which came out throughout here, and mentioned by I believe Maitre Kabuya was that living conditions in DRC are atrocious, atrocious. I mean all our documents have captured that, and all the programmes that we try to put together are actually geared to try to deal with these living conditions. Not just in the forest, not only in the mines, but you have... the social fund for example, the reunification project and a whole bunch of other projects. So basically what I'm saying is that an integrated effort is needed.

But let me stop there. Onno if you can take a minute to say a thing and then maybe India.

Onno Rühl, World Bank, Kinshasa

Thank you Emmanuel. I'm going to speak in French to facilitate the understanding of our friends here in Kinshasa. I don't have much to say because I wanted really to listen; I just want to take some strong points from what I heard.

The question of 'will logging take place anyway?' I can tell you that when you go out on the roof of this building, you can see that they are cutting the forest because there are logs behind our office, many more than there were two years ago. It happens. There's no question about it, it's factual.

And so its for that reason that I was struck by what Mr Ngoy said. The Forest Code is only theory at this point in time, because we do not have the application laws. From what I think Maitre Kabuya said about the lack of visible social benefit in the field, that's logical because the Forest Code is still theory.

And I think that the challenge, after having heard that we share the same objectives, and after having understood the complexity of the problem, is translating the urgency of the situation. Because logging is happening at this moment, and we will need, the consulting group, to, I hope, work with everyone represented here, in order to see how we will be able to support the government to ameliorate the situation in the field, at the same time that we will work to develop the application laws which will be very important, but that have no effect on the situation in the field today.

And I think I feel the urgency. The pressure that I feel, because I communicate with everyone, including the private companies Greenpeace was talking about, if the pressure is heavy on me, you can only imagine how high the pressure is on the government. And Mr Wolfensohn correctly said that the capacity of the government... is weak. So we have to join together to support the government that have... the situation, but that for the moment have not had the desired impact on the field.

I think that if we work together, and if us working together was the product of this meeting, I personally would be very happy.

Thank you

Emmanuel Mbi

Thank you Onno...Or should we say goodbye and then go offline and communicate? I see you moving your head Simon would you like...?

Simon Counsell

Hello, well yes I wonder if I could just come back on some of the points that have been made. Particularly the crucial one of "will logging happen anyway?". Of course I think everyone recognises that to a certain extent logging will go on with or without the involvement of the World Bank. But I think it's a false choice to say that we either have unregulated, chaotic logging as exists at present or organised large scale industrial logging with the involvement of the Bank.

There are other choices, and as our colleague David Kaimowitz in Jakarta has pointed out, and is in fact recognised itself by the World Bank, the informal economy, the livelihoods of the poor people living in the forests, is something where there is probably a greater economic use of the forest than industrial logging, an alternative choice. And there's a chance for the World Bank, I believe, to really get it right, to look at how we can strengthen those rural livelihoods directly, strengthen the informal economy, look at the way that non-timber forest products are used, marketed, and so on within the forest, rather than relying on a model of intervention in the forest sector that has, in other countries such as Cameroon, and others, proven to be very deficient in the past and has not helped to alleviate rural poverty.

So that is my plea, I think: Lets look at alternatives to industrial scale logging, and yes the Bank can have an influence with the Congolese government, it can work with the Congolese government at looking at alternatives to this model over which, I think, we all have reasonable grounds for having a great deal of doubt.

Thank you.

Emmanuel Mbi, Wb

Thank you very much. Good point. Good suggestion. Look at alternatives we should do that absolutely.

Thank you very much all the colleagues from Jakarta, Brussels. I think there was someone listening in from Oslo, New York, Kinshasa, Libreville, New York and Washington of course... so thank you very much. This is just the beginning of, lets hope, renewed dialogue leading us to the consultative group meeting.

Thank you. Good bye

ANNEX 9

SPRING MEETINGS 2007, SPEECH BY WORLD BANK PRESIDENT WOLFOWITZ

BANK'S COMMITMENT TO THE FORESTS AND FOREST PEOPLE OF THE CONGO

MR. WOLFOWITZ'S TALKING POINTS

Why does the Bank care for the forests of the Congo?

- I'd like to thank the Governments of DRC and Belgium for co-hosting this important event with us. I'm glad to have this opportunity to discuss an issue so critical for the people of Congo and to rest of the world.
- I just traveled to DRC and discussed the key challenges of reconstruction. The DRC is one of the poorest countries in the world, with a GDP per capita of 30 cents per day.
- I flew over the Congo's vast rainforest from Kisangani to Kinshasa – the second largest in the world and an extraordinary natural endowment.
- This forest is the lifeline for about 40 million Congolese including Pygmies. They depend on the forest for their food, domestic energy, medicines, revenues and cultural welfare. Without the forest, they could hardly survive.
- This forest is unique for the global environment. It ranks 5th in the world for its biodiversity; and it stores carbon on a global scale – slowing down climate change.
- Looking at forest, I was struck by the paradox of economically poor people in a country with exceptionally rich natural resources. Better governance is essential to bridge this gap.
- Economic recovery in DRC carries the risk of large scale degradation of forests from expansion of logging and other factors. But it also offers opportunities to take a fresh look at this unique forest resource, avoid past mistakes, and develop new approaches placing high priority to the local people and the environment.
- In this context, **'no-action' is not an option the Bank can consider**. I am glad we have been engaged since 2002, and continue to strengthen our support.

The Governance Agenda I will support

- Minister Bokiaga summarized the forest reform and governance agenda of the Government. This Agenda is critical for the wellbeing of local people, for the nation and for the global community.
- In 2002, half of the Congolese forest was under logging permits; canceling 25 million hectares of illegal ones was an enormously important move – this is an area the size of California. I am pleased to hear that the Government is determined to continue this effort and that its governance agenda has gained the support of all participants in the Brussels Conference.
- The Bank is providing **financing for the completion of legal review of remaining timber concessions**, in accordance with the presidential decree of October 2005.
- We support fully the DRC Forest Governance agenda, especially the
 - Cancellation of illegal concessions.
 - Maintaining the moratorium until high standards of governance and management are achieved in the existing concessions.
 - Curbing the rise of illegal logging. I welcome the fact that an independent observer will support government efforts to detect illegal activities and ensure transparency. In fact, **Global Witness**, who is here today, will soon go on their first scoping mission.
- We also fully support the forest governance agenda in
 - Undertaking participatory forest mapping and securing the traditional rights of local people especially, the Pygmies.
 - Protecting national parks and identifying new ones. Bonobos, okapis and other species are found only in the DRC – we cannot stand by and let them disappear.
- I would like to encourage forest companies to adjust their operations to sustainable management standards and seek third party certification; and commit the Bank to help DRC enforce the law against illegal loggers, and against those using the forest irresponsibly or harming forest people.
- Despite the new policy directions, the situation on the ground remains unsatisfactory: benefits from the forests are not shared equitably, biodiversity continues to deplete, the moratorium was breached, and as we speak, illegal logging follows the reopening of roads.
- Institutions lack basic capacity, incentives and technology. More efforts must go into enforcement in the field and in civil societies' participation in decision-making and monitoring.

- The Bank is preparing **IDA and GEF grants** for capacity building and the protection of national parks.
- The European Commission, Belgium, France, the UK are establishing a **Multi-donor Forest Governance Trust Fund with the Bank**. I want to thank our partners for trusting our institution, and salute the leadership shown by the UK in announcing a new large pledge to protect the Congo Basin and its people.

The Congo Basin Regional Dimension

- Many of the points I just made also apply to the Congo Basin at large. The DRC agenda reflects a broader reform process that is unfolding in the Congo Basin.
- At different paces and through various methods, most countries are making progress towards better protection of forests, deeper recognition of forest people's rights; and are using forests as instruments of diplomacy at the regional and international level.
- Let me share a few examples:
 - Heads of States, Ministers in charge of Forests and Parliaments have created networks to coordinate action around international treaties and to work with donors and civil society. I refer to the Commission of Central African Forests (COMIFAC), the Regional Network of Parliamentarians (REPAR), and the Congo Basin Forest Partnership (CBFP).
 - More than six million hectares of new protected areas were created in the Congo Basin in the past five years.
 - Congo, Cameroon and DRC are using international, independent observers to help fight illegal logging and corruption.
 - Forest certification is advancing in Africa faster than anywhere else in the world.
- **I want to express full support for these efforts and partnerships and commitment to their success.**

Looking forward: the innovation agenda

- Cleaning up the legacy of the past, makes it possible for DRC to develop forest management and financing models that would be more responsive to the needs of the local people and the global environment.
- At the Brussels Conference last month, and again today, the Government of DRC declared its interest in innovative management and financing systems as long as they provide tangible benefits to the country and to local people. The study of alternative models led by

the DFID, and the review of a series of pilot initiatives at the Brussels Conference, are strong steps in that direction.

- **I would like to see these efforts intensify starting today. At the next session of the Annual Meetings, we should reconvene to:**
 - **Assess progress made on the Forest governance agenda.**
 - **And discuss proposals for new operational instruments and financing tools that give priority to local people and to protecting the environment.**
- **I am asking my team to work with the Government of DRC, with donors, civil society, the private sector and scientific leaders to look at possible options and new instruments that promote non-extractive forest uses and combine large-scale protection the maintenance of traditional rights and economic development.**
- These instruments should connect demand and supply for carbon, biodiversity and other environmental services. They should help leverage resources from public and private sectors, based on market-based approaches and voluntary agreements. They should make large-scale protection an attractive option for the country.
- Several options should be looked at: carbon sequestration; reduced emissions from deforestation; and conservation contracts are just a few examples.
- The Bank will leverage the support of institutions and investors interested in environmental services and will propose that new instruments such as the Bio-Carbon Fund, the Forest Carbon Facility, Reduced Emission from Deforestation and Forest Degradation, and a possible Fund for Conservation Contracts be tested and used in DRC as a matter of priority.
- **We should all put more determination into governance, innovation and financing for the forests of the Congo.**
- **I wholeheartedly support that the recommendation made by the Brussels Conference be raised at the G8 Summit.**

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ANNEX 10

EXECUTIVE SUMMARY OF “FORESTS IN POST-CONFLICT DRC”

FORESTS IN POST-CONFLICT DEMOCRATIC REPUBLIC OF CONGO

– ANALYSIS OF A PRIORITY AGENDA –

PUBLISHED IN FEBRUARY 2007,
AVAILABLE ONLINE AT CIFOR AND WORLD BANK - COMPLETE

MAIN FINDINGS AND RECOMMENDATIONS

A – CONTEXT AND OBJECTIVES

Context. This study comes within the scope of United Nations Security Council Resolution 1457 (United Nations Security Council 2003), which calls on ‘*international financial institutions ... to assist in efforts to create appropriate national structures and institutions to control resources exploitation*’. It also fits with the World Bank’s 2002 forest strategy (World Bank 2002) aimed at reducing poverty, integrating forests in sustainable development, and protecting the environment.

The context for the study is the aftermath of the war, and the re-engagement of most donors and other development partners. By placing forests among the central themes in their dialogue at this early post-conflict stage, these partners have signalled the importance that the international community attaches to natural resources in the fight against poverty and corruption, and for conservation of the environment. Congolese forests were soon identified as critical for the livelihoods of an estimated 40 million rural people and for the global environment, yet industrial forest uses have yielded few collective benefits.

The DRC Government started a priority reform agenda in 2002, at a time when forest institutions had broken up. The majority of the country’s forests were locked up under large-scale logging concessions, with no local consultation, no fair return for the local people or the country, and no consideration for alternative forest uses. These concessions served mostly speculative interests. They overlapped with villages, farmlands and biodiversity hotspots, and no provisions were in place for meaningful public participation. In the absence of radically innovative policy actions, this situation was clearly conducive to further social, economic and environmental losses.

Objectives. The objectives of the study included: (i) taking stock of the knowledge of social, economic and biological aspects of the Congolese forest, and making that information available to all interested parties as a common basis for discussion; (ii) outlining general policy directions for future sector development; (iii) helping the government make strategic choices to deal with the risks associated with post-conflict situations, including the presence of vested

interests, attempts at misappropriation, weak governance, and corruption; and (iv) assessing the adequacy of the priority reform agenda, and providing the government with clear and constructive feedback.

Process followed. This study is the result of collaboration among teams of the World Bank, Center for International Forestry Research (CIFOR), *Centre International de Recherche Agronomique pour le Développement* (CIRAD), African Wildlife Foundation (AWF), *Conseil National des ONG de Développement du Congo* (CNONGD), Conservation International (CI), *Groupe de Travail Forêts* (GTF), *Ligue Nationale des Pygmées du Congo* (LINAPYCO), Netherlands Development Organisation (SNV), *Réseau des Partenaires pour l'Environnement au Congo* (REPEC), Wildlife Conservation Society (WCS), Woods Hole Research Center (WHRC), World Agroforestry Centre (ICRAF) and World Wide Fund for Nature (WWF).

The research process included desk review of literature, collection of original data through thematic studies, and a consultative process to sharpen the analysis and test consensus on initial conclusions. The supporting thematic studies cover the following areas:

Overview of the DRC's forests and forest management system (Chezeaux 2003)
 Economics of the timber sector (Roda and Erdlenbruch 2003)
 Taxation and economic incentives (Karsenty *et al.* 2003)
 Interactions between rural populations and concessions (Yambayamba 2003)
 Small-scale artisanal forest operations (Djiré 2003)
 Indigenous forest people (Schmidt 2004)
 Assessment of selected national parks (d'Huart 2004; Mwinyihali 2004)
 Economic valuation of forest goods and services (Bravi 2005).

The process also included consultations with government, national and international NGOs, industry, forest people, and donors. Most consultations took place during 2004. Consultations were held with the Ministries of Environment, Finance, and Planning, and with the *Institut Congolais pour la Conservation de la Nature*. Discussions also took place with members of parliament and provincial governors. Consultations were held with donors within the framework of the Forest Thematic Group, and with the private sector within the framework of the *Fédération des Industriels du Bois*. Consultations were held with domestic NGO networks involved in environmental and natural-resource issues, which acted as a relay for their members and partners. Field visits and meetings with local groups took place in September 2003 in Equateur province, in February 2004 in Eastern province and in December 2005 in North Kivu. Exchanges with other donors and international NGOs also took place in Europe and the USA. Consultations with government, civil society and private sector continued in an iterative manner in 2005 and 2006. This study also benefits from a number of thematic workshops and from two International Forest Forums held in Kinshasa in November 2004 and February 2006 (MECNEF 2006). A draft of this report was handed out during the first of these forums.

To the extent possible this study captured the key issues and the views of the largest number of actors involved in the management of the Congolese forests. It was developed in parallel with the actual implementation of the government's reform agenda since 2002. Thus, it does not represent the end of a process. Further consultations and studies will have to continue in parallel with this agenda, to forge the consensus, to take into account new developments, and to improve knowledge in areas that could not be fully addressed here

B – LONG-TERM VISION AND SHORT-TERM PRIORITY AGENDA

The main challenge for this study was to help the government and its partners make difficult decisions in an information-poor environment and under pressure. With the advance of peace and the rehabilitation of infrastructure, the Congolese forest appears to be under mounting pressure by vested interests and market forces, and there is little institutional capacity to protect collective or long-term interests. In this context, inaction would help consolidate vested interests to the detriment of the Congolese people and the global environment. Faced with this

challenge, the study considered the government's general vision for future development of the sector, and it concentrated most of its attention on immediate measures to tackle post-conflict risks while creating the space for achieving the broader, long-term vision.

The **long-term vision** for the Congolese forest is still in the making. Options are open and new ideas are needed. As far as the government is concerned, it would certainly embody the following elements: the DRC would position itself as a provider of environmental services to the global community and would expect to receive some recognition in return; multiple forest products would be harvested for domestic and international markets in a sustainable manner; local people would continue using forests for their subsistence and their social and cultural wellbeing, and their traditional rights to do so would be legally secured; and the forest would contribute meaningfully to creating employment and to rebuilding the country.

From the international community's viewpoint, the return of peace in the DRC can be perceived as a unique opportunity to take a fresh look at the second-largest block of rainforest in the world, to avoid the replication of unsuccessful models, and to develop new models that give more emphasis to the environment and to forest dwellers. From the government's viewpoint, forests present an opportunity to restore the country's international image by protecting the global environment, and to improve local livelihoods and consolidate peace. These two viewpoints seem to be compatible and to a large extent converging. However, acting on them will require breaking new ground in policy making and financial systems, and will involve a large set of political and economic actors. The challenge will be to turn converging interests and potential markets into deals and payments. The question is how to secure one of the world's most valuable ecosystems while at the same time improving the livelihoods of one of the world's poorest populations. This will mean improving the currently inadequate management and financing models, faster than the ecosystem is depleted. A high-level international debate is needed to bring this vision into reality. Available options need to be put squarely on the table, and new ones developed.

There is currently no single model that the DRC can emulate for managing forests. The size and variety of the DRC's ecosystems and the diversity of social and economic expectations from various players will accommodate a mosaic of forest uses ranging from conservation and sustainable production, to conversion to agriculture or other uses. It is hard to advocate or anticipate a desirable mix at this time. In some cases, preferred scenarios will not be possible or compatible, and trade-offs will need to be found.

Conservation options are desirable for many reasons, including the fact that they leave other options open for the future. Nature conservation seems to benefit from great interest by Congolese leaders, including President Kabila. However, adequate instruments and finance for large-scale conservation do not seem to be available at present. Under current circumstances, the brunt of the cost of conservation would have to be borne by the Congolese people in the form of direct surveillance and foregone income. In addition, millions of poor people depend on bushmeat and other forest products for their living, and will continue to do so at least until alternatives become available.

Industrial timber production has a poor track record in Africa. Over the past sixty years, there is little evidence that it has lifted rural populations out of poverty or contributed in other

meaningful and sustainable ways to local and national development. Any policy option that would deal with the timber industry should openly discourage ‘business as usual’, be selective, ensure that companies adopt more socially and environmentally responsible practices, and that forest rent is shared equitably.

Small-scale gathering and small-scale businesses are currently producing more benefits for the Congolese people than any other forest use. They are unregulated and serve primarily local markets. While they are desirable in many respects, there is no evidence that they do not exhaust the resource base and are sustainable in the long term. They are also the result of a poor economy constrained by war and lack of infrastructure. Were these constraints lifted, some of these activities would likely grow into industrial operations. Lack of regulations and incentives would then create risks of damage for the forests and of missed opportunities for local livelihoods and the national economy.

The priority agenda (see Table 1). Starting from the analysis above, the study helped assess the immediate steps that are needed before any progress can be made towards a new, more ambitious vision. Two prerequisites are to dispose of the legacy of mismanagement and to regulate the timber industry as it restarts. In that spirit, since 2002, the government has initiated a set of simple, corrective, preventive and framework-setting measures. Launched in the wake of the war, in a country with no roads and almost no functional institutions, this agenda is both selective and pragmatic. It targets issues that, if not resolved very soon, would irreversibly harm the environment and local communities, and deprive the DRC of the benefits of its forests. The agenda emphasises enforcement of laws and contracts, as well as transparency to reduce corruption and foster public debate and accountability. These measures require political will more than financial means or technical capacities. They prevent poorly informed decisions from being made today that would preclude the realisation of a broader vision in the future. When, and if, these measures are completed, then achieving the long-term vision will become possible.

C – MAIN FINDINGS

A public good with multiple values in a context of paradox. The DRC harbours the largest forest area in Africa, and the second-largest block of tropical forest in the world. At the same time, its population of 60 million is among the poorest in the world. The abundance of natural resources in the DRC has not, throughout its history, benefited the Congolese people. Mismanagement has led to the paradox of an economically poor people in a naturally rich country. Today, the Congolese forest should be seen as a public good with multiple values that needs to be managed in the interests of the Congolese people and the global community. Among the wide range of forest products and services, fuelwood, bushmeat and other non-timber products seem to have the highest annual economic value. Securing local forest values in the DRC is the top priority. Environmental services, although creating little tangible benefit today, have a high potential for development.

Forests are essential for Congolese people. The vast majority of rural people in the DRC rely on the forest for their livelihoods. From it they derive most of their protein, medicine, energy, materials, and cash income. This also applies to the urban population to some extent. Some

groups, especially the Pygmies, rely on forest almost entirely. Wood and charcoal provide 80 per cent of all domestic energy consumed in the DRC. Small-scale informal loggers produce most of the timber used locally. Bushmeat is a vital source of food. Annual consumption is estimated at over one million tonnes. The Congolese people also use hundreds of forest plants for food and condiments, and even more for medicines. Slash-and-burn agriculture depends on forest to reconstitute soil fertility. The social and cultural significance of forests for forest people is almost immeasurable.

Forests are also essential for the global environment. The Congolese forests store carbon and slow down global climate change. They also help regulate one of the world's largest river basins. The DRC is also a unique reservoir of biodiversity: it ranks fifth in the world for plant and animal diversity. Its natural habitats range from mangroves to glaciers and volcanoes. It contains more Natural World Heritage Sites than the rest of Africa combined. This natural treasure must be preserved. If lost, it cannot be replaced. The impact of war, anarchy, displacements and institutional collapse was devastating. Today, most (if not all) of the parks and reserves are reduced to 'paper parks' under threat from poaching, mining, logging and encroachment. Outside of the parks, most surveys have shown that the current level of poaching is not sustainable. Many forests, although remote, have already become 'empty forests', mostly devoid of large animals.

The legacy of the past. The findings of this study are closely akin to those of Baker *et al.* (2003): *'The challenge ... is to rebuild and replace the warped, inequitable systems that have emerged over the past decade and create others'*. In 2002, most of the Congolese forests were earmarked for industrial logging: 43.5 million hectares were locked up under 25-year contracts awarded before and during the war. These contracts were mostly speculative and had been concluded without consultation with local people, consideration for other possible forest uses, or equitable return for the country. Often overlapping with villages, farmland and biodiversity hotspots, these concessions carried the seeds of new conflicts, deprived communities of the right to manage their own forests, and made it difficult to extend protected areas and to develop non-extractive forest uses. Forests were seized by logging interests and there was little space left for other forest uses.

Post-conflict risks. After decades of mismanagement and war, the economy is recovering and the State is rebuilding gradually. But peace remains fragile, institutions are in a shambles, and monitoring systems do not exist. Emergencies are affecting all sectors. The DRC's natural resource base has suffered much from the war, and it could suffer further from peace and recovery. Risks stem from the restarting of logging, as well as from the rehabilitation of infrastructures, mining, demographic growth, and the growing demand from urban markets. In post-conflict DRC, the paradox of an economically poor people in a naturally rich country may intensify, if the systems that rule access to resources and rent-sharing are not reformed. The restarting of many sectors of the economy, demographic growth, and the absence of a structured process for land-use planning all create the risk that incompatible uses will overlap and conflict with each other, and jeopardise traditional user rights and the environment.

The need to prioritise. For a long time, the majority of the territory has been inaccessible because of insecurity and lack of infrastructure. Today, the ability to take action physically and institutionally is still inadequate in view of the complexity and size of the challenges. In this

context, it is necessary to focus the available resources on the most urgent issues—that is, those most likely to cause irreversible damage to the society or the environment.

The restarting of logging. The recovery of the timber sector is probably the most significant change that affects Congolese forests in the post-war period compared to previous decades. The economic value of industrial timber seems to be far below that of other forest products, but it is where the risk of misappropriation and plundering of public resources is the highest. To some extent, this restarting is inescapable. It does not depend on sector reforms. It is driven by security, infrastructures and markets. This industry has the potential to bring benefits to local people and to the country, but these benefits will not come automatically. They will materialise only if adequate policies are properly enforced. Otherwise, there is reason to fear that this industry will mostly serve personal interests. Today, the collapsed state of the infrastructure is the main bottleneck to logging expansion, but this situation will not last forever. The urgency is to make planning and enforcement tools operational before physical barriers dissolve, otherwise illegal or destructive logging is likely to gain ground.

A few key steps completed since 2002. Some key steps have been completed since 2002, such as the cancellation of 25.5 million hectares of noncompliant logging concessions, the establishment of a moratorium on new concession allocations, the gradual increase of the annual forest rental fee, the removal of unjustified charges prone to fraud, the approval of a new Forest Code, and the launch of a legal review of all remaining concessions with the assistance of an independent observer. These decisions were backed by top-level political commitment. Support within the line ministry has fluctuated over the course of the political transition from 2002 to 2006. Some measures were seriously challenged: in spite of the moratorium, a gross 15 million hectares was reportedly exchanged or relocated, leading to a net increase of 2.4 million hectares of area under concessions. These transactions reflect the weight of the interests involved. In spite of this wavering commitment, the fact that this agenda was endorsed by the entire government and the growing support by civil society for these reforms (Joint Statements 2005, 2006a, b) seem to have contained backslidings and to have made some progress possible. Overall, since 2002, the total area under concessions has decreased from 43.5 million hectares to 20.4 million hectares.

The 2002 Forest Code. The Forest Code sets the framework for more equitable and balanced forest management. Innovations include: maintaining all traditional user rights, including those of indigenous people; implementation of forest management plans in all production forests including the protection of wildlife; the right for local communities to manage forests they own under customary rights; return of 40 per cent of the area fee to provinces and territories; mandatory implementation of social responsibility contracts; consultation with local people prior to assigning a forest to conservation or production; allocation of production forests through transparent methods; a target of 15 per cent of the area of the country under protection status; and promotion of non-extractive forest uses such as environmental services. The challenge will be to bring these innovations into practice. Benefits may remain marginal if past distortions fail to be cleared first.

The gap between policy and practice. At present, practices in the field are disconnected from the policies designed in Kinshasa. Forest and local institutions have deteriorated. They must be

reinforced urgently, otherwise the gap between policy and practice will only become wider, and the likelihood of improving things in villages and in the forest may become insignificant.

Non-extractive forest uses. As mentioned above, there is an opportunity for developing new forest uses and financing systems beyond the usual models of timber production, parks, agriculture and small-scale harvesting by communities and local enterprises. About one-quarter of the rainforest area is currently under timber concession. This ratio is likely to decrease after the legal review, and the moratorium on new concessions was confirmed by presidential decree in October 2005. Supply (on the Congolese side) and demand (on the international side) for non-extractive forest services seem to exist, but the connection between the two does not seem to work yet. The challenge is to establish that connection, through public or private financing systems that can turn this potential market into tangible benefits for the DRC.

D – MAIN RECOMMENDATIONS

This report encourages the government to continue the priority agenda undertaken since 2002, to finish cleaning up old concessions, and to start implementing the new Forest Code (*see* Table 1). These steps, and the forthcoming ones, are consistent with the World Bank Forest Strategy (World Bank 2002). These are only first steps that need to be consolidated, followed up, and implemented in the field. In the DRC's weak sociopolitical and economic environment, the future of forests cannot be left to market forces and individual initiatives. Top-level actions and commitment by a critical number of players are necessary to manage these forests in the interests of the public, and to address the strategic questions concerning the balance between various forest uses.

The main actions/priority agenda recommended by this study are as follows. They are a mix of urgency, importance and practical feasibility in the DRC post-conflict context.

1. Stay the course of corrective and preventive measures to remove the legacy of past mismanagement

- *Maintain the moratorium.* The moratorium on assigning new concessions should stay in effect until the legal review of old concessions is completed, a transparent auction system is in place, and a medium-term planning of future allocations is adopted. The medium-term planning should indicate the number, size and location of proposed new concessions. The idea is to avoid falling back into the old system of speculative grabbing after the moratorium is lifted. This plan should examine the soundness of opening new concessions given the existing transportation bottlenecks. The moratorium should stay in place until satisfactory management and governance standards have been achieved in the existing concessions. In the absence of a clear rationale for new concessions, the moratorium should be extended.
- *Complete the legal review of old logging titles and rescind invalid ones.* This operation is to check compliance with the clauses of contracts and with the moratorium. Pursuant to the presidential decree of October 2005, all invalid contracts should be rescinded or, when applicable, restored to their pre-moratorium state. All valid contracts should be converted

into sustainable management concessions consistent with the boundaries of villages and farmland and including social responsibility clauses (*cahier des charges*).

- *Enforce the fiscal reform package and secure tax collection.* The interministerial decree of March 2004 reduces the fees of the *Office National des Transports* and gradually increases the forest area fee between 2004 and 2007. The package lowers the fiscal burden. It aims to deter speculation on forests, to simplify and secure tax collection, to increase revenues for provinces and territories, and to level the playing field among companies.

2. Regulate the timber sector as it restarts

- *Monitor logging in the field and enforce penalties.* An increase of illegal logging can be expected if more stringent regulations are introduced without at the same time enhancing oversight and enforcement. Third-party observers should assist the forest department to ensure objective controls and public information on infractions and penalties. Any misdemeanour must lead to deterrent penalties. Remote sensing and log-tracking technologies should be developed.
- *Return 40 per cent of the area fee to provinces and territories.* All steps of this system must become transparent. The transfer of resources, as well as the planning, expenditure and accounting at provincial and territorial levels, and external audits, must all be made public. Such transparency is vital to prevent misuse. Local administrators must be accountable to the local people.
- *Implement the social responsibility contracts (cahiers des charges).* The challenge is to ensure that these agreements result from fair negotiations between companies and villages, and that they are actually implemented. A national compendium of *cahiers des charges* should be set up with participation of civil society and serve as a reference for public monitoring.
- *Move to forest management plans.* Such plans should be based on simple regulations. From a social viewpoint they should include the agreements contained in the *cahiers des charges*. From an environmental viewpoint, they should include commitments based on outcomes rather than inputs, especially for wildlife protection. Basic measures for sustainable management should be enforced upon the start of any concession without waiting for the approval of a detailed forest management plan.
- *Set up a transparent allocation system.* If the rationale for opening new concessions is established, old discretionary methods should be abandoned. Developing an auction process suited to the DRC will require careful thinking, as well as prior consultations and pilot tests.

3. Implementing the broader vision of multipurpose forest use

- *Conduct participatory, multipurpose forest land-use planning.* Forest land-use planning should be done in a participatory manner with local consultations, and be based on the principle of prior, free and informed consent. This process should take account of all

possible forest uses, and help prevent social conflicts. As a bottom line, local communities' uses should be mapped and their rights secured, with special attention to the indigenous peoples. New parks, community forests, concessions, and other uses would be identified in non-disputed zones. The process would come up with indicative maps that have no immediate legal relevance. Actual decisions would be made later on a case-by-case basis following gazettement procedures that also include local consultations.

- *Develop non-extractive forest uses.* Mechanisms aimed at rewarding environmental services should be encouraged. Such mechanisms may include conservation concessions, carbon sequestration, and bioprospecting rights, among others. There is still no tried-and-tested model in Central Africa, and showing the DRC concrete alternatives to the usual models of forest management is a challenge to all parties. A high-level international debate is needed to overcome the limitations of the existing instruments and to make large-scale conservation and environmental services attractive options for the DRC in the short term.
- *Develop community forests.* There is little experience of legally recognised community forests in the DRC. The challenge will be to develop simple systems, accessible to village communities, including indigenous groups, but not easily diverted by unscrupulous brokers, especially in forest areas where timber attracts major financial interests. New approaches whereby management contracts between the government and local communities make the latter responsible for managing their own forest, as currently being developed in the Eastern DRC, should be pursued. The DRC will also have to learn from experiences in other countries.
- *Support small-scale family enterprises.* Millions of people derive their meagre income from small timber or non-timber forest-based businesses. These are mostly informal, family or community enterprises. The challenge is to help these small businesses establish their sustainability without depleting the natural resource base they rely on. In this area too, the DRC has little experience to date, will have to learn from experiences in other countries, and develop its own solutions.
- *Rehabilitate protected areas and preserve biodiversity in productive landscapes.* The first priority is to rehabilitate national parks and World Heritage Sites. Other efforts must be pursued simultaneously: protecting wildlife in production forests, promoting community-managed conservation areas, updating the law on nature conservation, and expanding protected areas to the extent still possible.
- *Design priority programmes for highlands, savannah-woodlands and aquatic ecosystems.* This study focuses mostly on rainforests. However, mountains, savannah-woodlands and aquatic ecosystems are just as important in the Congolese context. These ecosystems are often more fragile and more exposed to deforestation and soil erosion. These issues deserve decision makers' utmost attention. More analytical work is needed to help improve policies and identify priority programmes.

4. Rebuild institutions and strengthen national leadership

- *Rebuild public institutions and strengthen civil society organisations.* This will include training and equipment programmes, as well as improving the incentive framework for the forest and nature departments, for local administrations, and for civil society organisations. The strategy will need to combine long-term capacity building efforts with short-term targeted interventions to deal with emergencies.
- *Disseminate the Forest Code and prepare the decrees.* Local NGOs should be actively engaged in disseminating the Code, which sets out general principles and needs to be complemented by the implementation decrees. Preparing the decrees should combine a participatory process with the pressing need to regulate activities in the field. New systems must be simple and transparent.
- *Develop a national, sectorwide programme.* The DRC and its partners should ensure that the multiple projects in the sector fit within a national programme open to all stakeholders. This programme would serve as a single framework for piloting and monitoring the sector.

E – THE MAIN PLAYERS

As the country returns to peace, the Congolese forests are being subjected to a wide range of expectations that do not automatically fit together. In addition, improving forest management goes beyond the scope of a single line ministry and many actors come into play.

The Government. One key to success is to maintain the sector on the radar screen of key decision makers, keep it on the government's core post-conflict reform agenda, and avoid sector isolation. The forest department plays a critical role, but it cannot reform the sector on its own, especially in the face of high post-conflict pressures and vested interests. Difficult decisions, such as the legal review of logging titles, involve several ministries. The government is not a monolith, and the level of commitment depends upon people, alliances and opportunities. The DRC experience since 2002 shows that sector reforms require continued vigilance and commitment by multiple authorities, including non-sector ministries, the presidency and parliament.

Civil society. It is important that forest management becomes more transparent, participatory and democratic, and that the most vulnerable social groups enjoy equal rights and opportunities. NGOs, the media, professional federations, churches, women and youth associations, and other grassroots organisations will be key players in this process. This is the direction taken by new policies, although implementing truly participatory approaches is not an easy undertaking for a country with little experience with democratic mechanisms at either national or local levels, and which is just emerging from a decade of civil conflict. NGOs and other civil society groups should be involved in processes such as the drafting of the implementation decrees, legal review, and land-use planning. They should also be involved in pilot testing the Forest Code's innovations in the field and in monitoring their implementation, for example with the transfer of forest revenues, social responsibility contracts, and community forests. They should be involved in forest controls, in disseminating the Forest Code, and in awareness-raising campaigns. Local communities must be given opportunities to participate directly in decision-making and management processes. This is especially true for minority or

vulnerable groups, such as the Pygmies, who could be marginalised in consultations and sidelined from economic opportunities. These groups must receive specific attention when it comes to maintaining traditional rights, and they must enjoy equal access to community forests, to the transfer of tax revenue, to the *cahiers des charges*, and other innovations of the Forest Code.

The private sector. Private sector buy-in is important for the success of reforms. Recent forest policy directions remove hurdles from the business climate, such as discretionary practices, unjustified parafiscal charges, and lack of transparency, and place upon companies new environmental, social and fiscal responsibilities. In internalising changes of this magnitude, companies already established in the DRC face challenges equal to or greater than those faced by newcomers. At the time of this review, the private sector seems uncertain of the benefits of the current reforms and, in the absence of strong assurance from the government that these reforms will indeed be enforced uniformly, it is advocating the status quo. To achieve mutual trust, responsible operators need reassurances that new rules are there to stay, and that complying companies will not be penalised by unfair competition from noncompliant ones.

Local entities. The new central government will have to secure cooperation from local and regional authorities. In some cases this can be done by providing legitimate sources of income in compensation for the informal and arbitrary systems that are meant to disappear. The government will need to set up frequent consultations with people, as well as create structures aimed at preventing and resolving any authority or legitimacy disputes.

International cooperation. In addition to providing financial support and advice, donors and NGOs can certainly help sustain political commitment for reforms, especially in the hectic momentum of reunification. Constantly referring to the same priority agenda makes it possible, to some extent, to stay the course and prevent reversal, despite frequent changes in executive positions, alliances and other priorities that decision makers face in this unstable post-conflict environment.

International advocacy. Voices in the international arena influence the future of Congolese forests. Reforms that were undertaken in the DRC since 2002 favour long-term public interest; however, the benefits they provide to the national community are not immediately visible, whereas the trouble they cause to old privileges are obvious and immediate. Paradoxically, these reforms are sometimes challenged rather than supported in the country. The international community can help strengthen reformers within the government. This is especially important in an unstable post-conflict context where initial achievements risk being quickly reversed. In this context, a mix of positive reinforcement and criticism can go a long way. On the contrary, negative criticism alone without recognition of positive steps risks undermining reformers. It may eventually end up in an unintended coalition with vested interests that seek to maintain the status quo.

Table 1. The Priority Agenda analysed and supported by the study. *This table shows the current status of recommended actions, the next steps, and the main players involved. This Priority Agenda is a mix of urgency, importance and practical feasibility in post-conflict DRC. While all items listed in this agenda are high priorities, bold font signifies the areas that seem to be the most critical at this point in time, and which therefore require immediate attention by the government and NGO and donor partners. It is believed that inaction in these areas could cause irreversible damage, and that concrete actions can realistically be taken in the short term in spite of acute institutional and logistical constraints, provided there is strong political backing. This table also indicates chapters of the study where each item is discussed.*

PRIORITY ACTION	STATUS (S) AND NEXT STEPS (NS)	MAIN PLAYERS INVOLVED
Complete corrective and preventive measures to dispose of the legacy of mismanagement		
Maintain the moratorium, with the three conditions set forth in the 2005 presidential decree. Chapter 3.	<p><u>S</u>: Moratorium established by Min. Environment in 2002. Reportedly bypassed since 2003. Confirmed and extended in 2005.</p> <p><u>NS</u>: Not to allocate any new logging concession until: the legal review is completed; a 3-year allocation plan is adopted; an auction system is in place. The allocation plan should establish whether new concessions are needed or not.</p>	Min. Environment to enforce the moratorium and report to the Presidency. Government, NGOs, private sector (FIB) and local representatives to establish the allocation plan and the rationale for granting new concessions (or not granting them). <i>Indicator of progress for WB TSERO budget support.</i>
Complete the legal review/conversion of old logging titles, and rescind invalid ones. Chapter 3.	<p><u>S</u>: Rules of the review set by presidential decree in 2005. Technical group at work with international observer.</p> <p><u>NS</u>: Nominate interministerial committee. Identify representatives of local communities including indigenous people.</p>	Min. Environment and Min. Finance for technical verifications. Presidency, private sector (FIB), NGOs and communities as members of the interministerial committee. WRI as observer. <i>Indicator of progress for WB TSERO budget support.</i>
Enforce the 2004 fiscal reform package, and secure tax collection. Chapter 3.	<p><u>S</u>: Reform enacted by interministerial decree in 2004. Area fee and ONATRA charge adjusted in 2004–06. Other provisions delayed.</p> <p><u>NS</u>: Cancel noncompliant contracts. Ensure full implementation of the package. Create a tax collection/economic monitoring programme.</p>	Ministries of Finance, Environment, Transport/ONATRA for enforcement, tax collection, and issuing public reports. <i>Indicator of progress for WB/IMF budget support.</i>
Regulate the timber sector as it restarts		
Deter illegal logging: monitor in the field and enforce penalties. Chapter 3.	<p><u>S</u>: Growing risk of large-scale illegal logging. Min. Environment unable to curb the trend alone. Third-party observer being recruited.</p> <p><u>NS</u>: Undertake field missions to key sites. Enforce penalties. Publish reports. Combine field and satellite monitoring.</p>	Min. Environment and local authorities for enforcement. Min. Finance for collecting fines. Judiciary for lawsuits. Civil society (CSOs) to report cases, and foster accountability. <i>Indicator of progress for WB budget support.</i>
Transfer 40% of the area fee to provinces and territories. Chapter 3.	<p><u>S</u>: Not transferred in 2003–2006. No investment programmes or accounting systems at provincial and territory levels.</p> <p><u>NS</u>: Transfer revenues from central to local level. Assist pilot provinces in financial management. Support monitoring by NGOs. Publish reports and audits.</p>	Min. Finance and Budget to transfer revenues. Regional forest councils and civil society to establish budgets, monitor execution, and foster accountability.
Implement the <i>cahiers des charges</i> . Chapter 3.	<p><u>S</u>: <i>Cahiers des charges</i> often poorly negotiated, implemented and monitored in the field. An assessment is being prepared by NGOs.</p> <p><u>NS</u>: Include new <i>cahiers des charges</i> in contracts validated by the review. Support NGO monitoring. Publish reports.</p>	Local communities and concessionaires to negotiate the <i>cahiers des charges</i> . Concessionaires to deliver. Civil society, regional forest councils and Min. Environment to monitor.

PRIORITY ACTION	STATUS (S) AND NEXT STEPS (NS)	MAIN PLAYERS INVOLVED
Prepare and implement sustainable forest management plans. <i>Chapter 3.</i>	<u>S</u> : Regulations for management plans ready for review. Several management plans in preparation. <u>NS</u> : Build up capacity to review and enforce management plans incl. biodiversity and social measures. Define DRC certification criteria.	Concessionaires to draw up and implement management plans. Min. Environment to review and enforce. Multistakeholder group to define certification standards.
Set up a new, transparent allocation system. <i>Chapter 3.</i>	<u>S</u> : Presidential decree ready for review. Sole-sourcing ruled out. <u>NS</u> : Depends on how long the moratorium will stay in effect.	Min. Environment, multistakeholder steering group, and Presidency.
Develop and implement a broader vision of multipurpose forest uses		
Conduct multipurpose land-use planning. Conduct local consultations before any forest use decision. <i>Chapter 2.</i>	<u>S</u> : No existing land-use plan in DRC. Post-conflict recovery is left to individual initiatives. Risk of poorly informed, irreversible decisions. <u>NS</u> : Support land-use planning initiatives based on local/indigenous people's prior, free and informed consent. Integrate forests into national and extra-sector land-use plans (mines, infrastructure). Conduct local consultations before any park or concession is created. Enforce new Code on traditional rights in all production forests.	Min. Environment, donors, NGOs to support land-use planning. Local communities and regional forest councils to discuss land-use scenarios. Government to ensure consistency with other sectors. Min. Environment/ ICCN to ensure local consultations take place before any park or concession is created. Civil society to monitor, provide facilitation and expertise, and stimulate accountability.
Promote non-extractive forest uses and innovative financing mechanisms. <i>Chapter 4.</i>	<u>S</u> : Consensus that non-timber forest uses should be promoted. However, no successful model so far in Central Africa. <u>NS</u> : Conduct analytical work and high-level meetings to assess feasibility, raise commitments, and launch pilot projects, such as conservation concessions, avoided deforestation/carbon, debt-relief.	All parties interested. NGOs and donors for analytical work, roundtable discussions, awareness-raising, and dialogue with government and potential public or private financiers. International community to develop new schemes. Government to formally commit if/when new schemes are/become available.
Design simple frameworks for community-based management, and support pilot projects. <i>Chapter 4.</i>	<u>S</u> : New Code calls for community-based forest management. Little experience in Central Africa, including in the DRC. <u>NS</u> : Draw lessons from other countries. Conduct studies and consultations. Assess customary rights and land tenure systems. Make rules as simple as possible. Prevent risks of misappropriation. Support information campaigns, and pilot projects.	Min. Environment: set up a multistakeholder group to conduct studies, consultations, and propose simple and incentive frameworks. Involve regional forest councils. Local communities to launch pilot projects, with support from NGOs and other CSOs. Donors and NGOs to support studies, consultations and pilot projects.
Support small-scale family enterprises. <i>Chapter 4.</i>	<u>S</u> : Informal sector represents the majority of forest-based jobs, some based on unsustainable practices. Lack of knowledge/understanding. <u>NS</u> : Conduct studies and consultations. Identify programmes that can increase small businesses' income, and provide incentives for more sustainable practices. Support information campaigns and pilot projects.	Government, donors, NGOs to conduct analytical work. Informal sector, civil society and local authorities to help define policies and field programmes.
Rehabilitate key protected areas, and preserve biodiversity in production areas. <i>Chapter 4.</i>	<u>S</u> : Unique ecosystems and biodiversity threatened with extinction. ICCN's rehabilitation strategy supported by government, NGOs, donors. <u>NS</u> : Support emergency operations in key parks. Enforce wildlife clauses of the logging contracts. Reassess existing protected areas and identify new ones. Update law on nature conservation.	ICCN, the National Coalition for Conservation (ICCN, donors and NGOs) to rehabilitate parks. Local civil society should be more actively involved in participatory management. Concessionaires to curb poaching and bushmeat trade in concessions.

PRIORITY ACTION	STATUS (S) AND NEXT STEPS (NS)	MAIN PLAYERS INVOLVED
Design priority programmes for highlands, savannah–woodlands and aquatic ecosystems. <i>Chapter 4.</i>	<p><u>S</u>: Ecosystems highly vulnerable. Growing population density depending on fragile resources. Lack of knowledge/understanding.</p> <p><u>NS</u>: Undertake analytical work, mapping and consultations to help identify priority interventions. Draw on other countries' experiences.</p>	Government, donors, NGOs to conduct analytical work. Local civil society and local authorities to help define policies and field programmes.
Rebuild institutions and strengthen national leadership		
Rebuild public institutions and support civil society organisations (CSOs). <i>Chapter 4.</i>	<p><u>S</u>: Min. Environment and ICCN in shambles. Budgets nonexistent. Active advocacy and development of NGO networks.</p> <p><u>NS</u>: Conduct an institutional review and design an institutional rehabilitation plan. Support CSOs' initiatives to monitor reforms, foster accountability, and pilot new management models.</p>	Government and donors to address the incentive framework: salaries, training, budgets. External partners to mainstream local CSOs into dialogue with government and decision making. NGOs and donors to support local communities.
Disseminate the Forest Code and prepare the implementation decrees. <i>Chapter 2.</i>	<p><u>S</u>: Only four decrees enacted. A number of draft decrees ready for review. Forest Code insufficiently disseminated.</p> <p><u>NS</u>: Reactivate the multistakeholder group in charge of drafting the decrees and reactivate local consultations. Support Forest Code dissemination campaigns by Min. Environment and NGOs.</p>	Min. Environment and multistakeholder steering group for drafting decrees. FAO support. <i>Indicator of progress for WB TSERO budget support.</i>
Put in place a national sectorwide multidonor programme. <i>Chapter 4.</i>	<p><u>S</u>: Forest and biodiversity programme document drafted in 2004. National forest forums held in 2004 and 2006. Forest mainstreamed in PRSP and economic agenda. Donors' coordination group operational. A multidonor financing instrument being set up.</p> <p><u>NS</u>: Relaunch Min. Environment's coordination unit. Conduct local consultations. Prepare national/regional action plans.</p>	Min. Environment, regional forest councils, multistakeholder groups to draw national/regional action plans. Donors for coordinating policy advice, funding instruments and projects.

ANNEX 11



AFRICA SUSTAINABLE MANAGEMENT OF FORESTS IN THE CONGO BASIN UPDATE OF COMMUNICATION AND OUTREACH STRATEGY (IDA/SecM2006-0191)

Objectives

- Improve understanding and awareness of the World Bank's role and impact in the forestry sector in the Congo Basin, and its contribution to helping member countries achieve responsible forest management and effective conservation of biological diversity;
- Ensure that key constituencies (parliamentarians, donors, media, and civil society) receive relevant and timely information about the Bank's work in the forest sector, and
- Raise the visibility of the Bank and its partners--African governments, donor countries, environmental organizations and other civil society groups--as key proponents of the sustainable forest management agenda.

Implementation

Review period:

Responsibility for Implementation:

World Bank Human Resources:

Sources of funding:

December 2005-October 2007

AFTEN, AFREX, EXT and EXTEU

Relevant Country Departments, AFTEN, AFREX Staff in Country Departments and Headquarters External

Bank-Managed Donor Trust Funds, World Bank-WWF Alliance for Forest Conservation and Sustainable Use

Outlook

The World Bank will continue to focus on engaging and expanding dialogue with key audiences through a diversity of channels.

Overview of completed and planned outreach activities

KEY CONSTITUENCIES		
Constituency	Details	Activities completed
Parliamentarians	<ul style="list-style-type: none"> • Selected briefings for parliamentarians in the capitals of most interested European countries (i.e. London, Oslo, Brussels, and Paris) by senior Bank staff. • Briefings for members of the Parliamentarian Network of the World Bank. • Production and dissemination of forest-relevant 	<ul style="list-style-type: none"> • Meeting with UK Parliamentarians, London (Feb 13, 2006) • Meeting with Norwegian Government, Members of Parliament, CSOs and Media in Oslo (April 2006) • Meetings between African Parliamentarians with Bank Executive
		Activities planned <ul style="list-style-type: none"> • Briefing on DRC Forestry to Parliamentarians, Governments, other stakeholders and NGOs (dates to be determined) • France • Netherlands • Norway

KEY CONSTITUENCIES			
Constituency	Details	Activities completed	Activities planned
Parliamentarians (continued)	<p>information in collaboration with the Central African Network of Parliamentarians.</p> <ul style="list-style-type: none"> • Delegation of Central African Network of Parliamentarians engaged in forest management, conservation and governance with US State Department, Congress Members and House and Senate Staff 	<p>Directors, US State Department, House and Senate Staff (March 2, 2006)</p> <ul style="list-style-type: none"> • Meeting with DRC Parliamentarians, Kinshasa (Dec 2005 and Sept 2006) • Engaging DRC Parliamentarians in G-8 Illegal Logging Dialogue, Berlin (June 2007) • Exchange of letters on Bank's forest work in DRC with bipartisan group of US Senators (Aug 2007) 	<ul style="list-style-type: none"> • UK • USA
Donor countries and other partners	<ul style="list-style-type: none"> • Briefings by Bank staff to government officials in the capitals of most interested European countries (i.e. London, Oslo, Brussels, Paris) • Presentation of current forest developments by representatives of the Central African Network of Parliamentarians engaged in forest management, conservation and governance. 	<ul style="list-style-type: none"> • Briefing on Bank's DRC forest work with the Belgian Ministry of Cooperation, Brussels (Dec 2006); French Development Agency, Paris, December 2006; German Ministry of Cooperation, Frankfurt (Mar 2007); with and with UK DFID in London in 2006 and 2007 • Creation of a Multi-Donor Forest Trust Fund jointly with the European Commission, Belgium, France, the UK, Luxembourg and Germany, with joint communication strategy - ongoing. • Meetings between African Parliamentarians and Bank Executive Directors (Mar 3, 2006) 	See above
Civil Society Organizations (CSOs) and private sector	<ul style="list-style-type: none"> • Collaboration with World Wildlife Fund (WWF) to disseminate information on initiatives carried out jointly with the Bank (under the Alliance for Forest Conservation and Sustainable Use) and in collaboration with other international and national CSOs in the Congo Basin. • Face-to-face meetings with international and local groups both in Washington, Europe and the Congo 	<ul style="list-style-type: none"> • Participation in Forest Forum, Kinshasa (Feb 2006) • Int'l Conference "Sustainable Management of Forests of DRC" which led to adoption of Brussels Declaration (Feb 2007) and High-level event "Towards a New Vision for the Forests of the Congo," with participation by World 	<ul style="list-style-type: none"> • Donors' Consultative Group Meeting (Paris, November 2007) • Chatham House meeting on Alternative forest Uses (London, December 2007) and Kinshasa (February 2008) • Third Forest Forum (Kinshasa, 2008)

KEY CONSTITUENCIES			
Constituency	Details	Activities completed	Activities planned
Civil Society Organizations (CSOs) and private sector	<p>Basin.</p> <ul style="list-style-type: none"> • Presentation of Bank supported forest work in relevant international fora and seminars. • Visit of Congo Basin national CSOs to capitals of most interested European countries to meet with parliamentarians, private sector representatives, donors and international media and civil society groups. • Continuation of dialogue with NGOs and forest industry through the Chief Executive Officer initiative and in the framework of agreed G 8 Action to Combat Illegal Logging 	<p>Bank President, Spring Meetings of World Bank/IMF (Apr 14, 2007); both these events had participation by national and international CSOs including those representing Pygmies and the private sector</p> <ul style="list-style-type: none"> • Dissemination of report “Forests in Post-Conflict DRC” with coauthored 14 national and international CSOs and research centers, and publication under the umbrella of WWF/WB Alliance. <p>Dissemination in Brussels, February 2007; Paris, International Development Research Institute, April 2007 and Washington, WB-IMF Spring Meetings, April 2007.</p> <p>In-country dissemination underway by co-author NGOs.</p> <ul style="list-style-type: none"> • Participation in DFID sponsored Roundtable Review of Alternative Forest Uses with Europe-based NGOs in London, December 2006 to June 2007 • Consultations (at least twice a year) with operational NGOs in DRC (WWF, WCS, CI, AWF) and with advocacy NGOs in Europe (Global Witness, Rainforest, Forest Monitor, Greenpeace among others) • Facilitating participation of DRC local groups at international forest events in Brussels (February 2007, Paris (April 2007), and Washington (April 2007) • Regular meetings and creation of long-term partnerships with the DRC Coalition of NGO Networks (CRON) in Kinshasa during 2006 and 2007; • consultations with local NGOs including 	<ul style="list-style-type: none"> • Second Congo Forest Side-Event, Washington (Spring Meetings, April 2008)

KEY CONSTITUENCIES			
Constituency	Details	Activities completed	Activities planned
		those representing the Pygmies during field visits to Goma (2006 and 2007), Kisangani (2007) <ul style="list-style-type: none"> • Dialogue between DRC local groups and World Bank Senior Management at NGO Townhall Meeting, Washington, 2007 Spring Meetings and Annual Meetings. 	
Congo Basin countries	<ul style="list-style-type: none"> • Briefings for local press by Bank staff. • Briefings for editorial boards of the most important news outlets in the Congo Basin countries. • Radio interviews with major stations. • Invitation to partners (donor representatives, CSOs) to join WB missions in the field. • Seminar series/open house hosted by Public Information Centers. <p>See above</p>	<ul style="list-style-type: none"> • Gabon: Press briefing on Bank's forest/biodiversity projects in the country (IBRD, GEF), March 2006 • Support to MPs from all Central African countries to attend 1st Meeting of Forest Ecosystem Management, Cameroon, October 2006 • Participation of DRC Pygmy group representatives in local consultation related to forest and sector policy reforms in neighboring Congo Brazzaville, Dec 2006. • First International Central African Indigenous Peoples Meeting, in Impfondo, Congo Brazzaville - facilitated and supported participation of Pygmy representatives from DRC (April 2007). • Interviews with Reuters, BBC and AFP in Kinshasa (June 2007) • Interview on Bank forest work with national TV channel • Press briefing for DRC Environment Media Network, Kinshasa, January 2007 • Support to foster partnerships between DRC Environment Media Network and Ministry of Environment and for participation of DRC Environment Media Network at the Brussels Conference in 	<ul style="list-style-type: none"> • Briefings for environmental networks in Congo Basin countries (dates to be determined)
Congo Basin countries (continued)			

KEY CONSTITUENCIES			
Constituency	Details	Activities completed	Activities planned
Media	<ul style="list-style-type: none"> • Background briefings for major media outlets in Europe (i.e. UK, France, Nordic countries), the U.S. and DRC. • Media tour Central African countries for journalists to visit project sites, meet with local government, CSOs and Bank staff to discuss challenges/progress on forestry. • Training for a group of Congo Basin journalists on World Bank supported forestry initiatives in the region. • Dissemination to the media of an issues paper on forestry and World Bank-supported initiatives in this area. 	<p>February 2007</p> <ul style="list-style-type: none"> • Joint field mission with European Commission in DRC, June 2007 • Interviews and briefings on Bank's forest work with leading newspapers in Belgium (Le Soir, La Libre Belgique, De Morgen, Knack/Mo; March 2006 and February 2007); UK (The Economist, Financial Times, June 2007); France (Jeune Afrique, Le Monde, April and June 2007); US (Nation Magazine, LA Times, August 2007) • Radio interviews with BBC World and BBC Africa (February and October 2007), RFI (April 2007), Channel 4, Voice of America • Creation of a formal partnership between the DRC Environment Media Network and the Ministry of Environment in preparing the forthcoming IDA grant • Dissemination of report "Forests in Post-Conflict DRC" to leading international media (ongoing) and to the DRC media (Press conference October 2007) 	<ul style="list-style-type: none"> • Organize media training workshops for environmental journalists in Congo Basin countries (dates to be determined) • Joint field visit with media to Province Orientale (February 2008)

OUTREACH PRODUCTS			
Product/Medium	Details	Activities completed	Activities planned
Updated Q&A on WB & Congo Forests	<ul style="list-style-type: none"> Question and Answer document that addresses most important facts about World Bank's work on forests in DRC posted on Bank's Congo and Forestry sites. Available as a handout for dissemination to key audiences. 	<ul style="list-style-type: none"> FAQs (Frequently Asked Questions) on Bank's Forest work in DRC posted on the web. Updated August and October 2007. Also available in French, Spanish, Arabic, and Chinese. 	
Publications	<ul style="list-style-type: none"> Publication and dissemination of summaries of Bank analytical work in DRC, Cameroon and possibly Congo Republic. Brochures in English and French which summarize the World Bank's approach to forests and renewable resource management in the Congo Basin. 	<ul style="list-style-type: none"> Chapter on Bank Forest Strategy in the Congo Basin in a book entitled "Tropical Forests and Globalization" published by CIRAD, France, March 2006 Co-authoring of "Forests in Post-Conflict DRC" with 14 national and international CSOs and research centers, and publication under the umbrella of WWF/WB Alliance, February 2007 Similar Forest Sector Reviews being completed for Congo-Brazzaville and for Cameroon – ongoing. One-page summary of DRC forest agenda and one-page summary of Congo Basin initiatives circulated in Washington at the 2007 Spring Meetings 	
Internet	<ul style="list-style-type: none"> New website on Bank work on Forests in Africa. Stories (with multimedia components: photo and video) to highlight the objectives and impact of the Bank supported initiatives on the ground. Reference to Government and Non-Governmental Organizations websites concerned with forests in the Congo Basin and collaborative work with the Bank, systematically provided in the Bank Corporate website. Placing tabs on major Internet search engines 	<ul style="list-style-type: none"> Bank's website on Forests in Central Africa operational, October 2007 – before that, regular posting of key-information on Bank's DRC and Forestry websites Support to DRC Ministry of Environment to revamp their website and post all relevant information – underway Hyperlinks to websites of collaborators (World Resources Institute, Global Witness, CIFOR and Brussels Conference); ongoing and being expanded 	<ul style="list-style-type: none"> Congo Forests on Google Ads Stories (with multimedia components: photo and video):

OUTREACH PRODUCTS			
Product/Medium	Details	Activities completed	Activities planned
Broadcast (TV and Radio)	<ul style="list-style-type: none"> • Video/Audio package for broadcasters (to include B-roll, sound bytes from Bank staff and local officials working on forestry projects in the region) • Increased participation of Bank spokespeople in local radio and television programs. • Production of radio and TV features on forestry for Congo Basin media outlets 	<ul style="list-style-type: none"> • Increased participation of Bank spokespeople: 	<ul style="list-style-type: none"> • Preparation of B-Roll for use by broadcasters: • Production of radio and TV features • Preparation of Public Service Announcements for use by African/International Media • Development of stock video footage and still images