

Briefing Paper

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New Threats to the Forests and Forest Peoples of the Democratic Republic of Congo

Summary

New laws governing forestry in DRC are presently in preparation, and the 'development' of the country's forests is being planned by international agencies including the World Bank. Linked with planned new investments, this could result in a 60-fold increase in the rate of logging. The future of the world's second largest area of rainforest, and the many millions of people who live in it, is thus at stake. The Rainforest Foundation believes that plans for this development should be suspended until the necessary safeguards have been put in place.

Purpose of this briefing

The rainforests of the Democratic Republic of Congo (DRC, formerly Zaire), and the many millions of people that live in them, are at a critical juncture. Most of the country has not yet been affected by the large-scale industrial logging and forest clearance that has all but eradicated rainforests in other parts of Africa. However, with the ending of decades of economic chaos and civil wars, this is about to change.

International agencies including the World Bank and the UN Food and Agriculture Organisation are planning extensive 'development' of DRC's forests. Potentially, tens of millions of hectares of forest will be opened up to logging companies. The rights and livelihoods of tens of millions of people will be put at risk.

A process has begun which may soon be irreversible and could result in the eventual loss of much of the world's second largest area of rainforest. This could well be the first major environmental catastrophe of the 21st century.

This briefing sets out some of the key issues at stake, and makes suggestions as to how this catastrophe can be avoided.



DRC's forests are the home to millions of people, including Bantu farmers, and Mbuti and Twa hunter-gatherers.

Background: a country emerging from a devastating 'natural resources war'

Following decades of despotic rule by Mobutu Sese Seko, the DRC is still divided by a civil war that, directly and indirectly, has claimed the lives of an estimated 3.5 million people. Much of the east of this vast country is still under the nominal control of 'rebel' groups in a complex pattern of shifting alliances between various factions, ethnic groups and militias, with the support and involvement of neighbouring countries' armies.

The war has, at least in part, been fuelled by competition for control over natural resources. A UN Security Council 'Expert Panel' on the Illegal Exploitation of DRC's Natural Resources reported in October 2002 that 'corrupt and criminal elites' both within DRC and neighbouring countries such as Uganda and Rwanda were profiting from the civil war by using it to gain access to timber, minerals and ivory [1]. The proceeds from illegal mining and logging have been used to purchase arms and munitions, thus perpetuating the conflict.

The illegal and uncontrolled exploitation of these resources has had devastating social and environmental impacts in some localities. Forest people such as the Twa 'Pygmies' of eastern DRC have suffered traumatic impacts during the conflict. As well as brutal treatment - including cases of cannibalism and reported 'genocide' - at the hands of one faction or another, Pygmy people have also suffered from a depletion of wild food resources, which have been exploited by armies and militias.

In July 2003, a 'Transitional Government', including representatives of most of the main rebel factions, was put in place. Although sporadic armed conflict is still occurring, the international community has quickly moved to assist President Joseph Kabila to rebuild the country's political institutions and economy, and particularly to encourage foreign investment.

Forests and forest people in the firing line

DRC's forests cover an area of 1.3 million square kilometres, more than twice the size of France. According to World Bank estimates, some 35 million people (70% of the national population) are resident within, or to some extent dependent on, the country's forests [2]. Bantu farming peoples are believed to have migrated into the much of the forest zone several thousands of years ago, where Mbuti and Twa hunter-gatherers may have already been present [3]. The World Bank estimates that the average

Chronology of main recent events in DRC

May 1997 - President Mobutu Sese Seko deposed by Laurent Kabila after year-long civil war

August 1998 - Start of 'rebellion' against Kabila, backed by Rwanda and Uganda. Various militias and proxies of neighbouring countries fight over resources, including gold, diamonds, coltan and timber. Fighting continues for next 5 years.

January 2001 - Laurent Kabila assassinated. Kabila's son, Joseph assumes presidency.

December 2002 - Most rebels and Kabila's government sign 'All Inclusive Agreement', under which Kabila remains as president, with 4 vice-presidents to be drawn from the rebel groups.

June 2003 - Transitional government established. National elections planned for 2005/06

per capita income in DRC is presently the lowest in the world, at \$90 per year [4]; average income in rural, forested, areas is likely to be lower than the average.

The economic chaos of the Mobutu decades, and failure to invest in infrastructure, has meant that much of the forest has not been exploited industrially, although a few (mostly foreign) companies have had access to large areas for logging. The German group, Danzer, for example, has for many years held logging concessions extending over 2.4 million hectares [5].

New forest laws, and the World Bank

Although recent rates of deforestation in DRC have been relatively low, the forests are now coming under great pressure, particularly from commercial logging.

In August 2002, a new Forest Code was adopted by the (unelected) Interim Government of DRC [6]. The Code sets out the basic 'framework' for the DRC Government's forest policy, such as that the government continues to assert state ownership over all areas of forest. Certain categories of forest are broadly defined, such as for 'exploitation', 'community use' and 'conservation'. The development and adoption of the Code was supported financially by the World Bank, and was broadly modelled on the Forest Law that the Bank developed for Cameroon

in 1994.

Following the adoption of the Code, in January 2003, a project was set up, also with World Bank (and other donor) funding, under which the specific legal decrees to implement the framework Forest Code would be developed and adopted. The project is being implemented under a Technical Cooperation Programme run by the UN Food and Agriculture Organisation (FAO). The project is also developing a 'zoning' system for DRC's forests, under which the country's entire forest area will eventually be divided up into areas for logging, conservation, and other uses [7]. This project is due to be completed by October 2004.

The World Bank has taken some positive steps to reform the timber industry in DRC. For example, the Bank has pressed the Government of DRC to cancel a number of existing logging contracts, and to revoke 6 million hectares of logging concessions that were allocated, in contravention of the new Forest Code, to a Portuguese company. The Bank has also urged that the level of forestry taxes should be increased substantially, in order to generate greater revenues for the Congolese Treasury. However, these changes have been resisted by the logging industry: forestry taxes remain very low (\$0.06 per hectare [8]), and logging has continued in illegally allocated concessions.

Despite the apparent failures to bring the existing forest exploitation under control, the World Bank has been closely involved in discussions with the Government of DRC about a massive expansion of the country's timber industry. The industry has declined in recent years, but World Bank documents refer to a possible 60-100-fold increase of timber production to around 6-10 million cubic metres of timber per year [9]. Bank documents also refer to the 'creation of a favourable climate for industrial logging' [10]. According to the Bank, an area of some 60 million hectares (somewhat larger than the size of France) is considered as 'production forests' [11].

Peoples participation? A lesson in how not to make policy...

Despite expressed policies and general commitments from both the World Bank and the UN FAO, there has been virtually no consultation with civil society or forest communities over the new Forest Code or the legal decrees that will implement it. In November 2003, the Rainforest Foundation organised a meeting in Kinshasa with representatives of leading civil society organisations from across DRC concerned with conservation, development and human rights. At this meeting, it was clear that almost no-one within DRC (apart from a small group of government officials and their consultants, and some members of the private sector), were even aware of the existence of the new Forest Code, let alone the far-reaching changes which are envisaged [12].

By November 2003, 15 legal decrees to implement the Forest Code had already been drafted or were planned, of which 6 had been immediately passed for official authorisation, having been deemed as 'needing no consultation'. Nine decrees were at various stages of 'discussion and consultation', but of these, only three had been made available to the three small 'civil society' organisations involved in the project.

In November 2003, representatives of DRC's civil society asked for greater participation in the process of drawing up the new legal decrees about forestry. This request has been accepted by the Government of DRC, but consultation has not yet actually commenced.



The Twa of eastern DRC - victims of a brutal civil war. Congo's pygmies now face the devastation of the forests by logging companies.

The reasons for concern

The Rainforest Foundation believes that the proposed 'development' of DRC's forests, and the way in which this is being undertaken, presents a number of serious dangers:

* The proposed expansion of the logging industry **does not take into account the findings of the UN Security Council Expert Panel** on the Illegal Exploitation of Natural Resources in DRC, nor with UN Security Council Resolution 1457 (January 2003), which encouraged "*States, international financial institutions, and other organizations to assist...in efforts to create appropriate national structures and institutions to control resource exploitation*" in DRC.

Given the speed with which the 'development' of Congo's forests is being pursued, there is no prospect that 'appropriate national structures' will be in place before vast

areas of the country's forest land are handed out to companies and individuals, some of whom may well have been associated with, or benefited from, the conflict over DRC's natural resources. The experience in other countries, such as Cameroon, has been that, without very close regulation, the logging industry is extremely susceptible to corruption and malpractices, and that this can have a pervasive corrupting effect on government and administrative structures more widely. We believe that this could have serious, negative long-term results if allowed to develop in DRC.

* The World Bank's approach to the development of DRC's forests appears to be **based on the assumption that the expansion of industrial logging will necessarily bring economic benefits to the country's poor people**. However, there is very little evidence from other comparable countries that this assumption is valid. In fact, the evidence from countries such as Cameroon has been that communities living in the forest - often the poorest of the poor - are further impoverished, as the logging industry can destroy resources upon which forest people depend for their very subsistence, including small-scale forest farms, supplies of fresh water, wild game, fruits and oils, and natural medicines.

The development of a large-scale logging industry in DRC could therefore have serious negative impacts on millions of poor people.

* The approach being taken by the Bank also appears not to fully recognise that, as elsewhere in Africa, **communities that have been present for hundreds or even thousands of years lay claim to large areas of Congo's forests under 'traditional rights'**. Again, the experience in countries such as Cameroon has been that the failure to properly recognise such rights and claims when 're-zoning' forest areas and allocating logging concessions can result in serious, persistent and violent social conflict.

The adoption of new legal decrees, without ensuring public 'ownership' of those laws, is likely to lead to serious problems of implementation, and will potentially also fuel social conflict.

* According to the World Bank, the projects under which its forest sector initiatives in DRC have been financed were categorised as 'Environmental Category 'A' projects, " *because the scale and nature of the project activities, and the potential for resettlement, displacement and social tensions due to the project are significant*". Various of the Bank's 'safeguard' Operational Policies, including those concerning Forestry (OP 4.36), Natural Habitats (OP 4.04), Involuntary Resettlement (OP 4.12), and Indigenous Peoples (O.P 4.20) were 'triggered' by the projects. The Bank is supposed, by June 2003, to have conducted a full Strategic Environmental Assessment and "sub-project Environmental Assessments" of its planned activities in DRC.

As yet, the Rainforest Foundation has seen **no evidence of steps taken by the Bank to ensure proper compliance with these Operational Policies**, nor that the Strategic Environmental Assessment has actually been undertaken. We therefore believe that the Bank may have acted in serious breach of its own Operational Policies.

Many of these issues have also been raised by Congolese environmental, human rights and developmental organisations, more than 100 of which signed on to a letter of concern sent to the World Bank and the FAO in February 2004 [13].

Recommendations

On 2nd December, 2003, the Rainforest Foundation wrote a detailed letter to the World Bank, seeking clarification about its involvement in forestry in DRC, and raising a number of the above concerns. By February 11th, 2004, we had received no substantive response.

The Rainforest Foundation appreciates that there is a need to 'kick-start' the Congolese economy, and also that the World Bank and other agencies such as the FAO can encourage important and necessary dialogue about forest policy within countries such as DRC. We also appreciate that there is potentially a place for commercial exploitation of timber in DRC's forests. However, we believe strongly that this should not occur at the expense of the rights and livelihoods of perhaps tens of millions of poor forest-dwellers. We believe that a hasty approach could result in serious, long-term social conflict, will have negative effects on the most vulnerable in Congolese society, and will cause long-term or irreversible environmental damage.

The Rainforest Foundation therefore makes the following recommendations:

1. **The World Bank should clarify its intentions, plans and strategy for the forests of DRC.** In particular, the Bank should give a detailed account of the steps that have been taken to ensure compliance with the relevant Bank Operational Policies of its three most recent projects in DRC. The Bank should also provide documented evidence that the expansion of DRC's industrial logging industry will provide a greater benefit for poor rural people in DRC than other options, such as supporting the recognition of community rights over forests, the development of community-based forestry, and management of 'non-timber forest resources'.
2. **The Forest Code, and any legal decrees which have already been adopted should be reviewed** through an inclusive and participatory process, and amended if necessary.
3. International agencies including the World Bank,

the FAO and other donors should establish a process to ensure that **the forest zoning process in DRC takes full account of traditional and customary rights** and claims by forest communities, and that the particular circumstances of hunter-gatherer people such as the Twa and Mbuti are also properly addressed.

4. There should be a thorough **'stakeholder analysis' of the political economy of the forest sector before any further development of industrial logging in DRC**. This should draw on the work of the UN Expert Panel and other relevant studies [14], and should identify the interests of specific individuals and organisations in the development of the DRC Forest Sector. These interests should be analysed in relation to the potential for poor, forest-dependent, communities to benefit from forest resources. The study should be produced through a consultative and multi-stakeholder process.

5. The current process of **development of the legal decrees for forestry should be suspended** until such time as the actions recommended above in 1-4 have happened and been fully documented.

6. Following the above, the process of developing new legal decrees for forestry in DRC should be **extended to ensure proper and meaningful consultation with civil society**, and that the views of forest peoples and communities are incorporated into the relevant texts.

7. The World Bank and other international donors should ensure that **'transparency' in the DRC forest sector is guaranteed in law**, such that civil society is assured access to the information necessary to monitor compliance with the relevant laws.

References

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- [3] Vansina, J. Paths in the Rainforests: Towards a History of Political Tradition in Equatorial Africa. James Curry, London 1990.
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- [5] European Tropical Forest Research Network. ETFERN News, 39/40: Globalisation, localisation and tropical forest management, undated, accessed at http://www.etfrn.org/etfrn/newsletter/news39/nl39_oip_4_2.htm, 27/1/04.
- [6] GoDRC, loi n° 011/2002 Code Forestiere, 29th August 2002
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- [8] World Bank, Democratic Republic of Congo, Mission de Suivi Sectoriel, 1-12 July, 2003.
- [9] World Bank, Democratic Republic of Congo, Mission de Suivi Sectoriel, 17-27 April 2002.
- [10] World Bank, Democratic Republic of Congo, Mission de Suivi Sectoriel, 1-12 July, 2003.
- [11] World Bank, Democratic Republic of Congo, Mission de Suivi Sectoriel, 17-27 April 2002.
- [12] The World Bank itself is fully aware of the problem of lack of 'public ownership' of the new Forest Code, through the study that it commissioned from the Centre National d'Education Mésologique. The April 2003 report of this study revealed that, in a sample of 32 community members in three of DRC's provinces, only two people even knew of the existence of the Code and none knew anything about what it contained. Even among Forest Department staff, only 10 out of 28 staff knew anything about the contents of the new Code.
- [13] CENADEP/CNONGD. Le devenir des forets de la Republique Democratic du Congo et des populations vivant dans ces forets, 12th February, 2004
- [14] Such as that conducted by ARD - see ARD, Conflict Timber: Dimensions of the Problem in Asia and Africa, Volume III, African Cases, USAID/ARD, Burlington, USA, 2003.