

Report No. 35192

The Inspection Panel

Report and Recommendation

Democratic Republic of Congo: Transitional Support for Economic Recovery Credit Operation (TSERO) (IDA Grant No. H 192-DRC) and Emergency Economic and Social Reunification Support Project (EESRSP) (IDA Credit No. 3824-DRC and IDA Grant No. H 064-DRC)

February 08, 2006

The Inspection Panel

Report and Recommendation On Request for Inspection

Democratic Republic of Congo: Transitional Support for Economic Recovery Credit Operation (TSERO) (IDA Grant No. H 192-DRC) and Emergency Economic and Social Reunification Support Project (EESRSP) (IDA Credit No. 3824-DRC and IDA Grant No. H 064-DRC)

1. On November 19, 2005, the Inspection Panel received a Request for Inspection,¹ dated October 30, 2005, related to two Projects regarding Democratic Republic of Congo (DRC): Emergency Economic and Social Reunification Support Project (EESRSP) (IDA Credit No. 3824-DRC and IDA Grant No. H 064-DRC) and Transitional Support for Economic Recovery Credit Operation (TSERO) (IDA Grant No. H 192-DRC). The Projects are part of a series of Bank² funded instruments to support, *inter alia*, forest sector reform in DRC. The Request received was in French. The Panel registered the Request on December 1, 2005.
2. The Organisations Autochtones Pygmées et Accompagnant les Autochtones Pygmées en République Démocratique du Congo submitted the Request on their own behalf and on behalf of affected local communities living in the Democratic Republic of Congo. Representatives of local communities of Kisangani in the Orientale Province, of Béni and Butembo in the Nord-Kivu Province, of Kinshasa/Mbandaka and Lokolama in the Equateur Province, of Inongo in the Bandundu Province, of Kindu in the Maniema Province, and of Bukavu in the Sud-Kivu Province, are signatories to the Request. The Request for Inspection includes 32 annexes.

¹ Hereinafter called "the Request."

² In this report the term "Bank" refers to the International Development Association.

A. The Projects

1. The Emergency Economic and Social Reunification Support Project (EESRSP)

3. **Project objective:** The EESRSP's objectives are three-fold: to “[h]elp restore or introduce a sound economic governance system throughout the country;” to “[c]omplement actions currently underway to address urgent needs ... by financing rehabilitation activities in reunified provinces;” and to “prepare for the rapid extension of the EMRRP [Emergency Multi-Sector Rehabilitation and Reconstruction Program] to all parts of the country.....”³
4. **Project components:** The Project includes five components which aim either at supporting implementation of economic reforms in DRC or at addressing urgent needs and activating implementation mechanisms in reunified provinces. These components are: 1. Balance of Payments Support; 2. Institutional Strengthening; 3. Infrastructure Rehabilitation; 4. Urban Rehabilitation; and 5. Community Empowerment.
5. The Request focuses on the “Institutional Strengthening” component of the EESRSP, which, *inter alia*, has as an objective to help restore effective institutions in the forestry sector in those provinces that have been reunified. It is intended to help improve local governance over natural resources, and in particular to help bring the new Forestry Code into practice and to address the problem of illegal logging.
6. The institutional component of the Project sets out two priorities. The first is the preparation of a forest zoning plan that focuses particularly on Equateur Province and Orientale Province. According to the Technical Annex, “[t]his is critical to secure land rights and transparent access to forest resources for all stakeholders. The Project will finance mapping services and verifications on the ground, socio-economic assessments, facilitation of local consultations to help Government and local stakeholders organize rural areas in three broad categories according to their primary objectives (rural development, sustainable production, environmental production). The project will also provide basic training and equipment for forestry services to lead the planning process.”⁴

³ Memorandum and Recommendation of the President of the International Development Association to the Executive Directors on a Proposed Grant in the Amount of SDR 117.0 Million (about US\$164 Million equivalent) and a Proposed Credit in the amount of SDR 35.7 Million (about US\$50 Million equivalent) to Democratic Republic of Congo for an Emergency and Social Reunification Support Project, August 14, 2003, Report No: P7601-ZR, p. 10 [hereinafter “MOP”].

⁴ Technical Annex for the Proposed Grant in the amount of SDR 117.0 million (about US\$164 million equivalent) and the Proposed Credit in the amount of SDR 35.7 million (about US\$50 million equivalent) to Democratic Republic of Congo for an Emergency Economic and Social Reunification Support Project, August 14, 2003, Report No:T7601-ZR, pp. 28-29 [hereinafter “Technical Annex”].

7. The institutional component's second priority is to "[l]ay the ground for implementation of the new law's forest concessions with a focus on converting old forest contracts into the new concession regime."⁵ According to the Technical Annex, "[t]he Project will finance methodological support and field verifications to: assess compliance with past obligations; re-design concessions boundaries where appropriate; and monitor preliminary steps by concession holders towards developing sound forest management plans. The Project will also support the setting up of a forest information system, and the re-activation of communication between central and local forestry services, as well as basic training and equipment to strengthen capacity of forestry services."⁶

2. Transitional Support for Economic Recovery Credit Operation (TSERO)

8. **Project objectives:** One of the TSERO's objectives is to improve governance in the natural resources sector. The Program Document for the TSERO states that "[p]rior to and during the conflict, the majority of the country's forests with commercial potential were allocated to rent seekers and interest groups: logging contracts were signed without transparency or local consultation, and yielded little or no benefits to rural communities or to the country as a whole. With the return of peace and rehabilitation of infrastructure, activities in the forestry industry are likely to resume and intensify. The challenge for the country is to ensure that these activities bring tangible benefits to the population at large, and especially to the poor."⁷
9. **Program elements:** The Program Document lists specific reforms supported by the TSERO grant, such as the extension of the moratorium on issuing new forestry concessions until "(a) the legal review of all existing concessions are [sic] complete, (b) new auction procedures are adopted, and (c) a three year strategy for allocating new concessions has been adopted in a transparent manner."⁸ The legal review of forestry concessions is to be done by "(a) adopting a new presidential decree specifying credible and transparent procedures, (b) publishing the list of existing concessions, and (c) recruiting an independent expert (legal advisor) to ensure transparency and objectivity in the review process."⁹

⁵ Technical Annex, p. 29.

⁶ Technical Annex, p. 29.

⁷ Program Document for a Proposed Grant in the Amount of SDR 62.1. Million (US\$ 90 Million equivalent) to Democratic Republic of the Congo for a Transitional Support for Economic Recovery Operation, November 8, 2005. Report No. 33785-ZR, p. 10 [hereinafter "Program Document"].

⁸ Program Document, p. 20.

⁹ Program Document, p. 20 – 21.

B. Financing

10. The EESRSP is supported by an IDA Credit of SDR 35.7 million¹⁰ and an IDA Grant of SDR 117.0 million¹¹ to DRC, approved on September 11, 2003. The Credit and Grant Agreements became effective on December 5, 2003. The closing date is set for September 30, 2008.
11. The TSERO was approved on December 8, 2005 and is supported by an IDA Grant of SDR 62.1 million to DRC.¹² The Grant Agreement became effective on December 27, 2005. The expected closing date is December 31, 2006.

C. The Request

12. The Requesters claim that they have been harmed and will be harmed by the forestry sector reform activities supported by the EESRSP and the TSERO. They are concerned about possible negative effects of a forest zoning plan under preparation with IDA support and fear the implementation of a new commercial forest concession system that may cause irreversible harm to the forests where they live and on which they depend for their subsistence.
13. The Requesters state that the EESRSP includes the preparation of a forest zoning plan for the forests of the Equateur Province and Orientale Province, where the Pygmies have lived for a long time. The Requesters claim that, if the zoning of the forests occurs without consulting the indigenous peoples and considering their interests and if new forest concessions are assigned, the Bank will be ignoring its own forestry policies and procedures and will be supporting the violation of indigenous peoples' rights and harming their interests.
14. The Requesters claim that the implementation of the EESRSP as it now stands will lead to violations of their rights to occupy their ancestral lands, maintain the integrity of their traditional lands, access their traditional lands and existing resources, manage their forests and resources according to traditional knowledge and practices, and protect their cultural and spiritual values. They claim this would then lead to the destruction or loss of their natural living environment and their means of subsistence, impose or force change in their way of life, and cause serious social conflict.
15. The Requesters assert that their "*grievances concern the failings and negligence of the World Bank.*"¹³ The Requesters believe that "[b]y failing to implement any safeguards, the World Bank, without any input from civil society or involvement of the indigenous communities, opted to hastily adopt a

¹⁰ US\$ 50 million equivalent at the time of Credit approval.

¹¹ US\$ 164 million equivalent at the time of Grant approval.

¹² US\$ 90 million equivalent at the time of Grant approval.

¹³ Request, p. 1.

*Congolese Forest Code...*¹⁴ According to the Requesters, the EESRSP is based on this Forest Code and fails to take into account their interests. In particular, they claim that the Bank failed to comply with its policies and procedures regarding environmental assessment, indigenous people, forests and supervision.

Environmental Assessment

16. The Requesters contend that the EESRSP was erroneously classified as Category B under OP 4.01 on Environmental Assessment. Because of the sensitive impacts of the policies to be implemented under the Projects, in particular the announcement of a national zoning plan and the existence of indigenous communities, the Requesters contend that the Project should have been classified as Category A.
17. The Requesters stress that *“the type of management and, in the long term the survival of the forests in DRC, will depend on the forest zoning activity.”*¹⁵ They note that *“[c]onsequently, it may have a significant environmental and social impact, especially since a zoning plan is being prepared for all of the country’s forests, the second largest tropical area in the world, inhabited primarily by indigenous Pygmy peoples who depend directly on these very forests for their survival.”*¹⁶
18. According to the Requesters, an African case study¹⁷ supports their concern *“by highlighting the significant impacts that could be produced, from both an environmental and human perspective, from what the study refers to as the start of a logging boom.”*¹⁸
19. The Requesters note that the preparation of the environmental assessment was delayed more than twelve months after the Development Financing Agreement for the Project became effective (December 5, 2003), and that the environmental assessment is still not available.

Indigenous Peoples

20. The Requesters state that in the EESRSP, the Bank ignored OD 4.20 on Indigenous Peoples, despite the presence of indigenous Pygmies people in the Project implementation area. They explain that the Pygmies’ *“existence,*

¹⁴ Request, p. 4.

¹⁵ Request, p. 7.

¹⁶ Request, p. 7.

¹⁷ ARD, Conflict Timber: Dimensions of the Problem in Asia and Africa, Volume III, African Cases, USAID/ARD, Burlington, USA, May 2003.

¹⁸ Request, p. 7.

survival, cultural identity, and traditional knowledge are intimately linked to the forest, their element and life source which they revere.”¹⁹

21. According to the Requesters, OD 4.20 should apply to the EESRSP. They reject the Bank’s claim that the Project is not expected to include activities in indigenous peoples’ areas and claim this does not correspond to the reality on the ground. They note that the Pygmies were the first inhabitants of the region and have lived and traveled in the forests of the Equateur and the Orientale Provinces for centuries, even millennia.
22. The Requesters further allege that the Bank prepared terms of reference for a pilot zoning plan covering the axis Maringa-Lopori-Wamba and that these terms of reference recognized the presence of Pygmies’ indigenous communities in these forests.

Forestry

23. The Requesters further state that Bank activities pertaining to the forestry sector in DRC are not consistent with OP 4.36 on Forests. They claim that the activities lack popular legitimacy, as they are being implemented without adequate consultation and do not respond to indigenous peoples’ concerns or to the requirements for sustainable management of the Congolese forests and the development of their inhabitants.
24. The Requesters fear that under the EESRSP, the Bank plans to lay the foundation for implementing a new forest concession system which will lift the moratorium on granting titles to exploit forests and result in granting new forest concessions, even though the zoning plan would not have been prepared. They fear that this concession system will lead to the revival of the logging industry without any mechanisms for effective control or for ensuring transparency. The Requesters further add that *“[s]hould this theory be borne out, the rights and interests of the indigenous Pygmy peoples would be seriously undermined, and they would not have been consulted, and, therefore not have been able to defend their rights to their traditional lands, which quite often cover wide areas, and are essential to their traditional nomadic practices and activities*”²⁰
25. The Requesters believe that the Bank supports the implementation of the idea that *“development will come from industrial logging.”*²¹ They note that no regulation related to the rights and interests of local communities or to environmental protection has been adopted. They claim that the EESRSP forest component performance indicators refer only to the number of new concessions granted, without considering risks from a failure to consult indigenous people

¹⁹ Request, p. 5.

²⁰ Request, p. 6.

²¹ Request, p. 9-10.

or to suspend the moratorium prematurely. The Requesters note that according to the Bank's own estimates, the policies supported by the Bank will ensure 60 million hectares of forests are available for forest production, which constitutes three-quarters of the 80 million hectares of tropical forests in DRC.²²

26. The Requesters also refer to a Bank-financed structural adjustment credit, the Economic Recovery Credit, approved in May 2002 and to the DRC Forest Code adopted in August 2002 as a condition of the Credit. According to the Requesters, the EESRSP is based on the Forest Code, which sets the policy framework for the country's forest management and was adopted without the participation of civil society or the involvement of the indigenous population and without implementation of any safeguards.

Further Claims

27. The Requesters argue that the type of lending instrument used (an Emergency Recovery Loan) resulted in the Bank bypassing its safeguard policies and procedures related to environment, forestry, and indigenous peoples. According to the Request, "*[t]he current framework for the future management of the Congolese forests is based on a legislative text that clearly establishes an industrial logging system, thereby marginalizing local communities, and in no way recognizing the indigenous peoples or their specific needs.*"²³ Thus, the Requesters state that the Bank's forest activities in DRC are developed "*using a foundation which, in the eyes of the people, lacks legitimacy and fails to address the concerns of the indigenous peoples and the issues related to sustainable development....*"²⁴
28. The Requesters also express concerns with regard to the TSERO, which includes a component on forestry sector governance. They state that although they have not been granted access to the details of this component, they fear that if the TSERO is approved in the same form as the previous EESRSP and the earlier Economic Recovery Credit, "*it would allow the application of the Bank's safeguard policies and procedures to be sidelined*", "*reinforcing the industrial approach outline[d] in the Forest Code,*" "*risk marginalizing indigenous people even more,*" and build upon flawed and inadequate forestry sector reforms already in place.²⁵ This would threaten their rights and their survival.
29. The Requesters claim that because of the above-mentioned Bank failures the policies supported "*do not appear to lay a solid foundation for zoning.*"²⁶ Moreover, the Requesters warn that, if the zoning of the forests were to be

²² Request, p. 9.

²³ Request, p. 4.

²⁴ Request, p. 4.

²⁵ Request, p. 4-5.

²⁶ Request, p. 8.

carried out without consultations of affected people and without taking their interests into account, and after the new forest concessions have been allocated, this would result in “1. *The violation of their rights to occupy their ancestral lands; 2. The violation of the integrity of their traditional lands; 3. The violation of their right of access to their traditional lands and the resources found thereon; 4. The violation of the right to manage their forests and the resources located therein, in keeping with their traditional knowledge and practices; 5. The violation of their cultural and spiritual values.*”²⁷

30. These violations and damages, the Requesters believe, would lead to “*destruction and/or loss of their natural living environment,*” “*the elimination of their means of subsistence,*” “*an imposed, even forced, change to their lifestyle*” and “*[s]erious social conflicts.*”²⁸ The Requesters further warn that “*[t]hese negative impacts would further impoverish the poorest and most marginalized segments of the Congolese population, thereby jeopardizing all prospects for sustainable development.*”²⁹
31. The Requesters state that they have tried several times to have the Bank clarify its real motivations and to explain its failure to apply its own policies and procedures, but without success. They also list several meetings and exchanges they had with the Bank and state that these did not provide any substantial answers to the concerns and recommendations of the organizations of the Pygmy indigenous people or of civil society generally.
32. For the existing EESRSP, the Requesters ask that the Bank implement OP 4.20 on Indigenous Peoples, reconsider the EESRSP classification under OP 4.01, so that it is classified as Category A rather than B, and disclose the EESRSP’s environmental assessments. They further request that their concerns and observations be considered as part of the approval process for new projects having a forest component, such as the TSERO.
33. The Panel notes that the above claims may constitute violations by the Bank of various provisions of the following operational Policies and Procedures:

OP/BP 4.01	Environmental Assessment
OP 4.12	Involuntary Resettlement
OD 4.15	Poverty Reduction
OD 4.20	Indigenous People
OP/BP 4.36	Forestry
OP/BP 8.50	Emergency Recovery Assistance
OPN 11.03	Cultural Property
OP/BP 13.05	Project Supervision
BP 17.50	Disclosure of Information

²⁷ Request, p. 8-9.

²⁸ Request, p. 9.

²⁹ Request, p. 9.

D. Management Response

34. On January 13, 2005, Management submitted its Response to the Request.³⁰ The Response provides background information on the context of the EESRSP and the TSERO, describes the challenges experienced during Project implementation, discusses the issues raised in the Request, and includes a section on lessons learned and next steps. The Response includes eleven Annexes.

Response to Requesters' Claims

35. Management states that it *believes that the Bank made every effort to apply its policies and procedures ...* and that *“the Requesters’ rights or interests have not been, nor will they be directly and adversely affected by a failure of the Bank to implement its policies and procedures.”*³¹ However, Management recognizes that *“with respect to the EESRSP, the Bank was not in full compliance with processing provisions of OP 4.01, and OD 4.20 should have been triggered during project preparation, even if the component in question, the PFZP [Pilot Participatory Forest Zoning Plan], was subsequently dropped from the Project before being started.”*³² Management asserts that *“the complaint is based on two hypothetical assumptions that prove to be unfounded (i.e., the Bank-supported zoning will not be participatory, and the Bank pushes for rapid allocation of new concessions).”*³³
36. With regard to the environmental categorization of the Project, Management asserts that the EESRSP was classified correctly as Category B. With regard to the institutional strengthening component of the EESRSP, Management asserts that *“technical assistance operations for institutional strengthening are usually classified as category C”* and that *“[c]ategory A would not have been appropriate for this component.”*³⁴ According to Management, the forest zoning plan was not expected to have widespread or adverse impacts, because it was planned at a pilot scale and as part of a *“policy package aimed at halting illegal use of forests and promoting participatory conservation and sustainable management of forest resources....”*³⁵
37. In response to the Requesters’ claim that the preparation of a Forest Zoning Plan and the existence of indigenous communities would have called for

³⁰ Bank Management Response to Request for Inspection Panel Review of the Democratic Republic of Congo: Transitional Support for Economic Recovery Operation (Grant No. H 192-DRC) and Emergency Economic and Social Reunification Support Project (Credit No. 3824-DRC and Grant No. H 064-DRC) [hereinafter “Management Response”].

³¹ Management Response, p. 23, ¶ 63.

³² Management Response, p. 23, ¶ 63.

³³ Management Response, p. 24, ¶ 65.

³⁴ Management Response, p. 25, Annex 1, item 1.

³⁵ Management Response, p. 25, Annex 1, item 1.

classification as Category A, Management states that these two aspects do not *per se* require a project to be placed into Category A.

38. Management considers the Pilot Forest Zoning Plan to be an important element of a Bank-supported strategy. However, Management underscores that the Pilot Forest Zoning Plan (PFZP) was dropped from the EESRSP in July 2005. Management notes that the Bank provided support for preparing the TORs of the PFZP. According to Management, the TORs of the PFZP emphasize the role of consultation as a means to identify and preserve the customary rights that the local communities enjoy over the forests.
39. In response to the Requesters fears about the effect of zoning on the awarding of new concessions, Management notes that the moratorium on allocating new concessions was established to avoid having new concessions allocated too quickly and in an inappropriate way. In response to the Requesters' criticism that the number of new concessions attributed in a transparent manner is an inappropriate performance indicator for EESRSP, Management admits that this it not a good indicator and states that it will replace this indicator with a more appropriate one.³⁶
40. Management challenges the Requesters' claims regarding the application of OP 8.50 and the direct effect of the delay in implementing OP 4.01 on Environmental Assessment and OP 4.36 on Forests. Management explains that OP 4.01 allows the Bank to exempt the Project from its requirements when compliance with any of its provisions would prevent the effective and timely achievement of the objectives of an emergency recovery project. Management emphasizes that it did not decide not to implement safeguard policies. According to Management, completion of the Environmental Assessment and Environmental and Social Management Framework (ESMF) were delayed because of procurement issues. Management admits that in this respect it did not comply with OP 4.01, but states that it intends to be in compliance by February 2006.
41. As to the Requesters' criticism of the Bank's decision not to apply OD 4.20 on Indigenous Peoples to EESRSP activities, Management explains that "*OD 4.20 was not triggered because the design of the project as reviewed at concept stage did not reveal the existence of Pygmy communities in project-affected areas.*"³⁷ However, Management believes that OD 4.20 should have been triggered when the PFZP was added. With regard to the infrastructure component of the Project, Management confirms the existence of Pygmies in the affected area and states that an Indigenous Peoples Plan will be prepared.
42. Though Management admits that the Bank's work in DRC has been dominated by issues that deal with logging and with industry, it disagrees with the

³⁶ Management Response, p. 33, Annex 1, item 5.

³⁷ Management Response, p. 33, Annex 1, item 6.

Requesters' assertion that the Bank's forestry sector operations in DRC are based on the notion that development comes from industrial logging.³⁸ It claims that the Bank is "*trying to introduce good governance in a system that has suffered from corruption, and where the majority of the production forests were under some form of logging contract.*"³⁹ Management claims that its efforts have led to an unprecedented decrease of the areas that are under concessions.

43. According to Management, the Forest Code introduces innovations such as: traditional users' rights, including those of indigenous peoples; contributions to rural development; enhancement of the rights of local communities; and transparent allocation of future logging rights. Management is of the opinion that the Forest Code serves as a good basis for improving forest management. Management is mainly concerned with the Government's capacity to develop and enforce the implementing regulations and states that many of these regulations are still lacking.
44. In response to the Requesters' concerns about violations of cultural and spiritual values, Management asserts that the pilot zoning plan does not threaten physical cultural property.
45. Concerning Project supervision with regard to the EESRSP, Management notes that four to five technical missions have taken place annually since 2002 and that these missions have focused on deepening the Bank's understanding of forest management in DRC. Management further states that since November 2004, its supervision has been strengthened by a full-time environmental economist based in Kinshasa.⁴⁰ In its response, Management includes a list of supervision missions.
46. According to Management, dialogue with local NGOs took place in late 2003 in the context of preparing the Economic and Sector Work (ESW). Management's Response notes that the Bank helped organize the first multi-stakeholder forest forum in DRC in November 2004.

Lessons Learned and Next Steps

47. The section in Management's Response on "Lessons Learned and Next Steps" addresses several difficulties that the Bank has faced and is facing in DRC. Management emphasizes the "*importance of featuring natural resources prominently in the reform agenda at the time of re-engagement and using appropriate instruments to support implementation.*"⁴¹ It states that at the time of re-engagement in the DRC, it was useful to place natural resource

³⁸ Management Response, p. 30-31, Annex 1, item 5.

³⁹ Management Response, p. 32, Annex 1, item 5.

⁴⁰ Management Response, p. 23, para. 28. Management's Response in Annex 1 refers to the person as a "forest expert." Annex 1, item 11.

⁴¹ Management Response, p. 20 ¶ 55.

management high on the Bank's agenda to "*avert misappropriation of forest resources during the period that followed reunification.*"⁴² According to Management, the arrival of a new Minister in DRC "*slowed down, if not reversed*" the reform.⁴³ Management questions whether it should have focused on capacity building for the Ministry of Environment rather than on the zoning plan and the review of concessions.

48. Management is aware that the "*Bank needs to undertake more proactive efforts to inform interested Governments and NGOs.*"⁴⁴ With regard to outreach to indigenous peoples, Management claims that it understood the importance of reaching out to Pygmy groups but states that its efforts were restricted to policy dialogue and to contacts with stakeholders in Kinshasa because the forest areas were still inaccessible. According to Management, "*Bank efforts were hampered by the difficulty in eliciting a unified response from the various interlocutors who claimed to represent the Pygmies.*"⁴⁵ Management acknowledges that a more proactive outreach "*would have perhaps enabled the Bank to rely less on advocacy groups and, instead, establish more direct lines of communication with Pygmy leaders and communities.*"⁴⁶
49. Bearing these lessons in mind, Management states that with regard to the forest sector work, it will plan the following steps: consider activities to strengthen institutions and provide an overall framework for other Bank-supported forest activities in DRC; establish a proactive forest information and outreach program as well as more direct lines of communications with indigenous communities, including Pygmies, to make certain that in future Bank operations they receive social and economic benefits that are culturally appropriate; and ensure that future Bank lending in the forest sector and other initiatives such as the zoning plan include measures that strengthen the legal and customary rights and preserve the cultural heritage of indigenous communities including the Pygmies.⁴⁷

E. Eligibility

50. The Panel must determine whether the Request satisfies the eligibility criteria for an Inspection, as set forth in the 1993 Resolution establishing the Panel and the 1999 Clarifications, and recommend whether the matter alleged in the Request should be investigated.

⁴² Management Response, p. 21 ¶ 55.

⁴³ Management Response, p. 21 ¶ 56.

⁴⁴ Management Response, p. 21 ¶ 57.

⁴⁵ Management Response, p. 22 ¶ 58.

⁴⁶ Management Response, p. 21 ¶ 58.

⁴⁷ Management Response, p. 23 ¶ 62.

51. The Panel has reviewed the Request and Management's Response. The Panel Chairperson, Edith Brown Weiss, together with Panel member Werner Kiene, Executive Secretary Eduardo Abbott and Panel Operations Officer Serge Selwan, visited DRC from January 19 through January 26, 2006. During their visit, the Panel Members met with the signatories of the Request for Inspection and affiliated groups, Governmental officials, nongovernmental organizations, representatives of the forest industry association, and local and international technical experts. The Panel visited Equateur and Orientale provinces and met with Requesters and other affected people in Kisangani, Mbandaka, Bikoro and nearby areas.
52. The Panel is satisfied that the Request meets all of the eligibility criteria provided in the 1993 Resolution and Paragraph 9 of the 1999 Clarifications.
53. During the visit, the Panel confirmed that the Requesters are legitimate parties under the Resolution to submit a Request for Inspection to the Inspection Panel. The persons who signed the Request live in Project-affected areas, have a common interest and common concerns, and reside in the Borrower's territory, as required by Paragraph 9(a).
54. The Panel notes that the Request "*assert[s] in substance that a serious violation by the Bank of its operational policies and procedures has or is likely to have material adverse effect upon the requesters.*" Paragraph 9(b).
55. During the Panel's visit, the Requesters and other affected people stressed their grave concern about the destruction of their livelihoods, which depend upon the forests. Most of the Requesters claim to be indigenous people who have centuries old ancestral ties to the forests and are dependent upon access to and use of the forests for income. They fear that the Project will destroy their way of life and their culture, which relies on forests.
56. The Requesters allege that the World Bank actions constitute a violation of Bank policies and procedures on forests, environmental assessment, indigenous peoples and supervision, among others, and that these actions have had or could have a significant adverse effect on the Requesters' rights, as required by Paragraph 9(b).
57. The Panel confirmed that the World Bank has been aware from the outset of concerns from civil society about the Project's adverse effects on people inhabiting concession areas, and that for the last four years numerous complaints about the Project, including from people represented in the Request for Inspection, have been brought to the Bank's attention.
58. The Panel is therefore satisfied that the Request "*does assert that the subject matter has been brought to Management's attention and that, in the Requesters' view, Management has failed to respond adequately demonstrating*

that it has followed or is taking steps to follow the Bank's policies and procedures." Hence, the Request meets the requirement of Paragraph 9(c).

59. The Panel notes that the subject matter of the Request is not related to procurement, as required by Paragraph 9(d).
60. The expected closing date of the related EESRSP Grant and Credit is September 20, 2008. 100 percent of the credit, but only about 25 percent of the Grant had been disbursed as of the date the Request was filed. For the TSERO, the expected closing date is December 31, 2006. The grant was approved on December 8, 2005, shortly after the Request was filed. The Request therefore satisfies the requirement in Paragraph 9(e) that the related Credit has not been closed or substantially disbursed.⁴⁸
61. Furthermore, the Panel has not previously made a recommendation on the subject matter of the Request. Therefore, the Request satisfies Paragraph 9(f).
62. The Panel notes the importance of the forestry sector for economic development in DRC. It also appreciates the importance of providing financing for activities in the post conflict reconstruction context and the difficulties in doing so. During its visit, the Panel was especially impressed that the Requesters welcomed World Bank involvement in the forest sector. However, the Requesters are very concerned about the issues raised in the Request and Bank compliance with relevant policies and procedures.
63. The Panel also observes that Management's Response underlined that the Pilot Zoning Forest Program has been dropped from the EESRSP. However, in its visit, the Panel heard from multiple different and unrelated sources, that the Bank intended to support pilot forest zoning, including drafting of the implementing regulations for zoning to the Forest Code, and that the zoning related activities would commence shortly.
64. In order to ascertain compliance or lack thereof with Bank policies and procedures in this critical forestry sector, the Panel must conduct an appropriate review of all relevant facts and applicable policies and procedures. The Requesters, Management's Response, the Panel's visit to DRC, interviews with Government officials, Bank staff, Requesters and other affected persons, confirmed that there are sharply differing views on the issues raised by the Request for Inspection.

⁴⁸ According to the Resolution that established the Panel, "*this will be deemed to be the case when at least ninety-five percent of the loan proceeds have been disbursed.*" Footnote to Paragraph 14 (c).

F. Conclusions

65. The Requesters and the Request meet the eligibility criteria set forth in the Resolution that established the Inspection Panel and the 1999 Clarifications. The Request and Management Response contain conflicting assertions and interpretations about the issues, the facts, and compliance with Bank policies and procedures.
66. In light of the foregoing, the Panel recommends that an investigation be conducted.

Some of the below listed Annexes to the Request and Management response are herein attached respectively to the Request and Management Response. The remainder of the below listed Annexes are available upon request to the Executive Secretary of the Inspection Panel.

Annexes in the Request (as listed in the Request)

- Annex 1: Emergency Economic and Social Reunification Support Project, Technical Annex, Report No. : T7601-R (attached)
- Annex 2: Emergency Economic and Social Reunification Support Project, Updated Project Information Document (PID), Report No.: AB213
- Annex 3: Emergency Economic and Social Reunification Support Project, Integrated Safeguards Data Sheet (ISDS), Report No.: AC43 (attached)
- Annex 4: Democratic Republic of Congo and the International Development Association, Development Financing Agreement, September 22, 2003
- Annex 5: Emergency Economic and Social Reunification Support Project, Preparation of a forest zoning plan, Draft terms of reference (attached)
- Annex 6: Economic Recovery Credit, Report and Recommendation of the President of the International Development Association, Report No. : P7531, May 17, 2002
- Annex 7: Democratic Republic of Congo, Sectoral follow-up mission, April 15-27, 2002
- Annex 8: Democratic Republic of Congo, Sectoral follow-up mission, July 1-12, 2003
- Annex 9: Operational Directive on Indigenous Peoples, September 1991
- Annex 10: World Bank Operational Manual, Operational Policies, O.P. 4.01, Environmental Assessment, January 1999
- Annex 11: World Bank Operational Manual, Operational Policies, O.P. 4.36, Forests, November 2002
- Annex 12: World Bank Operational Manual, Operational Policies, O.P. 4.10, Indigenous Peoples, July 2005
- Annex 13: Human Rights Commission, International Covenant on Civil and Political Rights, Review of the reports submitted by the States Parties on the application of Article 40 of the Agreement, Third Periodic Report, Democratic Republic of Congo, May 3, 2005, CCPR/C/COD/2005/3, May 3, 2005
- Annex 14: Security Council, Resolution 1457 (2003), 4691st session, January 24, 2003
- Annex 15: Permanent Forum on Indigenous Issues, Report of the second session, E/2003/43,E/C.19/2003/22, May 12-23, 2003.
- Annex 16: President of the Democratic Republic of Congo, Law No. 011/2002 of August 29, 2002 on the Forest Code
- Annex 17: President of the Democratic Republic of Congo, Decree No. 05/116 of October 24, 2005, which establishes the methods for converting old forest titles into forest concession contracts and extends the moratorium on the granting of logging concessions (attached)

- Annex 18: Centre National d'Appui au Développement et a la Participation Populaire (CENADEP), [National Center for Development and Popular Participation], Conseil National des Organisations Non Gouvernementales de Développement du Congo (CNONGD), [National Council of Congolese Development Non-Governmental Organizations], The future of forests in the Democratic Republic of Congo and the people living within these forests, February 12, 2004.
- Annex 19: World Bank Resident Representative in Kinshasa, Onno Rühi, Your letter dated February 12, 2004 on the future of the forests of the Democratic Republic of Congo and the peoples living in these forests, March 11, 2004.
- Annex 20: Rainforest Foundation, Videoconference with Mr. Wolfensohn, President of the World Bank, Transcript of the discussions, July 8, 2004
- Annex 21: CENADEP, CNONGD, Statement by the Congolese Civil Society at the Forest and Nature Conservation Forum in the DRC on November 13, 2004 in Kinshasa, November 13, 2004 (attached)
- Annex 22: Organisations des autochtones Pygmées et accompagnant les Pygmées en RDC [Indigenous Pygmy and Pygmy support organizations in the DRC]. World Bank negligence in activities involving the forests and indigenous peoples of the DRC, February 18, 2005 (attached)
- Annex 23: World Bank Resident Representative in Kinshasa, Jean-Michel Happi, World Bank Operations involving the forests and indigenous peoples of the DRC, July 5, 2005 (attached)
- Annex 24: Jerome Lewis, Minority Rights Group International, The Batwa Pygmies of the Great Lakes Region, 2001
- Annex 25: ARD, Conflict Timber: Dimensions of the Problem in Asia and Africa, Volume III, African Cases, DR Congo Case study, USAID/ARD, Burlington, USA, May 2003
- Annex 26: Norbert YambaYamba Shuku, National consultant, Supplementary Report to the Economic Review of the forestry sector, Some observations on forest concessions and their impact on rural populations in the DRC, November 2003.
- Annex 27: African Wildlife Foundation, CARE International. Conservation International, Fauna and Flora International, Greenpeace, Rainforest Foundation, Wildlife Conservation Society, World Wide Fund for Nature, Joint Statement of international non-governmental organizations, working for the sustainable management of forest ecosystems in the DRC, Forests Forum, Kinshasa, November 13, 2004 (attached)
- Annex 28: Rainforest Foundation, Global Witness, Forest Peoples Program, World Rainforest Movement, CDM Watch, SinksWatch, Environmental Defense, Down to Earth, Samata, Broken Promises, How World Bank group policies fail to protect forests and forest peoples' rights, 2005
- Annex 29: MONUC, Administrative Map of the DRC (attached)
- Annex 30: MONUC, Village Map of the DRC (attached)
- Annex 31: CARPE, Landscape 9 Maringa-Lopori-Wamba (attached)
- Annex 32: Central Africa Forest Satellite Observatory, Landscape Data

Annexes in Management Response

- Annex 1: Claims and Responses (attached)
- Annex 2: Bank Support of Forest and Nature Conservation in DRC (attached)
- Annex 3: EESRSP Supervision Missions (attached)
- Annex 4: Terms of Reference for the Participatory Forest Zoning Pilot (PFZP) (French version in Request attached)
- Annex 5: Matrix of the Forest Reform Agenda (attached)
- Annex 6: Concluding Remarks of the Chairman, Forest Forum, November 2004 (attached)
- Annex 7: Exchange of Correspondence between the Bank and RAPHY, a Pygmy Organization, in 2005 (attached)
- Annex 8: Local NGOs' Declaration from November 2005 in Support of the Presidential Decree (attached)
- Annex 9: Exchange of Letters between LINAPHYCO, a Pygmy Organization and the Bank, in 2005 (attached)
- Annex 10: DRC Forest Question and Answers posted in March 2004 on the Bank website (attached)
- Annex 11: Bibliography of Key Documents

ANNEX I
REQUEST FOR INSPECTION

**Indigenous Pygmy Organizations and Pygmy Support
Organizations in the Democratic Republic of Congo**

**Request
submitted to the World Bank Inspection Panel**

**October 30, 2005
Kinshasa-DRC**

On behalf of:

The indigenous Pygmy organizations and Pygmy support organizations in the Democratic Republic of Congo

To the attention of:

The Chairperson of the World Bank Inspection Panel
1818 H Street N.W., Washington, D.C. 20433, U.S.A.

Subject:

Request for inspection of World Bank operations affecting the rights and interests of the indigenous peoples in the Democratic Republic of Congo (DRC).

We, the indigenous Pygmy organizations and Pygmy support organizations in the DRC, wish hereby to:

Convey the opinions of the indigenous Pygmy communities that we represent and/or support; and

Air a number of grievances directly affecting the rights and interests of the indigenous Pygmy communities in the DRC.

Our grievances concern the failings and negligence of the World Bank within the framework of the **Emergency Economic and Social Reunification Support Project (EESRSP)**,¹ in particular:

- The failure to implement Operational Directive 4.20 on Indigenous Peoples, despite the presence of indigenous Pygmy peoples in the project implementation zone;
- The classification of the EESRSP as a Category B project, despite the existence of a potential impact considered to be “sensitive;”
- The failure to conduct the environmental assessment more than ten months after the effective date of the project.

¹ World Bank, Emergency Economic and Social Reunification Support Project (EESRSP), Technical Annex, Report No: T7601-R

EESRSP, Updated Project Information Document (PID), Report No: AB213

EESRSP, Integrated Safeguards Data Sheet (ISDS), Report No: AC43

Link:

<http://web.worldbank.org/external/projects/main?pagePK=64283627&piPK=73230&theSitePK=40941&menuPK=228424&Projectid=P081850>

I. Description of the EESRSP

A. Approval and effective date

The EESRSP project ID number is P081850. The project was approved by the World Bank's Board of Executive Directors on September 11, 2003, and its legal instruments were signed on September 22, 2003. The effective date of the EESRSP had been scheduled for December 2003.² The project has been in effect since December 5, 2003.

B. Objective

This project, which is being processed as an emergency recovery loan, seeks to extend the reforms to regions traditionally controlled by rebels, and lay the foundation for reunification and economic stability throughout the country, by supporting, *inter alia*, institutional strengthening (Component 2).

C. Forests – A priority area

Under the “technical expertise and capacity building” component (Component 2), one of the priority areas is to “ensure implementation of forestry reforms throughout the country”, and in particular, to “prepare a **forest zoning plan**,” with a focus on Equateur and Orientale,³ the most-forested provinces in the country. This operation aims to provide a land use plan that identifies areas dedicated to “rural development, sustainable production, and environmental protection.”⁴

II. Context for approval of the EESRSP

A. Adoption of the Forest Code under the structural adjustment credit

A new Forest Code was adopted in the DRC in August 2002.⁵ This new legislative instrument establishes the framework for governmental policy regarding forestry management in the DRC. The adoption of this text was the condition for the World Bank to release a US\$15 million tranche credit allocated to the “forestry sector” from a structural adjustment credit approved in May 2002.⁶

The World Bank's decision to finance the drafting and adoption of the Forest Code within the framework of a structural adjustment credit involved, in accordance with the regulations for this type of credit, the failure to implement the Bank's safeguard policies and procedures regarding the environment, forests, and indigenous peoples.

² World Bank, EESRSP, Technical Annex, Report No: T7601-ZR, page 54.

³ World Bank, EESRSP, Technical Annex, Report No: T7601-ZR, page 28.

⁴ World Bank, EESRSP, Technical Annex, Report No: T7601-ZR, page 29.

⁵ President of the Democratic Republic of Congo, Law No. 011/2002 of August 29, 2002 on the Forest Code. Link: http://www.radiokapi.net/fichiers/documents_fichier_8.pdf

⁶ World Bank, Economic Recovery Credit, Report and Recommendation of the President of the International Development Association, Report No: P7531, May 17, 2002, pages 15 (§48), and 27-28 (§95).

B. Indigenous Peoples are not consulted, not recognized, not taken into account

We believe that this initial decision not to implement safeguard policies and procedures has had a significant negative impact on the principles and condition for developing the Forest Code, which currently constitutes the very foundation of the future management of Congolese forests. This decision has also affected government policy and World Bank activities, to the detriment of the Congolese people, and even more so, the indigenous Pygmy peoples.

By failing to implement any safeguards, the World Bank, without any input from civil society or involvement of the indigenous communities,⁷ opted to hastily adopt a Congolese Forest Code that was based on the Forest Law it had developed in Cameroon in 1994. The adoption of a Cameroonian law for the indigenous peoples in the DRC is synonymous with a denial of their traditional rights, and the boundaries of their traditional territories. This failure to consider the interests of the local communities and indigenous peoples from the early stages of development of a new policy, and a new forestry legislation, resulted in numerous social conflicts in Cameroon that persist to this day.

The current framework for the future management of the Congolese forests is based on a legislative text that clearly establishes an industrial logging system, thereby marginalizing local communities, and in no way recognizing the indigenous peoples or their specific needs.

This approach is reflected in the World Bank's current forestry activities in the DRC, which have been implemented within the framework of various projects with a "forest" component, and are developed, using a foundation which, in the eyes of the people, lacks legitimacy and fails to address the concerns of the indigenous peoples and the issues related to the sustainable management of the Congolese forests, and to the development of their inhabitants. This is the case of the EESRSP, which is based on the fallacious principles of the Forest Code, and provides for the preparation of a forest zoning plan without safeguards, or without taking into account the interests of the indigenous peoples, either in theory or in principle.

C. An opportunity to correct or compound errors made

We have learned of the submission, in the near future, to the World Bank's Board of Executive Directors of a new project entitled, "Transitional Support for Economic Recovery Credit", which should include a "forestry governance" component.

To date, while we have not had access to the details of this component, we would like to take this opportunity to highlight in this request the risks and issues associated with this project, and with any other forest-related projects that may soon be submitted to the Board of Executive Directors.

If such a project were to once again be approved as a credit that fails to implement the Bank's safeguard policies and procedures, and if this credit were to be disbursed without prior consideration of the interests of the indigenous peoples, without assessing the impact that it could

⁷ World Bank, Norbert YambaYamba Shuku, national consultant, *Rapport d'appui à la Revue économique du secteur forestier, Quelques observations relatives aux interactions entre populations rurales et concessions forestières en RDC* [Supplement to the Economic Review of the forestry sector, *Observations on forest concessions and their impact on rural populations in the DRC*], November 2003.

have on both the environment and the inhabitants of the forests in the DRC, the World Bank would run the risk of further marginalizing the indigenous peoples, thereby compounding errors committed in the past, as was the case in Cameroon, reinforcing the industrial approach outlined in the Forest Code, and consequently, exacerbating the threats that the Congolese legislative framework poses to the rights and survival of the indigenous peoples.

III. World Bank failures and negligence within the framework of the EESRSP

A. Failure to implement Operational Directive 4.20

The World Bank decided that Operational Directive 4.20 on Indigenous Peoples⁸ would not apply to EESRSP activities, by specifying that “the Project is not supposed to include activities for areas inhabited by indigenous peoples.”⁹

The Bank’s rationale is inconsistent with the prevailing situation.

The Pygmies, who are the first inhabitants of the region, have for centuries, and even millennia, inhabited and moved around in the forests in the Equateur and Orientale provinces.¹⁰

These indigenous Pygmy peoples are the “people of the forest.” Their existence, survival, cultural identity, and traditional knowledge are intimately linked to the forest, their element and life source which they revere.

1. Pilot zoning plan in areas inhabited by the Pygmies

The World Bank has formulated some terms of reference (draft)¹¹ in preparation for forest zoning in the DRC, provided for in the EESRSP in the Maringa-Lopori-Wamba corridor, which has been selected as the pilot region. Covering about 82,278km², this area surrounds the river basins of the Lopori and Maringa rivers, and extends to the Tshuapa river in the south, and the Ikela-Opala road in the east.¹²

The presence of indigenous Pygmy communities in these forests, which is acknowledged by the World Bank in the aforementioned terms of references,¹³ called for the application of O.D. 4.20,

⁸ World Bank, Operational Directive on Indigenous Peoples, September 1991.

⁹ World Bank, EESRSP, ISDS, Report No: AC 43, page 5.

¹⁰ United Nations, Human Rights Committee, International Covenant on Civil and Political Rights, Review of the reports presented by the State Parties pursuant to the application of Article 40 of the Covenant, Third Periodic Report, Democratic Republic of Congo, March 30, 2005, CCPR/C/COD/2005/3, May 3, 2005, page 5, § 18: “the Pygmies are found in the Equateur and Orientale provinces.”

Link: [http://www.unhchr.ch/tbs/doc.nsf/0/2c76e866f2532705c1257093002c9201/\\$FILE/G0541437.pdf](http://www.unhchr.ch/tbs/doc.nsf/0/2c76e866f2532705c1257093002c9201/$FILE/G0541437.pdf)

¹¹ World Bank, EESRSP, Preparation of a forest zoning plan, Draft Terms of Reference.

¹² World Bank, EESRSP, Preparation of a forest zoning plan, Draft Terms of Reference, pages 4 and 18. See also: Maringa-Lopori-Wamba Landscape, CARPE.

Link: http://maps.geog.umd.edu/carpemapper/PDFs/CL9_Maringa.pdf

See also: Central Africa Forest Satellite Observatory, Landscape data.

Link: <http://osfac.umd.edu/fre/cbfp/landscmap.htm>

¹³ World Bank, EESRSP, Preparation of a forest zoning plan, Draft Terms of Reference, page 6:

“Consult a wide range of stakeholders: villages, territorial and district capitals, economic agents, etc.) with a view to designing, and assessing the feasibility of, various zoning scenarios. Particular attention will be paid to consultations with Pygmy groups, by taking into account the distinctive characteristics of their

in order to put in place all the measures required for ensuring respect for rights, and consideration of the interests of the indigenous peoples, and avoid preparing a zoning plan that will have negative impacts on these populations.

2. Current situation threatening the rights and interests of the indigenous peoples

Within the framework of the EESRSP, the World Bank also makes provisions for laying the groundwork for the implementation of the new forest concession system.¹⁴ The implementation pace of this new system was recently accelerated, owing to the adoption of Presidential Decree No.05/116 of October 24, 2005, which establishes the methods for converting old forest titles into forest concession contracts, and extends the moratorium for the granting of logging concessions.

We fear, therefore, that the moratorium will be lifted once this conversion operation has been completed, and result, in the short term, in the granting of new forest concessions, even though the zoning plan would not yet have been prepared. This theory is proving to be well-founded, as the pilot zoning activity has not yet begun in the Equateur province. Should this theory be borne out, the rights and interests of the indigenous Pygmy peoples would be seriously undermined, and they would not have been consulted, and, therefore, not have been able to defend their rights to their traditional lands, which quite often cover wide areas, and are essential to their traditional nomadic practices and activities (itinerant).

This threat is even more disturbing, owing to the Congolese government's current inability to control the situation on the ground. The dangers associated with a revival of the logging industry, without the assurance of the existence of functioning structures and mechanisms to monitor this sector in a transparent and effective way, were highlighted by the United Nations Security Council in resolution 1457,¹⁵ as well as in an ARD¹⁶ report that was widely disseminated before the EESRSP was approved by the Bank's Board of Executive Directors, and which states that:

"Given governance weaknesses, sustained peace could unleash a period of intense logging in many parts of the Congo, wreaking havoc on the environment, reducing or destroying biodiversity and materially damaging life chances of human groups most dependent on forests for their survival, e.g., the Congo pygmies."

nomadic or semi-nomadic lifestyle. Gain a keen understanding of the land issues and the dynamics of local farming, of the use of forests by different ethnic groups, in particular the Pygmies, of traditional land access and traditional land law, as well as traditional usufruct rights"; and page 7: "Issue facing indigenous forest peoples. It will also be essential to gain as thorough an understanding as possible of the dynamics of the use of forests by indigenous peoples, in particular the Pygmies, who are nomadic. This specific dynamic will be taken into account during the design of various zoning scenarios, by showing to what extent assigning a priority, yet non-exclusive, objective to certain spaces (conservation zones, sustainable development concessions) is compatible with respect of traditional rights and these peoples' lifestyle, or how zoning can reassure the exercise of these rights." [Translated without reference to the original].

¹⁴ World Bank, EESRSP, Technical Annex, Report No: T7601-ZR, page 29.

¹⁵ United Nations, Security Council resolution 1457 (2003), 4691st session, January 24, 2003, §7.

Link:

<http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/b017ffc94c98049cc1256cbf005b12a2?Opendocument>

¹⁶ ARD, *Conflict Timber: Dimensions of the Problem in Asia and Africa, Volume III, African Cases*, USAID/ARD, Burlington, USA, May 2003, DR Congo Case study, §1.2 Current situation.

Link: <http://www.rainforestfoundationuk.org/files/ARD%20report%20vol3afr.pdf>

In light of this situation, we believe that the World Bank's failure to implement OD 4.20, despite the obvious presence of several Pygmy communities in the forests of the Equateur and Orientale provinces, could lead to material damage, seriously undermining the rights and interests of these peoples, particularly their rights to their traditional lands, the fundamental basis of their lifestyle which is generally nomadic, and of their means of subsistence.

B. Erroneous environmental classification

The EESRSP was classified as a **Category B project**.

However, the type of management and, in the long term, the survival of the forests in the DRC, will depend on the forest zoning activity. Consequently, it may have a significant environmental and social impact, especially since a zoning plan is being prepared for all of the country's forests, the second largest tropical forest area in the world, inhabited primarily by indigenous Pygmy peoples who depend directly on these very forests for their survival.

These two elements, that is, the announcement of a national zoning plan, and the existence of indigenous communities, are consistent with the criteria for environmental Category A outlined in Operational Policy 4.01 on Environmental Assessment,¹⁷ a policy implemented under the EESRSP. OP 4.01 stipulates that a "proposed project is classified as Category A if it is likely to have significant adverse environmental impacts that are sensitive, diverse, or unprecedented. These impacts may affect an area broader than the sites or facilities subject to physical works," and further notes that a "potential impact is considered sensitive if it may be irreversible or raise issues covered in OD 4.20."

The EESRSP therefore clearly falls under Category A.

The case study published by the ARD¹⁸ in May 2003 supports the aforementioned view by highlighting the significant impacts that could be produced, from both an environmental and human perspective, of what the study refers to as the start of a logging boom.

The documents prepared by the World Bank and the International Development Association (IDA) also raise the same alarm, as indicated in Section V of this request. IDA stipulates, for example, that: "by March 31, 2008, the following economic management performance indicators

¹⁷ World Bank, Operational Policy 4.01, Environmental Assessment, pages 3-4. Environmental screening, § 8a) Category A.

Link:

[http://wbln0018.worldbank.org/html/eswwbsite.nsf/BillboardPictures/OP401_French/\\$FILE/OP401_French.pdf](http://wbln0018.worldbank.org/html/eswwbsite.nsf/BillboardPictures/OP401_French/$FILE/OP401_French.pdf)

¹⁸ ARD, *Conflict Timber: Dimensions of the Problem in Asia and Africa, Volume III, African Cases*, USAID/ARD, Burlington, USA, May 2003: "The danger now hovering over the DRC's forests is weak governance, that is, the likelihood that the state will be unable to regulate access to forest resources effectively and, once concessions are allocated, control harvesting within them to ensure that concessions boundaries are respected, etc. If the state proves unable or unwilling to control domestic and expatriate logging concessionaires, this may signal the start of a logging boom that could rapidly decimate the country's wood resources. This could, in turn, unleash a wave of negative environmental consequences."

Link: <http://www.rainforestfoundationuk.org/files/ARD%20report%20vol3afr.pdf>

should have been achieved: [...] at least ten new forest concessions should have been granted in accordance with the regulatory procedures set out in the Borrower's Forest Code of 2002."¹⁹

C. Violation of Operational Policies 4.01 and 4.36

The World Bank has decided that OP 8.50 on Emergency Recovery Assistance should be applied to the EESRSP, indicating that all the other safeguard policies would apply only 12 months after the effective date of the project, that is, in December 2004.

OP 4.01 on Environmental Assessment,²⁰ as well as OP 4.36 on Forests²¹ which was also implemented by the Bank and provides for the preparation of an environmental assessment, are therefore directly affected by this delay in implementation.

However, almost two years to the day after the project was approved, the environmental assessment is still not available, despite the importance of this assessment to determine "the potential impact of the project on forests and/or the rights and welfare of local communities."²²

IV. Rights and interests likely to be affected and possible damage

As far as we are concerned, the failure to implement OD 4.20, the classification of the EESRSP as a Category B project, and the failure to prepare the environmental assessment more than two years after the project was approved, do not appear to lay a solid foundation for zoning, an operation that is essential for the introduction of sustainable forest management that respects and benefits the local populations, including the indigenous Pygmy peoples.

If zoning of these forests were to be carried out, as the Bank's current actions and failings appear to indicate, *without consulting the indigenous peoples, without taking their interests into account, and after the new forest concessions have been allocated*, this operation would result in:

1. The violation of their right to occupy their ancestral lands;
2. The violation of the integrity of their traditional lands;

¹⁹ World Bank, EESRSP, Democratic Republic of Congo and the International Development Association, Development Financing Agreement, September 22, 2003, Schedule 7. [Translator's note: citation translated without reference to the original].

²⁰ World Bank, The World Bank Operational Manual, Operational Policies, OP 4.01, Environmental Assessment, January 1999.

Link:

[http://wbln0018.worldbank.org/html/eswwwebsite.nsf/BillboardPictures/OP401_French/\\$FILE/OP401_French.pdf](http://wbln0018.worldbank.org/html/eswwwebsite.nsf/BillboardPictures/OP401_French/$FILE/OP401_French.pdf)

²¹ World Bank, The World Bank Operational Manual, Operational Policies, OP 4.36, Forests, November 2002.

Link:

[http://wbln0018.worldbank.org/html/eswwwebsite.nsf/BillboardPictures/op436French/\\$FILE/OP436French.pdf](http://wbln0018.worldbank.org/html/eswwwebsite.nsf/BillboardPictures/op436French/$FILE/OP436French.pdf)

²² World Bank, The World Bank Operational Manual, Operational Policies, OP 4.36, Forests, November 2002, page 4 (§13).

Link:

[http://wbln0018.worldbank.org/html/eswwwebsite.nsf/BillboardPictures/op436French/\\$FILE/OP436French.pdf](http://wbln0018.worldbank.org/html/eswwwebsite.nsf/BillboardPictures/op436French/$FILE/OP436French.pdf)

3. The violation of their right of access to their traditional lands and the resources found thereon;
4. The violation of the right to manage their forests and the resources located therein, in keeping with their traditional knowledge and practices;
5. The violation of their cultural and spiritual values.

These violations of interdependent rights, and the damage which is equally interdependent, would therefore lead to:

1. The destruction and/or loss of their natural living environment;
2. The elimination of their means of subsistence;
3. An imposed, even forced, change to their lifestyle;
4. Serious social conflicts.

These negative impacts would further impoverish the poorest and most marginalized segments of the Congolese population, thereby jeopardizing all prospects for sustainable development.

V. The rationale for logging-driven development

Our concerns about the World Bank's failings and negligence are heightened by the fact that its forestry sector operations in the DRC are a clear embodiment of the notion that development will come from industrial logging. The Bank supports the implementation of this idea,²³ even though no regulations concerning the rights or interests of local communities, or even the protection of the environment, have been adopted.

This rationale is also evident in the performance indicators of the "Forests" component of the EESRSP which refer only to the "number of new concessions attributed in a transparent manner."²⁴ Therefore, an assessment of the success of the implementation of forestry reforms will apparently be based on these indicators only, without considering possibilities or risks such as the failure to consult indigenous peoples or a premature lifting of the moratorium, which will prevent the measured implementation of the various steps envisaged in the zoning plan.

Moreover, the World Bank points out that the Congolese Forest Code is paving the way for revival of a sector that is key to economic growth and increased export revenues. According to the Bank, implementing forestry reforms throughout the country is aimed at creating "an environment for private sector-led growth."²⁵

This objective is further articulated in the memoranda on forestry sector follow-up missions conducted by World Bank staff in the DRC, where it is clearly stated that "this new path [taken by the Forest Code] can be summarized as the reestablishment of a framework for promoting private investment and creating industrial value-added."²⁶ The Bank's forestry specialists therefore predict a sixty or even hundred-fold increase in annual timber production, thereby attaining a production level of six to ten million m³ of timber per year. This production level,

²³ President of the Democratic Republic of Congo, Decree No. 05/116 of October 24, 2005 which establishes the methods for converting of old forest titles into forest concession contracts and extends the moratorium on the granting of logging concessions.

²⁴ World Bank, EESRSP, Technical Annex, Report No: T7601-ZR, page 85

²⁵ World Bank, EESRSP, Technical Annex, Report No: T7601-ZR, page 25

²⁶ World Bank, Democratic Republic of Congo, Sectoral follow-up mission, July 1-12, 2003, page 1

they predict, could be achieved from 60 million hectares of “permanent production forests.”²⁷ Please bear in mind that the DRC has a total of 80 million hectares of rainforest.

Nevertheless, the limitations of this vision of development driven by industrial logging have been demonstrated in several countries,²⁸ such as Cameroon, where this activity has caused numerous social conflicts and further impoverished the poorest segments of the population.

Even if the World Bank has conceded that alternatives to industrial logging should be considered,²⁹ we see no tangible evidence of this in its forestry sector operations in the DRC.³⁰

V. Approaches made to the World Bank

On numerous occasions, we, the indigenous Pygmy organizations and Pygmy support organizations in the DRC, have tried unsuccessfully to obtain clarification of the Bank’s true motives, as well as the above-mentioned failings. The Bank’s DRC Country Office has remained unreceptive and uncooperative to remarks, observations, and recommendations humbly made by civil society organizations in an attempt to make the Bank fulfill its responsibilities by modifying its “local policy” on Congolese forests. This would involve considering the forests’ economic, social, and cultural aspects and the rights of communities inhabiting them.

Appeals of this nature are often launched to the World Bank, be they during formal or informal meetings between Congolese NGOs and certain members of staff of the World Bank in the DRC, or through the media, publications, letters, memoranda, etc.

By way of illustration, we cite the following examples:

1. Letter of February 12, 2004

In their letter of February 12, 2004³¹ more than 220 civil society organizations demanded that a number of organizations, including the World Bank, effectively and systematically consider the traditional and customary rights and practices of local communities in the process of drafting the implementation measures and in the development of the forest zoning plan.

²⁷ World Bank, Democratic Republic of Congo, Sectoral follow-up mission, April 15-27, 2002, page 4. See also: World Bank, Economic Recovery Credit, Report and Recommendation of the President of the International Development Association, Report No: P7531, May 17, 2002, pages 25-26 (§87)

²⁸ Rainforest Foundation, Global Witness, Forest Peoples Programme, World Rainforest Movement, CDM Watch, SinksWatch, Environmental Defense, Down to Earth, Samata, *Broken Promises: How World Bank Group policies fail to protect forests and forest peoples’ rights*, 2005.

²⁹ Rainforest Foundation, Videoconference with Mr. Wolfensohn, President of the World Bank, Transcript of discussions, July 8, 2004. Link (in English):

<http://www.rainforestfoundationuk.org/files/Transcription%20of%20video%20conference%2008.07.04.pdf>

³⁰ Permanent Forum on Indigenous Issues, Report of the Second Session, E/2003/43, E/C.19/2003/22, May 12-23, 2003, §26: “The Forum recommends that the agencies and bodies of the United Nations, the World Bank [...] rethink the concept of development with the full participation of indigenous peoples in development processes, taking into account the rights of the indigenous peoples and the practices of their traditional knowledge.”

Link: <http://www.un.org/esa/socdev/unpfii/pfii/documents/e200343f.pdf>

³¹ National Center for Development and Popular Participation (CENADEP), National Council of Development Non-Governmental Organizations of Congo (CNONGD), *The Future of the forests in the Democratic Republic of Congo and the people living within these forests*, February 12, 2004.

This appeal went unheeded by the World Bank which, failing to respond to any of the concerns in the letter signed by the organizations, chose to send them to the Ministry of the Environment, Waters and Forests, and to reaffirm, in the “arguments” advanced, its commitment to the pursuit of socio-economic development sustained by the logging industry.³²

This focus on measures geared towards a swift revival of industrial logging confirmed to civil society that what was viewed by the then Resident Representative as “the deep convergence [...] between the concerns raised in [the civil society letter] and the objectives of the reforms advocated by [the Bank]” does not exist at all.

Instead of emphasizing measures beginning with local communities, including indigenous peoples, and of promoting community-driven development for their benefit, the Bank has done its utmost to promote a plan which is doomed to failure. The Resident Representative himself demonstrates this failure in presenting as “specific measures” four steps³³ which, in retrospect, had no tangible impact and were not observed. Evidence of this is seen today in the need to issue a presidential decree to put a stalled review of old forest land titles back on the front burner, and to ensure the enforcement of a moratorium which has never been observed.

2. Meeting of February 23, 2004

After sending their letter of February 12, civil society organizations held a national workshop in Kinshasa on February 23, 2004 on the Forest Code and its implementing measures.

The first day of the workshop was interrupted to allow several participants to attend a meeting convened by the World Bank Country Office. No notice was given. This unexpected interruption made it very difficult for work to proceed and for participants to use the short time available to successfully complete this crucial workshop. It was designed to inform civil society members and to define civil society objectives in the implementation of the Forest Code, which has disregarded civil society interests, as well as those of local communities and indigenous peoples.

The civil society organizations were hoping that the World Bank’s eagerness and insistence on having this February 23 meeting were a sign of impending, meaningful responses to their February 12 letter. This was not to be. Eventually, the participants returned to the workshop disappointed, after a meeting with the Bank’s Resident Representative who was at pains to assure them that there was a convergence between civil society concerns and those of the Bank, without however responding to said concerns.

3. Videoconference of July 8, 2004

During a videoconference held on July 8, 2004 at the request of the Rainforest Foundation, representatives of the indigenous Pygmy peoples reminded the President of the World Bank, Mr. James Wolfensohn, of the existence of forest-dependent and forest-inhabiting Pygmy

³² World Bank Resident Representative in Kinshasa, Onno Rühl, *Your letter of February 12, 2004 on the future of the forests in the Democratic Republic of Congo and the people living in these forests*, March 11, 2004.

³³ World Bank Resident Representative in Kinshasa, Onno Rühl, *Your letter of February 12, 2004 on the future of the forests in the Democratic Republic of Congo and the people living within these forests*, March 11, 2004, page 2.

communities in the Equateur province, and their fears that the social, cultural, and economic interests of these populations were not being considered in the preparation of the zoning plan.

In his response, the World Bank President promised to personally follow up the matter and declared: "...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."³⁴

The videoconference was primarily held in English and, in the absence of interpreters, the DRC participants were not able to fully understand the discussions.

In spite of it all, the declarations of the President of the World Bank at this videoconference briefly raised hopes that there would be a change in the Bank's "local policy". After all, Mr. Wolfensohn had shown his commitment to broad-based consultations with local populations and had undertaken to personally follow up matters relating to the forestry sector in the DRC.

However, we heard nothing further from Mr. Wolfensohn after the videoconference and subsequent interaction with the Country Office in Kinshasa has shown no sign of openness, and provided no information or substantive response to our concerns.

4. October 2004 Meeting of indigenous Pygmy organizations of the DRC

In October 2004, the indigenous Pygmy organizations of the DRC, in collaboration with their partner, Minority Rights Group International (MRG International), invited the World Bank to a meeting that they had organized at the Memling hotel in Kinshasa. Not only did the Bank not deign to send a representative to this meeting, but it held another meeting in the same hotel, in a room less than five meters away from the room where the meeting organized by the indigenous Pygmy organizations and to which the Bank had been invited, was being held.

Since the World Bank had not furnished any explanation for its absence, or tendered an apology for its failure to respond to the invitation to the meeting, the aforementioned organizations concluded that the representatives of the World Bank in the DRC had no regard for them.

5. Informal Meeting with Mr. Debroux

After the Hotel Memling meeting, delegates of the indigenous Pygmy organizations had informal discussions with Mr. Debroux, the Bank's Forestry Specialist, clearly explaining to him their concerns about the zoning plan and the taking into account of the rights and interests of indigenous Pygmy communities in this operation.

Mr. Debroux simply reaffirmed that there was convergence between the concerns of the World Bank and those of the local Congolese forestry communities, still without precisely saying what this convergence was.

³⁴ Rainforest Foundation, Videoconference with Mr. Wolfensohn, President of the World Bank, Transcript of the discussions, July 8, 2004. Link (in English): <http://www.rainforestfoundationuk.org/files/Transcription%20of%20video%20conference%2008.07.04.pdf>

This meeting had not been requested by Mr. Debroux, but Mr. Bobia of CENADEP (National Center for Development and Popular Participation) who had asked that representatives of indigenous Pygmy organizations be allowed to accompany him to the meeting.

6. Forest Forum of November 13, 2004

In November 2004, a Forest Forum was held in Kinshasa. This was actually the only outcome of the “exchange” with the World Bank President.

However, from the beginning this Forum only brought together civil society organizations from Kinshasa. We had to exert considerable pressure on the World Bank, with the support of the Ministry of the Environment, Waters and Forests, to allow NGOs from the provinces to participate at the last minute.

On this occasion, local³⁵ and international NGOs called for strict observance of the moratorium on the allocation of new logging concessions, until certain stringent conditions had been met. The international NGOs³⁶ also conveyed our concerns by calling for the involvement of local communities “in the development of the zoning plan,” in the spirit of free and informed prior consent.

The sole indigenous peoples’ representative invited to this meeting was able to raise only one question, pertaining to the compensation of Pygmies evicted from the Kahuzi Biega National Park. The question was left unanswered.

Finally, no report was produced at the end of the Forum. As far as we are concerned, this is evidence of the World Bank’s lack of interest in the rights of local communities and indigenous Pygmy peoples in the DRC, and the role they play in sustainable forest management.

7. Meeting of February 8, 2005

Madame MULEY, Mr. KAPUPU, and Mr. BONKONO, representatives of the indigenous peoples, as well as Ms. KANDI SHUNGU, Forest Program Assistant, and Ms. ENGULU, Communications Officer, both of the World Bank Office in Kinshasa, attended the February 8, 2005 meeting.

As with other meetings convened by the World Bank, this one came up at the last minute - the day before a workshop for indigenous Pygmy organizations in Goma. There was no agenda, nor did the meeting yield any information or a specific commitment on the part of the Bank to take the interests of the indigenous peoples of the DRC into account.

³⁵ CENADEP, CNONGD, *Declaration by Congolese Civil Society at the Forum on Forests and Nature Conservation in the DRC on November 13, 2004 in Kinshasa.*

³⁶ African Wildlife Foundation, CARE International, Conservation International, Fauna and Flora International, Greenpeace, Rainforest Foundation Wildlife Conservation Society, World Wide Fund for Nature, “*Joint Statement of International Non-Governmental Organizations working for the sustainable management of forest ecosystems in the DRC*” Forest Forum, November 13, 2004. Link: <http://www.rainforestfoundation.org/files/DRC%20international%20NGO%20statement%20-%20Fr.pdf>

8. Meeting of July 21, 2005

This meeting was held at the World Bank Country Office in Kinshasa. It specifically addressed the EESPRS and was chaired by Mr. Devictor, Task Team Leader. The indigenous Pygmy organizations were not invited, despite the impact this project could have on indigenous populations in the DRC.

Nevertheless, civil society organizations tried to air our concerns, particularly those related to the zoning activities. However, the representatives were met with the refusal of Mr. Devictor to respond to any questions related to the "Forests" component of the EESPRS, this being, according to him, too "sensitive" a subject in the DRC. However, he was asked one question with regard to considering the interests of indigenous peoples in the Equateur province, where the Bank-financed pilot zoning plan is to be carried out. Mr. Devictor then proceeded to ask the questioner why he was worried about Pygmies, when thousands of children were starving to death in the Equateur province!

All of these steps failed to elicit a meaningful response to the concerns raised and recommendations put forward by indigenous Pygmy organizations or by civil society in general.

Because of this and as a last resort, we sent a letter to the World Bank dated February 18, 2005.³⁷

Response of the World Bank Country Office to our last request

The World Bank's response dated July 5, 2005³⁸, received on September 21, 2005, when a representative of an indigenous Pygmy organization participated in events associated with the World Bank's annual meetings in Washington, has unfortunately not addressed the concerns of the indigenous Pygmy peoples.

The Resident Representative sent us back to the Ministry of Planning to obtain more information on the precise nature of the World Bank's projects, did not provide us with any information on our recommendations, and put a new spin on the situation by pointing out the difficulties he had in communicating with the indigenous Pygmy organizations in the provinces, apparently suggesting that the Pygmy organizations should travel if they wanted to be heard.

Submission of our inspection request

In light of the fact that the Country Office has once again shirked its responsibilities by sending us to a powerless Congolese agency which we have already approached on many occasions, but which is incapable of providing us with what we needed to enable us to address our concerns, and who in turn sent us back to the World Bank, we hereby submit this request to the Inspection Panel to ask the World Bank's Board of Executive Directors to initiate investigations into negligence by the Bank which we have pointed out, with a view to:

³⁷ Indigenous Pygmy organizations and Pygmy support organizations in the DRC, *World Bank negligence in activities involving the forests and indigenous peoples of the DRC*, February 18, 2005

³⁸ Resident Representative of the World Bank in Kinshasa, Jean-Michel Happi, *World Bank Operations on forests and indigenous peoples in the DRC*, July 5, 2005.

- Implementing the new Operational Policy 4.10 on Indigenous Peoples to the EESRSP;
- Reconsidering the classification of the EESRSP in environmental category A;
- Releasing the environmental assessment of the EESRSP;
- Taking the aforementioned observations and concerns into consideration in the framework of the approval of new projects with a 'forest' component, such as the 'Transitional Support for Economic Recovery Credit' which will be presented to the World Bank's Executive Board on December 8.

Of course we are available to you for any additional information you may require.

In the hope that our request will receive favorable consideration, please accept, Madame Chairperson of the Inspection Panel, the assurances of our highest consideration.

The Undersigned,

Organizations of indigenous Pygmy peoples and support associations for indigenous Pygmy peoples in the DRC:

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ANNEXES

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Annex 1:

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Annex 2:

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**Organisations Autochtones Pygmées
et accompagnant les Autochtones Pygmées
en République Démocratique du Congo**

Requête
adressée au Panel d'Inspection de la Banque Mondiale

30 octobre 2005

Kinshasa – RDC

De la part des :
Organisations autochtones Pygmées et accompagnant les autochtones Pygmées en République Démocratique du Congo

A l'attention du :
Président du Panel d'Inspection de la Banque Mondiale
1818 H Street N.W., Washington, D.C. 20433, U.S.A.

Concerne:

Requête d'inspection sur les opérations de la Banque Mondiale affectant les droits et intérêts des peuples autochtones en République Démocratique du Congo (RDC)

Nous, les Organisations des peuples autochtones Pygmées et accompagnant les peuples autochtones Pygmées en RDC ;

Relayons les opinions des communautés autochtones Pygmées que nous représentons et/ou accompagnons ;

Adressons ainsi, au travers de la présente requête, des griefs ayant directement trait aux droits et aux intérêts des communautés autochtones Pygmées en RDC.

Nos griefs portent sur les omissions et manquements de la Banque Mondiale dans le cadre du **Projet d'Urgence de Soutien au Processus de Réunification Economique et Sociale (PUSPRES)¹**, en particulier :

- Non déclenchement de la Directive opérationnelle 4.20 relative aux peuples indigènes, malgré la présence de peuples autochtones Pygmées dans la zone d'exécution du projet ;
- Catégorisation environnementale B, malgré l'existence d'un impact potentiel « névralgique » ;
- Non réalisation de l'évaluation environnementale plus de dix mois après la date d'effectivité du projet.

¹ World Bank, Emergency Economic and Social Reunification Support Project (EESRSP), Technical Annex, Report No : T7601-R
EESRSP, Updated Project Information Document (PID), Report No : AB213
EESRSP, Integrated Safeguards Data Sheet (ISDS), Report No : AC43
Lien:
<http://web.worldbank.org/external/projects/main?pagePK=64283627&piPK=73230&theSitePK=40941&menuPK=228424&Projectid=P081850>

I. Description du projet PUSPRES

A. Approbation et effectivité

Le PUSPRES est identifié sous le P081850. Le projet a été approuvé par le Conseil d'administration de la Banque Mondiale en date du 11 septembre 2003, et ses instruments juridiques signés le 22 septembre 2003. La date d'effectivité du PUSPRES avait été prévue pour le mois de décembre 2003² : le projet est effectif depuis le 5 décembre 2003.

B. Objectif

Ce projet, exécuté sous forme de prêt de relance d'urgence, a pour objectif d'étendre les réformes aux régions traditionnellement contrôlées par les rebelles et de poser les fondements pour la réunification et une stabilité économique dans tout le pays, en appuyant, entre autres, un renforcement institutionnel (composante 2).

C. Domaine prioritaire "forêts"

Sous la composante "expertise technique et renforcement des capacités" (composante 2), un des domaines prioritaires consiste à « assurer l'application des réformes forestières à travers le pays », et principalement à « préparer un plan de zonage forestier », en se concentrant sur les provinces forestières par excellence, l'Equateur et la Province Orientale³. Cette opération vise à aboutir à un plan d'affectation des terres qui distingue les terres vouées « au développement rural, à une production durable et à la protection de l'environnement »⁴.

II. Contexte d'approbation du PUSPRES

A. Adoption du Code forestier sous crédit d'ajustement structurel

Un nouveau Code forestier a été adopté en RDC en août 2002⁵. Ce nouvel instrument législatif fixe le cadre de la politique gouvernementale en matière de gestion des forêts du pays. L'adoption de ce texte était la condition de la libération par la Banque Mondiale d'un crédit de US\$ 15 millions correspondant à la tranche 'secteur forestier' d'un crédit d'ajustement structurel approuvé en mai 2002⁶.

² World Bank, EESRSP, Technical Annex, Report No : T7601-ZR, page 54

³ World Bank, EESRSP, Technical Annex, Report No : T7601-ZR, page 28

⁴ World Bank, EESRSP, Technical Annex, Report No : T7601-ZR, page 29

⁵ Président de la République Démocratique du Congo, Loi No 011/2002 du 29 août 2002 portant Code forestier

Lien : http://www.radiookapi.net/fichiers/documents_fichier_8.pdf

⁶ World Bank, Economic Recovery Credit, Report and Recommendation of the President of the International Development Association, Report No : P7531, 17 May 2002, pages 15 (\$48) et 27-28 (\$95)

Le choix de la Banque Mondiale de financer l'élaboration et l'adoption du Code forestier dans le cadre d'un crédit d'ajustement structurel impliquait, conformément aux règles attachées à ce type de crédit, la non application des politiques et procédures de sauvegarde de la Banque, aussi bien en matière d'environnement, de forêts et de populations autochtones.

B. Peuples autochtones non consultés, non reconnus, non pris en compte

Nous pensons que ce choix initial de ne pas appliquer les politiques et procédures de sauvegarde a eu un impact négatif majeur sur les principes et conditions de développement de ce qui constitue maintenant le fondement même de la future gestion des forêts congolaises - le Code forestier - et a compromis toute perspective de voir la politique du gouvernement et les activités de la Banque Mondiale oeuvrer pour le bien-être de la population congolaise, et encore moins pour celui des peuples autochtones Pygmées.

En écartant tout garde-fou, la Banque Mondiale a favorisé l'adoption précipitée, sans participation de la société civile et sans aucune implication des communautés autochtones⁷, d'un Code forestier congolais calqué sur la Loi forestière qu'elle avait développée en 1994 au Cameroun. Une loi camerounaise synonyme pour les peuples autochtones de ce pays de négation de leurs droits traditionnels, de négation des limites de leurs territoires traditionnels. Cette non prise en compte des intérêts des communautés locales et des populations autochtones, dès les premiers stades du développement d'une nouvelle politique et d'une nouvelle législation forestières, a donné lieu au Cameroun à de nombreux conflits sociaux qui perdurent aujourd'hui encore.

Aujourd'hui, le cadre de la future gestion des forêts congolaises se fonde sur un texte législatif établissant clairement un système d'exploitation industrielle du bois, laissant une place marginale aux communautés locales et ne reconnaissant aucunement les peuples autochtones et leurs besoins spécifiques.

Aujourd'hui, les activités de la Banque Mondiale relatives au secteur forestier en RDC, exécutées dans le cadre de divers projets ayant une composante 'forêts', s'inscrivent dans cette perspective et sont développées sur une base dénuée de légitimité populaire, ne répondant ni aux préoccupations des peuples autochtones, ni aux enjeux liés à la gestion durable des forêts congolaises et au développement de leurs habitants. C'est le cas du PUSPRES qui se fonde sur les principes fallacieux du Code forestier et prévoit la réalisation d'un plan de zonage forestier sans garde-fou, sans prise en compte des intérêts des peuples autochtones, aussi bien dans les principes que dans les faits.

⁷ Banque Mondiale, Norbert YambaYamba Shuku, Consultant national, Rapport d'appui à la Revue économique du secteur forestier, *Quelques observations relatives aux interactions entre populations rurales et concessions forestières en RDC*, Novembre 2003

C. Une opportunité de corriger ou de consolider les erreurs commises

Nous avons appris la soumission prochaine au Conseil d'administration de la Banque Mondiale d'un nouveau projet intitulé 'Transitional Support for Economic Recovery Credit' qui comprendrait une composante 'gouvernance forestière'.

A ce jour nous n'avons pas accès aux détails de cette composante, mais nous voudrions profiter de notre présente requête pour mettre en évidence les risques et enjeux attachés à ce projet et à tout autre, touchant au secteur forestier, qui pourrait prochainement être présenté au Conseil d'administration.

Si un tel projet était encore une fois approuvé sous forme d'un crédit qui permettrait d'écarter l'application des politiques et procédures de sauvegarde de la Banque, si ce crédit était déboursé sans assurer la prise en compte préalable des intérêts des peuples autochtones, sans évaluer l'impact qu'il pourrait avoir à la fois sur l'environnement et les habitants des forêts de la RDC, la Banque Mondiale prendrait le risque de marginaliser encore davantage les peuples autochtones, de consolider les erreurs commises dans le passé, comme au Cameroun, de consolider l'approche industrielle promue par le Code forestier et par conséquent d'exacerber les menaces que fait peser le cadre législatif congolais sur les droits et la survie des peuples autochtones.

III. Omissions et manquements de la Banque Mondiale dans le cadre du PUSPRES

A. Non déclenchement de la Directive opérationnelle 4.20

La Banque Mondiale a considéré que la Directive opérationnelle 4.20 relative aux peuples indigènes⁸ ne s'appliquerait pas à ses activités dans le cadre du PUSPRES, en apportant la précision que « le Projet n'est pas censé inclure des activités dans des zones habitées par des peuples autochtones »⁹.

Cette argumentation de la Banque Mondiale ne répond pas à la réalité sur le terrain.

Les Pygmées, premiers habitants de la région, vivent et se déplacent dans les forêts de l'Equateur et de la Province Orientale¹⁰ depuis des siècles, voire des millénaires.

Ce peuple autochtone est « le peuple de la forêt ». Son existence, sa survie, son identité culturelle, ses connaissances traditionnelles, sont intimement liées à la forêt qui est son espace vital, sa mère nourricière qu'il vénère.

⁸ Banque Mondiale, Directive opérationnelle relative aux peuples indigènes, septembre 1991

⁹ World Bank, EESRSP, ISDS, Report No : AC 43, page 5

¹⁰ Nations Unies, Comité des Droits de l'Homme, Pacte international relatif aux droits civils et politiques, Examen des rapports présentés par les Etats Parties en application de l'article 40 du Pacte, Troisième rapport périodique, République Démocratique du Congo, 30 mars 2005, CCPR/C/COD/2005/3, 3 mai 2005, page 5, §18 : « les Pygmées se trouvent dans les provinces de l'Equateur et Orientale »

Lien : [http://www.unhchr.ch/tbs/doc.nsf/0/2c76e866f2532705c1257093002c9201/\\$FILE/G0541437.pdf](http://www.unhchr.ch/tbs/doc.nsf/0/2c76e866f2532705c1257093002c9201/$FILE/G0541437.pdf)

1. Plan de zonage pilote en zones habitées par les Pygmées

La Banque Mondiale a élaboré des termes de référence (draft)¹¹ pour la préparation du zonage des forêts de la RDC, prévu au PUSPRES, sur l'axe Maringa-Lopori-Wamba choisi comme région pilote. Couvrant environ 82,278 km², cette zone s'articule autour du bassin des rivières Lopori et Maringa. Elle atteint la rivière Tshuapa au Sud et la route Ikela-Opala à l'Est¹².

La présence, dans ces forêts, de communautés autochtones Pygmées, reconnue par la Banque Mondiale dans les termes de référence ci-haut¹³, appelle à déclencher l'application de la D.O. 4.20 afin de mettre en place toutes les mesures nécessaires pour garantir le respect des droits et la prise en compte des intérêts des peuples autochtones et éviter que la préparation du plan de zonage n'ait des impacts négatifs pour ces populations.

2. Contexte actuel menaçant les droits et intérêts des autochtones

Dans le cadre du PUSPRES, la Banque Mondiale prévoit également la préparation de l'application du nouveau système de concessions forestières¹⁴ ; opération dont l'exécution a récemment été accélérée du fait de l'adoption du Décret présidentiel N°05/116 du 24 octobre 2005 fixant les modalités de conversion des anciens titres forestiers en contrats de concession forestière et portant extension du moratoire en matière d'octroi des titres d'exploitation forestière.

Nous craignons ainsi que le moratoire soit levé peu après la réalisation de cette opération de conversion, et ne débouche à court terme sur l'allocation de nouvelles concessions forestières alors même que le plan de zonage ne serait pas encore réalisé. Une hypothèse qui tend à se confirmer puisque l'activité de zonage pilote n'a pas débuté à ce jour en Equateur. La vérification de cette hypothèse affecterait considérablement les droits et intérêts des peuples autochtones Pygmées qui n'auraient pas été consultés et n'auraient donc pas été en mesure de défendre les droits dont ils disposent sur leurs terres traditionnelles, qui couvrent bien souvent de larges étendues, nécessaires à leurs pratiques et activités traditionnelles itinérantes (non sédentaires).

¹¹ Banque Mondiale, PUSPRES, Préparation d'un plan de zonage forestier, Termes de référence - Draft

¹² Banque Mondiale, PUSPRES, Préparation d'un plan de zonage forestier, Termes de référence - Draft, pages 4 et 18

Voir également : Maringa-Lopori-Wamba Landscape, CARPE

Lien : http://maps.geog.umd.edu/carpemapper/PDFs/CL9_Maringa.pdf

Voir également: Observatoire Satellital des Forêts d'Afrique Centrale, Données sur les Landscapes

Lien : <http://osfac.umd.edu/fire/cbfp/landscmap.htm>

¹³ Banque Mondiale, PUSPRES, Préparation d'un plan de zonage forestier, Termes de référence - Draft, page 6 : « Consulter une grande variété d'acteurs : villages, chefs lieu de territoire et district, opérateurs économiques, etc.) dans le but de concevoir et d'évaluer la faisabilité de différents scénarios de zonage ; une attention spéciale sera portée à la consultation des groupes pygmées en tenant compte des particularités de leur mode de vie nomade ou semi-nomade ; Acquérir une compréhension fine des enjeux fonciers et des dynamiques agricoles locales, de l'utilisation de l'espace forestiers par différents groupes ethniques, notamment les pygmées, des coutumes en matière d'accès à la terre et de droit foncier, droits d'usages traditionnels » ; et page 7 : « Problématique des populations forestières autochtones. Il faudra aussi rassembler ou acquérir une compréhension aussi fine que possible de la dynamique d'utilisation de l'espace forestier par les peuples autochtones, essentiellement les pygmées, qui ne sont pas sédentaires. Cette dynamique particulière sera prise en compte dans les scénarios de zonage, en montrant dans quelle mesure le fait d'affecter un objectif prioritaire mais non-exclusif à certains espaces (aire de conservation, concession d'aménagement durable) est compatible avec le respect des droits traditionnels et du mode de vie de ces populations, ou comment le processus de zonage peut venir sécuriser l'exercice de ces droits. »

¹⁴ World Bank, EESRSP, Technical Annex, Report No : T7601-ZR, page 29

Cette menace est d'autant plus inquiétante du fait de l'incapacité actuelle du gouvernement congolais à contrôler la situation sur le terrain. Les dangers liés à une relance de l'industrie du bois, sans l'assurance de l'existence et du fonctionnement de structures et mécanismes de contrôle effectif et transparent de l'exploitation, ont été mis en avant par le Conseil de Sécurité des Nations Unies dans sa Résolution 1457¹⁵, ainsi que par un rapport largement diffusé - avant l'approbation du PUSPRES par le Conseil d'administration de la Banque Mondiale - de l'ARD¹⁶ qui constate que :

« Etant donné les faiblesses de la gouvernance, une paix durable pourrait déclencher une période d'intense exploitation forestière dans de nombreuses régions du Congo, dévastant l'environnement, réduisant ou détruisant la biodiversité et préjudiciant les chances de survie des groupes humains les plus dépendants des forêts, comme les Pygmées du Congo ».

Compte tenu de ce contexte, nous estimons que le non déclenchement par la Banque Mondiale de la D.O. 4.20, malgré la présence évidente de nombreuses communautés Pygmées dans les forêts de l'Equateur et de la Province Orientale, menace d'entraîner des dommages matériels affectant gravement les droits et intérêts de ces populations, particulièrement leurs droits attachés à leurs terres traditionnelles qui constituent le fondement de leur mode de vie - généralement nomade - et de leurs moyens de subsistance.

B. Classification environnementale erronée

Le PUSPRES a été classé comme projet de catégorie environnementale B.

Or, du zonage des terres forestières dépendra le type de gestion et, à plus long terme, la pérennité des forêts en RDC. Il peut de ce fait avoir un impact environnemental et social significatif, d'autant qu'il s'agit de la préparation du plan de zonage de l'ensemble des terres forestières du pays, à savoir de la deuxième plus grande étendue de forêts tropicales dans le monde, habitées de surcroît par des peuples autochtones Pygmées dont la survie dépend directement de ces mêmes forêts.

Ces deux éléments - annonce d'un plan de zonage national et existence de communautés autochtones - rejoignent les critères attachés à la catégorie environnementale A décrite à la Politique opérationnelle 4.01 relative à l'évaluation environnementale¹⁷, politique déclenchée dans le cadre du PUSPRES. La P.O. 4.01 précise en effet qu'un « projet envisagé est classé dans la catégorie A s'il risque d'avoir sur l'environnement des incidences très négatives, névralgiques, diverses, ou sans précédent. Ces effets peuvent être ressentis dans une zone plus vaste que les sites ou les installations faisant l'objet des travaux », et de préciser qu'un « impact potentiel est considéré comme névralgique s'il peut s'avérer irréversible ou soulever des problèmes relevant de la D.O. 4.20 ».

¹⁵ Nations Unies, Conseil de Sécurité, Résolution 1457 (2003), 4691^{ème} séance, 24 janvier 2003, §7

Lien : <http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/b017ffc94c98049cc1256cbf005b12a2?Opendocument>

¹⁶ ARD, *Conflict Timber: Dimensions of the Problem in Asia and Africa, Volume III, African Cases*, USAID/ARD, Burlington, USA, May 2003, DR Congo Case study, §1.2 Current situation

Lien : <http://www.rainforestfoundationuk.org/files/ARD%20report%20vol3afr.pdf>

¹⁷ Banque Mondiale, Politique opérationnelle 4.01 Evaluation environnementale, pages 3-4, Examen environnemental préalable, §8 a) Catégorie A

Lien : [http://wbinfo018.worldbank.org/html/eswebsite.nsf/BillboardPictures/OP401_French/\\$FILE/OP401_French.pdf](http://wbinfo018.worldbank.org/html/eswebsite.nsf/BillboardPictures/OP401_French/$FILE/OP401_French.pdf)

Le PUSPRES tombe ainsi clairement sous la catégorie environnementale A.

L'étude de cas publiée par l'ARD¹⁸ en mai 2003 vient renforcer cette appréciation, comme évoqué ci-haut, en mettant l'accent sur les impacts considérables que pourrait avoir ce qu'elle annonce comme un boom annoncé de l'exploitation du bois, aussi bien du point de vue environnemental que du point de vue humain.

Les documents de la Banque Mondiale et de l'Association de Développement International (IDA) donnent en fait le même son de cloche, comme exposé à la section V de la présente requête. L'IDA prévoit par exemple que : « d'ici le 31 mars 2008, les indicateurs de performance de gestion économique suivants devront avoir été atteints : [...] au moins dix nouvelles concessions forestières auront dû être accordées suivant les procédures réglementaires prévues au Code forestier de 2002 de l'Emprunteur »¹⁹.

C. Violation des Politiques opérationnelles 4.01 et 4.36

La Banque Mondiale a estimé que la P.O. 8.50 relative à l'assistance d'urgence devait s'appliquer au PUSPRES, signifiant que toutes les autres politiques de sauvegarde ne s'appliqueraient que 12 mois après la date à laquelle le projet sera devenu effectif, à savoir en décembre 2004.

La P.O. 4.01 relative à l'évaluation environnementale²⁰ et la P.O. 4.36 relative aux forêts²¹ également déclenchée par la Banque et prévoyant la réalisation d'une évaluation environnementale tombent donc sous le coup de ce report d'application.

Cependant, au jour d'aujourd'hui, près de deux ans après l'approbation du projet, l'évaluation environnementale n'est toujours pas disponible, malgré l'importance de cette évaluation pour préciser « l'impact potentiel du projet sur les forêts et/ou sur les droits des communautés locales ainsi que sur leur bien-être »²².

¹⁸ ARD, *Conflict Timber: Dimensions of the Problem in Asia and Africa, Volume III, African Cases*, USAID/ARD, Burlington, USA, May 2003 : « Le danger qui menace maintenant les forêts de la RDC est la faible gouvernance, c'est-à-dire la forte probabilité que l'Etat sera incapable de réguler l'accès aux ressources naturelles de manière effective et, une fois que les concessions seront allouées, de contrôler l'exploitation en vue d'assurer que les limites des concessions sont respectées, etc. Si l'Etat s'avère incapable ou réticent à contrôler les concessionnaires forestiers nationaux et étrangers, ceci pourrait annoncer le déclenchement d'un boom de l'exploitation du bois qui pourrait rapidement décimer les ressources en bois du pays. Ceci pourrait, à son tour, déclencher une vague de conséquences environnementales négatives. »

Lien : <http://www.rainforestfoundationuk.org/files/ARD%20report%20vol3afr.pdf>

¹⁹ World Bank, EESRSP, Democratic Republic of Congo and the International Development Association, Development Financing Agreement, 22 September 2003, Schedule 7

²⁰ Banque Mondiale, Manuel opérationnel de la Banque Mondiale, Politiques opérationnelles, P.O. 4.01, Evaluation environnementale, janvier 1999

Lien : [http://wbln0018.worldbank.org/html/eswwwebsite.nsf/BillboardPictures/OP401_French/\\$FILE/OP401_French.pdf](http://wbln0018.worldbank.org/html/eswwwebsite.nsf/BillboardPictures/OP401_French/$FILE/OP401_French.pdf)

²¹ Banque Mondiale, Manuel opérationnel de la Banque Mondiale, Politiques opérationnelles, P.O. 4.36, Forêts, novembre 2002

Lien : [http://wbln0018.worldbank.org/html/eswwwebsite.nsf/BillboardPictures/op436French/\\$FILE/OP436French.pdf](http://wbln0018.worldbank.org/html/eswwwebsite.nsf/BillboardPictures/op436French/$FILE/OP436French.pdf)

²² Banque Mondiale, Manuel opérationnel de la Banque Mondiale, Politiques opérationnelles, P.O. 4.36, Forêts, novembre 2002, page 4 (§13)

Lien : [http://wbln0018.worldbank.org/html/eswwwebsite.nsf/BillboardPictures/op436French/\\$FILE/OP436French.pdf](http://wbln0018.worldbank.org/html/eswwwebsite.nsf/BillboardPictures/op436French/$FILE/OP436French.pdf)

IV. Droits et intérêts potentiellement affectés et dommages susceptibles d'être subis

Une D.O. 4.20 non déclenchée, une catégorisation environnementale B du projet, et la non production de l'évaluation environnementale plus de deux années après l'approbation du projet, ne nous semblent pas constituer un fondement approprié pour la préparation du zonage, une opération capitale pour l'établissement d'une gestion durable des forêts, dans le respect et pour le bénéfice des populations locales, dont les peuples autochtones Pygmées.

Si le zonage de ces forêts venait, comme les orientations et omissions de la Banque Mondiale semblent l'annoncer, à être opéré sans consultation des peuples autochtones, sans la prise en compte de leurs intérêts, et après que l'allocation de nouvelles concessions forestières ait été effectuée, cette opération conduira nécessairement à :

1. La violation de leur droit d'occuper leurs terres ancestrales ;
2. La violation de l'intégrité de leurs terres traditionnelles ;
3. La violation de leur droit d'accès à leurs terres traditionnelles et aux ressources qui s'y trouvent ;
4. La violation de leur droit de gérer leurs forêts et les ressources qui s'y trouvent suivant leurs connaissances et pratiques traditionnelles ;
5. La violation de leurs valeurs culturelles et spirituelles.

Ces violations de droits interdépendants, et dont les dommages le sont tout autant, conduiraient ainsi à :

1. La destruction et/ou la perte de leur milieu de vie naturel ;
2. La privation de leurs moyens de subsistance ;
3. Un changement imposé, voire forcé, de leur mode de vie ;
4. De sérieux conflits sociaux.

Ces impacts négatifs auraient pour conséquence un appauvrissement accru des populations les plus défavorisées et marginalisées au sein de la population congolaise, ce qui compromettrait toute perspective de développement durable.

V. La logique d'un développement conduit par l'exploitation industrielle du bois

Nos préoccupations face aux omissions et manquements de la Banque Mondiale sont renforcées par le fait que ses opérations relatives au secteur forestier en RDC dénotent clairement une orientation axée sur l'idée que le développement viendra de l'exploitation

industrielle du bois, dont la Banque soutient la mise en œuvre²³, alors qu'aucune réglementation relative aux droits et aux intérêts des communautés locales, ou même à la protection de l'environnement, n'a été adoptée.

Cette logique se retrouve dans les indicateurs de performance de la composante 'forêts' du PUSPRES qui ne font référence qu'au « nombre de nouvelles concessions attribuées de manière transparente »²⁴. L'évaluation du succès de l'application des réformes forestières ne se basera donc apparemment que sur ces indicateurs, sans envisager d'hypothèses ou de risques comme la non consultation des peuples autochtones ou une suspension prématurée du moratoire qui ne permettrait pas d'effectuer sereinement les différentes opérations prévues dans le plan de zonage.

La Banque Mondiale précise d'ailleurs que le Code forestier congolais prépare le terrain pour la relance d'un secteur clé pour la croissance économique et pour l'augmentation des revenus à l'exportation. L'application des réformes forestières à travers le pays vise selon la Banque à créer « un environnement favorable à un développement conduit par le secteur privé »²⁵.

Cet objectif est encore davantage clarifié dans les Aides-mémoire des missions de suivi du secteur forestier conduites par le personnel de la Banque Mondiale en RDC où il est clairement dit que « cette nouvelle trajectoire [prise par le Code forestier] peut se résumer par le rétablissement d'un cadre favorable aux investissements privés et à la création de valeur ajoutée industrielle »²⁶. Les spécialistes forestiers de la Banque pronostiquent ainsi une multiplication par 60, voire 100, de la production annuelle de bois qui atteindrait ainsi 6 à 10 millions de m³ de bois par an. Une production qui pourrait être assurée selon leurs prévisions sur base de 60 millions d'hectares de 'forêts de production permanente'²⁷. Pour mémoire, les forêts tropicales de la RDC couvrent une superficie de 80 millions d'hectares.

Cette conception du développement conduit par l'exploitation industrielle du bois a pourtant prouvé ses limites dans de nombreux pays²⁸, comme le Cameroun, où ce type d'exploitation a été à l'origine de nombreux conflits sociaux et à une plus grande paupérisation des franges les plus pauvres de la population.

Même si la Banque Mondiale a admis la nécessité de considérer les alternatives à l'exploitation industrielle du bois²⁹, nous n'en voyons aucun signe sur le terrain dans le cadre de ses opérations liées au secteur forestier en RDC³⁰.

²³ Président de la République Démocratique du Congo, Décret No 05/116 du 24 octobre 2005 fixant les modalités de conversion des anciens titres forestiers en contrats de concession forestière et portant extension du moratoire en matière d'octroi des titres d'exploitation forestière

²⁴ World Bank, EESRSP, Technical Annex, Report No : T7601-ZR, page 85

²⁵ World Bank, EESRSP, Technical Annex, Report No : T7601-ZR, page 25

²⁶ Banque Mondiale, République Démocratique du Congo, Mission de suivi sectoriel, 1^{er}-12 juillet 2003, page 1

²⁷ Banque Mondiale, République Démocratique du Congo, Mission de suivi sectoriel, 15-27 avril 2002, page 4

Voir également : World Bank, Economic Recovery Credit, Report and Recommendation of the President of the

International Development Association, Report No : P7531, 17 May 2002, pages 25-26 (\$87)

²⁸ Rainforest Foundation, Global Witness, Forest Peoples Programme, World Rainforest Movement, CDM Watch, SinksWatch, Environmental Defense, Down to Earth, Samata, *Broken Promises, How World Bank group policies fail to protect forests and forest peoples' rights*, 2005

²⁹ Rainforest Foundation, Vidéoconférence avec M. Wolfensohn, Président de la Banque Mondiale, Transcription des discussions, 8 juillet 2004

Lien (en anglais) : <http://www.rainforestfoundationuk.org/files/Transcription%20of%20video%20conference%2008.07.04.pdf>

VI. Démarches auprès de la Banque Mondiale

Nous, Organisations autochtones Pygmées et accompagnant les autochtones Pygmées en RDC, avons tenté maintes fois d'obtenir des clarifications sur les véritables motivations de la Banque, ainsi que sur les raisons des manquements susmentionnés, mais sans succès. La Représentation de la Banque Mondiale en RDC est restée peu réceptive et peu coopérative face à toutes les remarques, observations et recommandations formulées par les organisations de la société civile l'invitant modestement à faire preuve de responsabilité en modifiant sa 'politique locale' en matière de gestion des forêts congolaises en tenant compte de leurs aspects économiques, mais aussi sociaux et culturels, et des droits des communautés vivant dans ces forêts.

Des appels dans ce sens lui sont fréquemment lancés, soit lors de rencontres formelles ou informelles entre les ONG congolaises et certains membres du personnel de la Banque Mondiale en RDC, soit par la voie des médias, de publications, de lettres, de mémorandums, etc.

A titre illustratif, nous pouvons citer :

1. Lettre du 12 février 2004

Dans leur lettre du 12 février 2004³¹, plus de 220 organisations de la société civile ont exigé, entre autres à la Banque Mondiale, de prendre en compte de manière effective et systématique les droits et pratiques traditionnels et coutumiers des communautés locales dans le processus d'élaboration des normes d'application, ainsi que dans le développement du plan de zonage forestier.

Cet appel n'a pas été entendu par la Banque Mondiale qui n'a répondu à aucune des préoccupations des organisations signataires de la lettre, se contentant de renvoyer ces dernières auprès du Ministère de l'Environnement, Eaux et Forêts et de confirmer tout au long de son 'argumentaire' son attachement à la poursuite d'un développement socio-économique soutenu par l'industrie du bois³².

Cette focalisation sur les mesures visant à une relance rapide de l'exploitation industrielle du bois a confirmé à la société civile que ce que le Représentant Résident de l'époque conçoit comme « la convergence profonde [...] entre les préoccupations soulevées dans [la lettre de la société civile] et les objectifs des réformes soutenues par [la Banque] » n'existe absolument pas.

³⁰ Instance Permanente sur les questions autochtones, Rapport de la deuxième session, E/2003/43, E/C.19/2003/22, 12-23 mai 2003, §26 : « L'Instance recommande que les organismes et institutions spécialisés des Nations Unies, la Banque Mondiale [...] repensent le concept de développement de manière que les peuples autochtones participent pleinement au processus de développement, en tenant compte des droits des peuples autochtones et des pratiques issues du savoir traditionnel dont ils sont détenteurs. »

Lien : <http://www.un.org/esa/socdev/unpfii/pfii/documents/e200343f.pdf>

³¹ Centre National d'Appui au Développement et à la Participation Populaire (CENADEP), Conseil National des Organisations Non Gouvernementales de Développement du Congo (CNOGD), *Le devenir des forêts de la République Démocratique du Congo et des populations vivant dans ces forêts*, 12 février 2004

³² Représentant Résident de la Banque Mondiale à Kinshasa, Onno Rühl, *Votre lettre du 12 février 2004 sur le devenir des forêts de la République Démocratique du Congo et des populations vivant dans ces forêts*, 11 mars 2004

Au lieu de mettre l'accent sur des mesures prenant comme point de départ les communautés locales, y compris les peuples autochtones, et de promouvoir un développement par les communautés locales et pour leur bénéfice, la Banque s'évertue à faire la promotion d'un schéma voué à l'échec. Le Représentant Résident illustre lui-même cet échec en présentant comme des « actes concrets » quatre mesures³³ qui, a posteriori, n'ont eu aucun impact sur le terrain, n'ont pas été respectées. Preuve en est la nécessité d'adopter aujourd'hui un décret présidentiel pour tenter de remettre sur les rails une revue paralysée des anciens titres forestiers et d'assurer l'application d'un moratoire qui n'a jamais été respecté.

2. Réunion du 23 février 2004

Suite à l'envoi de leur lettre du 12 février, les organisations de la société civile ont tenu durant la semaine du 23 février 2004 à Kinshasa un atelier national sur le Code Forestier et ses mesures d'application.

La première journée de travail de l'atelier a été interrompue pour permettre à plusieurs participants de se rendre à une réunion convoquée, sans préavis, par la Représentation de la Banque Mondiale. Cette suspension imprévue a sérieusement mis à mal le déroulement des travaux et le peu de temps à disposition des participants pour mener à bien un atelier capital, aussi bien pour l'information de la société civile que pour la définition de ses objectifs dans un processus de mise en oeuvre du Code forestier qui l'a mise à part, de même que les intérêts des communautés locales et des peuples autochtones.

Les organisations de la société civile espéraient que l'empressement et l'insistance de la Banque Mondiale pour la tenue de cette réunion du 23 février annonçaient des réponses imminentes et concrètes à leur lettre du 12 février. Mais les participants ont finalement rejoint l'atelier de travail, déçus, après une réunion avec un Représentant Résident de la Banque qui s'est évertué à assurer qu'il existait une convergence entre les préoccupations de la société civile et celles de la Banque, sans pour autant répondre aux dites préoccupations.

3. Vidéoconférence du 08 juillet 2004

Au cours d'une vidéoconférence sollicitée par la Rainforest Foundation, tenue le 08 juillet 2004, des représentants des peuples autochtones Pygmées ont rappelé au Président de la Banque Mondiale, M. James Wolfensohn, l'existence de communautés Pygmées vivant et dépendant des forêts de l'Equateur, et leur crainte de voir les intérêts sociaux, culturels et économiques de ces populations ne pas être pris en compte dans la préparation du plan de zonage.

³³ Représentant Résident de la Banque Mondiale à Kinshasa, Onno Rühl, *Votre lettre du 12 février 2004 sur le devenir des forêts de la République Démocratique du Congo et des populations vivant dans ces forêts*, 11 mars 2004, page 2

Dans sa réaction, Monsieur le Président de la Banque Mondiale a promis de suivre ce dossier personnellement et a déclaré : « La question de la forêt, pour moi, en Afrique et en particulier en Afrique Centrale est cruciale et combine non pas seulement une question d'une ressource économique, mais un énorme problème social affectant les Pygmées, affectant les peuples autochtones, et je peux vous assurer que mes collègues et moi-même ici à la Banque sommes tout à fait conscients de ces problèmes et nous faisons de notre mieux. Maintenant, si notre 'mieux' pouvait être amélioré, nous en serions ravis. Et je peux vous assurer que nous serions ouverts et non pas sur la défensive en essayant d'avoir des discussions avec chacun de vous pour suivre une meilleure trajectoire en RDC »³⁴.

Cette vidéoconférence avait été principalement tenue en anglais et les participants de la RDC n'avaient pas bénéficié d'une traduction pour permettre une bonne compréhension des interventions.

Malgré tout, compte tenu des déclarations du Président de la Banque, cette vidéoconférence aura fait espérer pendant un temps à un changement de la 'politique locale' de la Banque étant donné que M. Wolfensohn avait manifesté son attachement à une large consultation des populations locales et s'était engagé à suivre personnellement les questions relatives au secteur forestier en RDC.

Seulement, nous n'avons plus jamais rien entendu de M. Wolfensohn après cette vidéoconférence et les relations subséquentes avec la Représentation à Kinshasa n'ont été accompagnées d'aucun signe d'ouverture, d'aucune information, d'aucune réponse en substance à nos préoccupations.

4. Réunion des Organisations autochtones Pygmées de la RDC en octobre 2004

En octobre 2004, les Organisations autochtones Pygmées de la RDC, en collaboration avec leur partenaire Minority Rights Group International (MRG International), avaient invité la Banque Mondiale à une réunion qu'elles avaient organisée à l'hôtel Memling à Kinshasa. Non seulement la Banque Mondiale n'a pas daigné déléguer quelqu'un à cette réunion, mais elle tenait une autre réunion au même hôtel Memling dans une salle située à moins de cinq mètres de la salle où se tenait la réunion des Organisations des autochtones Pygmées, à laquelle elle était invitée.

La Banque Mondiale n'ayant fourni par la suite aucune explication, ni présenté aucune excuse pour son silence, les organisations susdites ont conclu à un mépris à leur endroit de la part de la Représentation de la Banque Mondiale en RDC.

³⁴ Rainforest Foundation, Vidéoconférence avec M. Wolfensohn, Président de la Banque Mondiale, Transcription des discussions, 8 juillet 2004
Lien (en anglais) : <http://www.rainforestfoundationuk.org/files/Transcription%20of%20video%20conference%2008.07.04.pdf>

5. Rencontre informelle avec M. Debroux

Après cette réunion à l'hôtel Memling, des délégués des Organisations autochtones Pygmées ont, de manière informelle, eu des discussions avec M. Debroux, Spécialiste forestier de la Banque Mondiale, et lui ont fait connaître clairement leurs préoccupations concernant le plan de zonage et la prise en compte des droits et intérêts des communautés autochtones Pygmées dans cette opération.

M. Debroux s'est contenté de réaffirmer qu'il y avait convergence entre les préoccupations de la Banque Mondiale et celles des communautés forestières congolaises, toujours sans préciser en quoi consistait concrètement cette convergence.

Cette rencontre n'avait pas été sollicitée par M. Debroux, mais par M. Bobia du CENADEP (Centre National d'Appui au Développement Populaire) qui avait demandé à être accompagné de représentants des Organisations autochtones Pygmées lors de son entrevue avec M. Debroux.

6. Forum sur les forêts du 13 novembre 2004

En novembre 2004, un Forum sur les forêts avait été organisé à Kinshasa. Il s'agissait là de la seule mesure ayant résulté de 'l'échange' avec le Président de la Banque Mondiale.

Cependant, ce Forum ne réunissait au départ que des Organisations de la société civile de Kinshasa. Il aura fallu exercer une sérieuse pression sur la Banque Mondiale, avec le soutien du Ministère de l'Environnement, Eaux et Forêts, pour qu'elle accepte la participation in extremis d'ONG venues des provinces.

Les ONG locales³⁵ et internationales avaient appelé à cette occasion à un respect strict du moratoire sur l'allocation de nouvelles concessions d'exploitation forestière, jusqu'à ce que des conditions strictes soient remplies. Les ONG internationales³⁶ avaient également relayé nos préoccupations en invitant à une implication des communautés locales « dans la préparation du plan de zonage, suivant le principe de consentement préalable, libre et informé.

Une seule question avait pu être posée par l'unique représentante des peuples autochtones invitée à cette rencontre ; une question relative à l'indemnisation des Pygmées expulsés du Parc National de Kahuzi Biega. Cette question est restée sans réponse.

³⁵ CENADEP, CNONGD, *Déclaration de la société civile congolaise au Forum sur la forêt et la conservation de la nature en RDC du 13 novembre 2004 à Kinshasa*, 13 novembre 2004

³⁶ African Wildlife Foundation, CARE International, Conservation International, Fauna and Flora International, Greenpeace, Rainforest Foundation, Wildlife Conservation Society, World Wide Fund for Nature, *Déclaration commune des organisations non gouvernementales internationales oeuvrant pour la gestion durable des écosystèmes forestiers de la RDC*, Forum sur les forêts, 13 novembre 2004

Lien : <http://www.rainforestfoundationuk.org/files/DRC%20international%20NGO%20statement%20-%20Fr.pdf>

Pour finir, aucun rapport n'a été produit à l'issue du Forum, prouvant selon nous le peu d'intérêt qu'attache la Banque Mondiale aux droits de communautés locales et à ceux des peuples autochtones Pygmées en RDC et au rôle que jouent ces derniers dans la gestion durable des forêts.

7. Réunion du 08 février 2005

La rencontre du 08 février 2005 a réuni Madame MULEY, Messieurs KAPUPU et BONKONO, représentants des peuples autochtones, et Mesdames KANDI SHUNGU, Assistante au Programme Forêt, et ENGULU, Chargée de Communication du Bureau de la Banque Mondiale de Kinshasa.

Comme pour les autres rencontres conviées par la Banque Mondiale, celle-ci est intervenue en dernière minute, sans ordre du jour, à la veille d'un atelier des Organisations autochtones Pygmées à Goma, et n'a apporté aucune information, n'a débouché sur aucun engagement concret de la Banque quant à la prise en compte des intérêts des peuples autochtones en RDC.

8. Réunion du 21 juillet 2005

Cette réunion s'est tenue à la Représentation de la Banque Mondiale à Kinshasa. Elle portait spécifiquement sur le PUSPRES et était conduite par M. Devictor, Chef du projet. Les Organisations autochtones Pygmées n'y ont pas été conviées, malgré les impacts que pourrait avoir ce projet sur les populations autochtones en RDC.

Néanmoins, des représentants de la société civile ont essayé de relayer nos préoccupations, particulièrement celles relatives aux activités de zonage. Cependant, ces représentants ont été confrontés au refus de M. Devictor de répondre à toute question relative à la composante 'forêts' du PUSPRES, celle-ci constituant selon lui un sujet trop « sensible » en RDC. Une question lui a malgré tout été posée quant à la prise en compte des intérêts des peuples autochtones dans la région de l'Equateur où est programmé le plan de zonage pilote financé par la Banque. M. Devictor a alors demandé à son interlocuteur pour quelle raison il s'inquiétait des Pygmées quand des milliers d'enfants mourraient de faim dans la province de l'Equateur !

Toutes ces démarches n'ont donc pas apporté de réponse substantielle aux préoccupations et recommandations formulées par les Organisations autochtones Pygmées, ou par la société civile de manière générale.

Par conséquent, nous avons adressé à la Banque Mondiale une lettre datée du 18 février 2005³⁷ que nous avons considérée comme étant un ultime recours.

³⁷ Organisations des autochtones Pygmées et accompagnant les Pygmées en RDC, *Manquements de la Banque Mondiale concernant les forêts et les peuples autochtones de la RDC*, 18 février 2005

Réponse de la Représentation de la Banque Mondiale à notre ultime sollicitation

La réponse de la Banque Mondiale datée du 05 juillet 2005³⁸, reçue le 21 septembre 2005 alors qu'un représentant d'une Organisation autochtone Pygmée participait à des événements en marge des réunions annuelles de la Banque Mondiale à Washington, n'a malheureusement pas satisfait aux préoccupations des peuples autochtones Pygmées.

Le Représentant Résident nous renvoie au Ministère du Plan pour obtenir davantage d'informations sur la teneur des projets de la Banque Mondiale, n'apporte aucune information ayant trait à nos recommandations et évoque, élément nouveau, les difficultés rencontrées par la Représentation pour communiquer avec les Organisations autochtones Pygmées des provinces, suggérant apparemment à ces dernières de se déplacer si elles veulent être entendues.

Soumission de notre requête d'inspection

Confrontées une nouvelle fois à la fuite de la Représentation devant ses responsabilités, nous renvoyant à une administration congolaise exangue que nous avons approchée à maintes reprises mais qui est incapable de nous fournir les éléments qui permettraient de répondre à nos préoccupations et nous renvoie à son tour auprès de la Banque Mondiale, nous adressons au Panel d'Inspection la présente requête pour lui demander de recommander aux Directeurs Exécutifs de la Banque Mondiale d'initier des investigations sur les manquements de la Banque que nous avons relevés, en vue :

- D'appliquer au PUSPRES la nouvelle Politique opérationnelle 4.10 relative aux peuples autochtones ;
- De reconsidérer sa classification du PUSPRES en catégorie environnementale A ;
- De délivrer l'évaluation environnementale du PUSPRES ;
- De prendre en considération les observations et préoccupations exposées ci-haut dans le cadre de l'approbation de nouveaux projets ayant une composante 'forêts', comme le 'Transitional Support for Economic Recovery Credit' qui sera présenté au Conseil d'administration de la Banque Mondiale le 08 décembre prochain.

Nous restons bien évidemment à votre disposition pour toute demande d'informations complémentaires.

³⁸ Représentant Résident de la Banque Mondiale à Kinshasa, Jean-Michel Happi, *Opérations de la Banque Mondiale concernant les forêts et les peuples autochtones de la RDC*, 05 juillet 2005

Dans l'espoir de voir notre requête connaître une suite favorable, nous vous prions de bien vouloir agréer, Monsieur le Président du Panel d'Inspection, l'expression de nos sentiments les meilleurs.

Les Soussignées,

Les Organisations des peuples autochtones Pygmées et accompagnant les peuples autochtones Pygmées en RDC :

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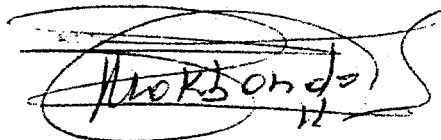
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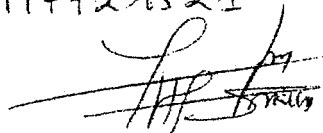
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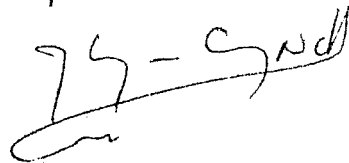


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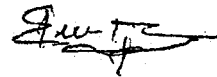
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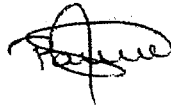
Adolphine Muley



Union pour l'Emancipation de la Femme Autochtone

Coordinatrice

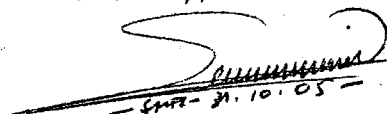
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Veillez enfin trouver ci-dessous la liste complète des requérants, suivant leur ordre d'apparition lors de la signature de la présente requête :

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Bukavu - Province du Sud-Kivu

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ANNEX 1

Document of
The World Bank

Report No: T7601-ZR

TECHNICAL ANNEX
FOR
A PROPOSED GRANT
IN THE AMOUNT OF SDR 117.0 MILLION
(US\$164 MILLION EQUIVALENT)
AND A PROPOSED CREDIT
IN THE AMOUNT OF SDR 35.7 MILLION
(US\$50 MILLION EQUIVALENT)
TO THE
DEMOCRATIC REPUBLIC OF CONGO
FOR AN
EMERGENCY ECONOMIC AND SOCIAL REUNIFICATION SUPPORT
PROJECT

August 14, 2003

Poverty Reduction and Economic Management 3
Country Department 9
Africa Regional Office

CURRENCY EQUIVALENTS

SDR 1.00 = US\$1.4016

US\$1.00 = Francs Congolais 430

July 31, 2003

FISCAL YEAR

January 1 to December 31

ABBREVIATIONS AND ACRONYMS

BCECO	Bureau Central de Coordination
COPIREP	Comité de Pilotage de la Réforme des Entreprises Publiques,
CPAR	Country Procurement Assessment Review
CQ	Consultant's Qualification
DRC	Democratic Republic of Congo
EMRRP	Emergency Multi-sector Rehabilitation and Reconstruction Program
EMRR Project	Emergency Multi-sector Rehabilitation and Reconstruction Project
ERC	Economic Recovery Credit
ESRP	Emergency Stabilization and Recovery Project
FMR	Financial Monitoring Report
FY	Fiscal Year
HIPC	Highly Indebted Poor Countries
IBRD	International Bank for Reconstruction and Development
ICB	International Competitive Bidding
IDA	International Development Agency
IMF	International Monetary Fund
I-PRSP	Interim Poverty Reduction Strategy Paper
MDRP	Multi-Country Demobilization and Reintegration Program
MLC	Mouvement de Libération du Congo
MONUC	Mission d'Observation des Nations Unies au Congo
NCB	National Competitive Bidding
NGO	Non Governmental Organizations
NS	National Shopping (NS),
OP	Operation Policy
PCU	Project Coordination Unit
PER	Public Expenditure Review
PRGF	Poverty Reduction and Growth Facility
QCBS	Quality-Cost Based Selection
RCD	Rassemblement Congolais pour la Démocratie
RN	Route Nationale (national road)
SMP	Staff Monitored Program
SOE	Statement of Expenditure
TOR	Term of Reference
TSS	Transitional Support Strategy

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I.A.4. Project Location: (Geographic location, information about the key environmental and social characteristics of the area and population likely to be affected, and proximity to any protected areas, or sites or critical natural habitats, or any other culturally or socially sensitive areas.)

Components 1 and 2 are not expected to be geographically localized.

Component 3 is expected to finance the de-bottlenecking (through minimal rehabilitation and no realignment) of the existing (non-covered) road Kisangani - Beni and the existing (non-covered) Bukavu - Mbuji Mayi road in order to make them passable. It will also provide resources for a supplemental to the existing contract for the rehabilitation of the Matadi - Kinshasa road, to complete works already launched;

Component 4 will be implemented in selected cities, which are expected to include Bukavu, Goma, Kindu, and Kisangani (with an expected focus on urban streets, drainage, and education / health facilities rehabilitation);

Component 5 will be implemented in pilot areas, which are expected to include the districts of Gemena, Isiro, and Masisi.


B. Check Environmental Classification: B (Partial Assessment)

Comments:

The Emergency Reunification Project is classified as environmental category B because activities financed under the Project are not expected to have significant negative environmental impacts. No new major construction is envisaged (rather, the Project will support the rehabilitation and reconstruction of deteriorated infrastructure).

The Emergency Reunification Project is an emergency recovery operation, processed under OP 8.50. A full environmental assessment will be completed within one year of effectiveness.

C. Safeguard Policies Triggered (from PDS)

(click on  for a detailed description *or* click on the policy number for a brief description)

Policy	Triggered
Environmental Assessment (OP 4.01, BP 4.01, GP 4.01)	<input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> TBD
Natural Habitats (OP 4.04, BP 4.04, GP 4.04)	<input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> TBD
Forestry (OP 4.36, GP 4.36)	<input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> TBD
Pest Management (OP 4.09)	<input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> TBD
Cultural Property (OPN 11.03)	<input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> TBD
Indigenous Peoples (OD 4.20)	<input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> TBD
Involuntary Resettlement (OP/BP 4.12)	<input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> TBD
Safety of Dams (OP 4.37, BP 4.37)	<input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> TBD
Projects in International Waters (OP 7.50, BP 7.50, GP 7.50)	<input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> TBD
Projects in Disputed Areas (OP 7.60, BP 7.60, GP 7.60)*	<input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> TBD

Section II - Key Safeguard Issues and Their Management

D. Summary of Key Safeguard Issues. Please fill in all relevant questions. If information is not available, describe steps to be taken to obtain necessary data.

II.D.1a. Describe any safeguard issues and impacts associated with the proposed project. Identify and describe any potential large scale, significant and/or irreversible impacts.

Environmental Assessment (OP 4.01, BP 4.01, GP 4.01). Activities financed under Components 3, 4, and 5 are expected to include some rehabilitation activities, in particular infrastructure repairs. These activities, however, are expected to remain limited in nature and scope, with a screening out of all activities with a potential negative impact and no adequate mitigation measures. Activities financed under Components 1 and 2 are not expected to have any significant environmental impact (see below for forestry). Safeguard policy 4.01 on environmental assessment safeguards is triggered.

Natural Habitats (OP4.04, BP 4.04, GP 4.04). Activities in natural habitats will be screened out from Components 4 and 5. Activities under Component 3 are not expected to have an impact on natural habitats.

Forestry (OP 4.36, GP 4.36). The support to implementation of economic reforms will include assistance in implementing forestry reforms throughout the country. These reforms, which have been developed with the assistance of the Bank, are already implemented in Government-held territories - with significant achievements (including a provision for re-distribution of 40% of forest fees to local communities, and the effective cancellation of 24 millions hectares of invalid concessions). The Project aims to extend the implementation of such measures to the rest of the country. It is not aimed at changing forestry policies, but rather at implementing changes already supported through earlier operations (in particular the Economic Recovery Credit). The safeguard on forestry is triggered.

Pest Management (OP 4.09). The Project is not expected to finance pesticides or activities which could have affect agricultural or public health.

Cultural Property (OPN 11.03). The Project is not expected to affect any cultural property. Activities under Components 4 and 5 which could have a negative impact on cultural property will be screened out during the selection process.

Indigenous Peoples (OP 4.20). The Project is not expected to include activities in areas inhabited by indigenous peoples.

Involuntary Resettlement (OP/BP 4.12). Some activities financed under Components 3 and 4 may require the resettlement of limited groups of people. Involuntary resettlement safeguard is therefore triggered.

Safety of Dams (OP4.37, BP 4.37). The Project does not include the financing of dams, or dam-related activities.

Projects in International Waters (OP 7.50, BP 7.50, GP 7.50). No activity financed under the Project is expected to be located in international waters.

Projects in Disputed Areas (OP 7.60, BP 7.60, GP 7.60). No activity financed under the Project is expected to be located in disputed areas.

II.D.1b. Describe any potential cumulative impacts due to application of more than one safeguard policy or

Agency, so that short-term transactions (up to three years) can be covered against political risk. These actions are complemented by efforts aimed at strengthening the judiciary with the support of the European Union.

- *Mining and forestry sectors.* New mining and forestry codes were promulgated in July 2002 and September 2002 respectively – laying the ground for recovery in sectors which are key both to spur economic growth and to increase export revenues. These codes, prepared with the support of the World Bank, reflect international best practices, to attract foreign investors and enhance transparency in sectors where widespread corruption has prevailed for several decades. Efforts are now underway to re-establish an accurate mining cadastre (which has not been systematically updated since 1974) and review the forestry concessions awarded to date. The Government has also taken preliminary steps to restructure state-owned mining companies (in particular Gécamines).

The continued debt burden

40. Over the past decades, weak policies and conflict, compounded by sometimes misguided borrowing and lending decisions, have produced an unsustainable debt burden – and DRC is one of the most debt-laden IDA countries. Thanks to considerable efforts by both DRC Government and its creditors, critical steps have been taken for clearing arrears, which were preventing the re-engagement of key development partners. Arrears to the IMF and the World Bank were cleared in June and July 2002 respectively, and a clearance plan was agreed upon and funded for the African Development Bank's arrears. Paris Club creditors met in September 2002 and agreed to a generous restructuring of DRC's external debt. Furthermore, DRC reached its Decision Point in July 2003 and became eligible for debt relief under the enhanced HIPC Initiative from all of its creditors for a total amount of approximately US\$10 billion in nominal terms (or US\$6.3 billion in net present value terms over time).

41. Despite these efforts, however, scheduled debt service is expected to remain very high, and will still represent 30 to 45 percent of expected Government revenues between 2003 and 2006. With such a high level of commitments, the Government will not have sufficient room to support key activities necessary for the success of the reunification process. External assistance is thus still needed to help face the challenges associated with reunification, and to keep the overall recovery program on track.

Emerging priorities associated with reunification

42. All participants in the inter-Congolese dialogue have endorsed the economic program and called for its continued implementation. Still, the reunification process is taking place in a context of acute social and humanitarian crisis – and new challenges are emerging, which could result in partly or wholly derailing the program. In the coming period, and in line with its strategy, the Government has a two-fold agenda to facilitate the process of economic and social reunification to be successful:

- *Ensure key economic reforms are implemented throughout the country.* Key reforms already undertaken on the Government side have to be implemented throughout the country, in order to maintain the hard-won macroeconomic stability, restore sound economic governance, and create an environment for private sector-led growth in the northern and eastern provinces. Critical issues include: (i) fiscal mobilization, (ii) transparency in the management of public resources, (iii) public expenditure management, (iv) private sector activities, (v) exploitation of natural resources, (vi) public enterprises reform, and (vii) financial sector reform. Specific action plans and indicators have been or will be defined within the context of the economic policy dialogue with the Bank and the IMF.
- *Restore reunified, decentralized, and functioning institutions.* This will require first and foremost to resume wage payment to civil servants, as a critical pre-condition for public institutions to function. Efforts will also be needed to reintegrate long-divided entities into countrywide institutions, while maintaining an adequate degree of local autonomy and decentralization. Specific action plans and indicators will be defined at sectoral level, in particular with the support of activities funded under the Project's institutional strengthening component.

Design and implementation arrangements

43. The Bank has gained experience in providing adjustment support to DRC, with the successful implementation of the US\$450 million ERC approved in June 2002. This Credit has played a key role for the normalization of the DRC's relations with its external creditors, as well as for supporting the earlier stages of the economic reform process. Resources provided through the ERC have been put to good use and have contributed to restoring a minimal capacity for both economic governance and social services delivery. Provision of further balance of payments support to appears to be both a critical and an effective mean to support Government's efforts within the context of the reunification process.

44. The Government is committed to implement the two-fold agenda of reform necessary for the success of the process of economic and social reunification. In view of the existing track record, and to avoid cross-conditionality with other operations supporting economic reforms, there will be no specific macro-economic trigger for the release of funds under the component. This is consistent with OP 8.50 (Operational Policy on Emergency Recovery Assistance) under which the Project is prepared.

45. The balance of payments component will support and facilitate implementation of the Government's two-fold agenda. It is expected to permit the continuation of key recovery programs by financing critical imports, otherwise likely to be affected by fiscal resource constraints caused by the need to respond to the emergency, and contribute to stabilize the macro economy, by reducing the fiscal deficit and making additional foreign exchange available.

(ii) *Improve capacity to manage public resources.* Support will be provided within the broader context of the ongoing PER, with a focus on strengthening public resource management in reunified provinces.

(iii) *Strengthen transparency.* Support will aim to extend the scope of recent reforms to the entire country. Initial activities will include: extending activities of the recently-established Anti-Corruption Commission; conducting audits of the tax and customs administrations; screening public service payroll, with a view to identifying and removing "ghost workers"; and building a constituency for the fight against corruption, through information sessions and public debates.

(iv) *Improve public dissemination and debate on economic reforms.* The Component will aim to replicate a successful effort funded under the EERP to build support for the reform process through information and public debate –with a focus on reaching stakeholders in the eastern and northern parts of the country.

- *Support to the PRSP process (US\$4 million).* The preparation of a solid and broadly participatory PRSP is a critical element of the process of economic and social reunification: it is through this process that the consensus on priorities for country-wide recovery can be consolidated and translated into operational plans. The Project will provide financial and technical assistance to ensure the breadth and quality of the participatory process, in particular in reunified provinces – and to finance the sectoral surveys and other analytical work necessary for the preparation of sound sectoral strategies. This will be undertaken in close coordination with other donors, with a view to complementing activities for which financing is already in place.
- *Forestry reforms (US\$4 million).* The Project will support re-unification of DRC's forest institutions, and help improve local governance over natural resources (two thirds of DRC's huge forest endowment are located in reunified provinces). In particular, it will help bring into practice the provisions of the new Forestry Code and help address the issue of illegal logging. It will also support sound environmental management. Activities will be oriented towards developing local processes and ownership rather than just delivering outputs. In line with the recommendations of a sector institutional review, activities under the Project will be articulated around two major sets of priorities:

(i) *Prepare a forest zoning plan* – with a focus on the most-forested provinces (in particular Equateur and Province Orientale). This is critical to secure land rights and transparent access to forest resources for all stakeholders. The Project will finance: mapping services and verifications on the ground, socio-economic assessments, facilitation of local consultations to help Government and local stakeholders organize rural

areas in three broad categories according to their primary objectives (rural development, sustainable production, environmental protection). The project will also provide basic training and equipment for forestry services to lead the planning process.

(ii) Lay the ground for implementation of the new law's forest concession system – with a focus on converting old forest contracts into the new concession regime. The Project will finance methodological support and field verifications to: assess compliance with past obligations; re-design concessions boundaries where appropriate; and monitor preliminary steps by concession holders towards developing sound forest management plans. The Project will also support the setting up of a forest information system, and the re-activation of communication between central and local forestry services, as well as basic training and equipment to strengthen capacity of forestry services.

- *Reunification and decentralization of public institutions (US\$1 million)*. Specific strategies and action plans are needed in each sector for a smooth and effective reunification of key public institutions. This process will take place within the broader context of reunification and the redefinition of the respective resources and responsibilities of central, provincial, and local levels of Government. It will require a dialogue between relevant stakeholders (including representatives of the Government, of the various levels of the relevant institutions, and of users' associations), and a review of experiences in other large countries. The Project will support this process in specific sectors and for specific institutions, in coordination with efforts currently underway under the EMRR Project to develop sector strategies. The Project will finance facilitation services, workshops, and study tours as may be necessary, as well as the provision of external expertise, studies, and audits. It may also include the limited provision of goods and works as needed.
- *Engineering and other studies for preparing the extension of EMRRP (US\$2 million)*. Support will be provided to carry out the technical studies which are necessary to prepare for the eventual extension of the EMRRP throughout the country. These studies will focus on identifying sectoral priorities, scope of works, and possible implementation mechanisms (and also include social and environmental studies as may be needed). They will be complementary to efforts currently underway under the EMRR Project to define sectoral strategies and prepare key sectoral reforms.

Cost breakdown

55. The component will finance a number of activities, the exact nature and scope of which is expected to evolve during implementation. An initial cost breakdown (in US\$ million) is detailed in the table below:

- For component 3, to transparency in procurement and adequate supervision of contractors, as well as on performance in addressing environmental and social issues;
- For component 4, to the process of selection of NGOs, and contractors, and the effective and transparent implementation of activities;
- For component 5, to the quality of the facilitation processes and the transparency of financial management.

MONITORING AND EVALUATION

142. Regular reviews will be carried out every 6 months after effectiveness to assess progress, achievement of overall objectives, and the respective roles of the different partners and to reorient the Project if needed to ensure achievement of objectives. The reviews will involve visits by specialists to selected sites for first-hand assessment of executing entities' performance. The PCU will be responsible for: (i) preparing the necessary documentation for the reviews, and (ii) planning the review meeting. In particular, the PCU will contract a consultant (under project finance) to review and assess the progress of implementation and prepare the necessary documentation for the periodic reviews. The PCU will also organize meetings with implementing partners (e.g., NGOs) and key stakeholders and direct beneficiaries, for the supervision mission to receive direct feedback from all relevant parties.

ENVIRONMENTAL ASPECTS AND COMPLIANCE WITH BANK SAFEGUARD POLICIES

143. The Project is classified as environmental category B because no activity funded under the Project is expected to have a significant negative environmental or social impact (the EERP and EMRRP which included similar infrastructure rehabilitation activities received a similar classification). It should be noted that the emergency was in no way related to inappropriate environmental management practices. Special steps will be taken for specific components:

- *For component 3*, the rehabilitation works are expected to trigger several Safeguard Policies (namely on forestry, natural habitats, and involuntary resettlement), although their impact can be mitigated. It should be noted that works will focus on rehabilitation of an existing infrastructure (no new construction), and that there will be no change in the horizontal alignment or cross-section of the highways. Contracts will include clauses on restoration of the borrowing pits opened for the works as well as on environmental protection at the contractors base camps (e.g., waste products from vehicle maintenance, sanitation facilities). An Environmental and Social Assessment, financed under the Project, will be prepared, approved by the Bank and disclosed in country and in the Infoshop within one year of effectiveness (as per OP8.50).

Outputs for each component:	Output indicators:	Project reports:	Critical Assumptions and Risks (from Outputs to Objective)
	Woods Institutions (quantitative targets).		
<p>Component 2: Institutional Strengthening</p> <p>1. Restoring essential administrative capacity for sound economic governance in reunified provinces.</p> <p>2. Ensuring implementation of forestry reforms in reunified provinces.</p> <p>3. Support institutional reunification.</p> <p>4. Carrying out engineering and other studies to prepare for a large-scale reconstruction program</p>	<p>- Use of sound budgetary and public expenditures procedures in the areas.</p> <p>- Number of concessions recalled;</p> <p>- Number of new concessions attributed in a transparent manner.</p> <p>- Smooth reunification of institutions, and definition of adequate relations between the central and local levels within reunified institutions, with a view to maximizing internal efficiency, transparency, and responsiveness to users' needs (report on decentralization process and mid term review).</p> <p>- Availability of adequate engineering and other studies to support the preparation of a large-scale rehabilitation and reconstruction program (availability of studies).</p>	<p>- Bank supervision mission reports;</p> <p>- PCU quarterly reports;</p> <p>- Midterm review by December 2005;</p> <p>- ICR by June 2008;</p> <p>- Project database;</p> <p>- Beneficiary surveys;</p> <p>- IMF missions reports</p>	<p>- Political reunification proceeding well;</p> <p>- Reform program continuously implemented by the Government.</p>

ANNEX 3

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INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

Integrated Safeguards Data Sheet (Updated)

Report No: AC43

Section I - Basic Information

Date ISDS Prepared/Updated: 08/05/2003

A. Basic Project Data (from PDS)

I.A.1. Project Statistics

Country: CONGO, DEMOCRATIC REPUBLIC OF	Project ID: P081850
Project: Emergency Economic and Social Reunification Support Project	Task Team Leader: Xavier Devictor
Authorized to Appraise Date: July 2, 2003	IBRD Amount (\$m):
Bank Approval: October 7, 2003	IDA Amount (\$m): 148.00
Managing Unit: AFC09	Sector: General education sector (20%); General energy sector (20%); Health (20%); General transportation sector (20%); General water, sanitation and flood protection sector (20%) Theme: Conflict prevention and post-conflict reconstruction (P)
Lending Instrument: Emergency Recovery Loan (ERL)	
Status: Lending	

I.A.2. Project Objectives (From PDS):

The ultimate aim of the Emergency Economic and Social Reunification Support Project (Emergency Reunification Project) is to assist the Government in facing some of the key challenges associated with the process of economic and social reunification. Such support is critical to help mitigate the ongoing social and humanitarian crisis and to facilitate the continued implementation of the economic reform program -- and hence to contribute to the stabilization of DRC.

In view of the Government's response to the reunification challenge, of the joint donor approach, and as part of the overall Bank strategy in DRC, the specific objectives of the Emergency Reunification Project are three-fold:

- *Help restore a sound economic governance system throughout the country*, by providing the type of expertise and financial resources needed to ensure a satisfactory reunification of key institutions and the implementation of key economic reforms throughout the country;
- *Complement actions currently underway to address urgent needs*, alleviate the suffering of Congolese people, and generate quick "peace dividends" which could contribute to the stabilization of the country, by financing rehabilitation activities in those parts of the country where no major economic assistance program is under implementation yet; and
- *Prepare for the rapid extension of the Emergency Multi-sector Rehabilitation and Reconstruction Program to all parts of the country*, in particular by piloting implementation solutions designed to deliver results with efficiency and transparency in areas administered by rebel movements and overcome the existing capacity constraints.

The design of the Project builds on, and reflects lessons learned from, similar activities

undertaken over the last two years in Government-controlled areas (through the Emergency Early Recovery Project, EERP, and the Emergency Multi-sector Rehabilitation and Reconstruction Project, EMRRP).

I.A.3. Project Description (From PDS):

The Project will include five components:

- Two components directly aimed at *supporting implementation of economic reforms throughout the country* – a Balance of Payment Support Component and an Institutional Strengthening Component; these components are expected to be complementary to each other, and to be implemented in close coordination with other activities aimed at supporting the country-wide economic reform process.
- Three components aimed at both *addressing urgent needs and activating implementation mechanisms* for rehabilitation activities in areas administered by rebel movements – to prepare for the eventual extension of the EMRRP; these components will aim to meet a large variety of needs and will in particular distinguish between three different types of activities: (i) rehabilitation of large infrastructure, in particular transport infrastructure; (ii) rehabilitation of urban infrastructure in selected cities; and (iii) provision of assistance to isolated rural communities, where no service provider has been active in years or decades.

Component 1: Balance of Payment Support. Under Component A, the Emergency Reunification Project will provide the Government with balance of payments support to finance the short-term gap associated with reunification. The design of this support will aim to support the extension of key structural reforms to the newly-reunified territories – e.g., by taking steps to ensure that implementation of the investment, mining, and forestry codes in newly-reunified areas catches up with implementation in Government-controlled regions. It is expected that support will be disbursed in one tranche.

Component 2: Technical expertise and capacity building. Building on the successful experience of the EERP, currently under implementation in DRC, the Project will finance the provision of technical assistance and capacity building to facilitate the economic and social reunification of the country and the pursuit of economic reforms. Specific areas will include: (i) strengthening capacity in key institutions, in particular at the provincial and local levels (including utilities, and institutions dealing with health care, roads, urban development, and community driven development); (ii) assisting the Government in revenue mobilization and public expenditure management, in particular in those areas affected by the reunification process; (iii) ensuring implementation of forestry reforms throughout the country; and (iv) carrying out engineering studies to prepare for the extension of the priority EMRRP to the entire country.

Component 3: Infrastructure rehabilitation. This component will finance one or two rehabilitation projects for the rehabilitation of selected key infrastructure. Projects will be selected on the basis of several criteria: (i) have a substantial impact on reunification (e.g., by re-linking provinces); (ii) consist in repairs and rehabilitation, and not include new construction;

(iii) be simple so that they can be implemented within a relatively short period of time; and (iv) ensure a satisfactory cost-benefit ratio. This will typically correspond to a major road connecting urban centers within rebel-held areas or across former frontlines.

Component 4: Urban rehabilitation. This component will finance small-scale infrastructure repair and economic revitalization activities with a particular focus on labor-intensive activities. It will build on the experience acquired through implementation of the EERP and the EMRRP, and in particular be based on existing mechanisms and procedures for similar activities implemented in Government-controlled areas under the *Bureau Central de Coordination* (BceCo). The strategy is to select modest investments, including in the transport, utilities, and social service sectors, which can be effectively implemented within a relative short period of time, and are expected to have a quick and high impact, and include a substantial labor component.

Component 5: Community empowerment. This component will finance block grants to villages of US\$2,000 to US\$5,000 to finance priorities identified through a consultative process by the community. It will build on lessons learned through the successful implementation of similar activities in other post-conflict countries, in particular East Timor and Afghanistan. Any activity identified as a priority (but for a negative list) will be eligible for financing, and no mandatory counterpart will be required from the community. Funds will be held in collective accounts, and disbursed on the basis of contracts or purchases – they will be managed directly by the community. The component will be facilitated by an NGO, to help villages prepare and manage these activities. It aims to both ensure that resources flow directly to communities and to build some capacity at local level to prepare for an eventual decentralization process, in line with the work currently underway under the Public Expenditure Review. The component will initially be implemented in selected pilot areas, representing a diversity of situations, with a focus on rural areas in the provinces most affected by the conflict.

Table: Emergency Economic and Social Reunification Support Project Costs

	<i>IDA (US\$ million)</i>	<i>Percent of total</i>
<i>A. Supporting implementation of economic reforms throughout the country</i>		
- <i>Balance of Payment Support</i>	40	19.6
- <i>Technical expertise and capacity building</i>	15	7.4
<i>B. Addressing urgent needs and piloting implementation solutions</i>		
- <i>Infrastructure rehabilitation</i>	90	44.1
- <i>Employment generation</i>	30	14.7
- <i>Community empowerment</i>	10	4.9
- <i>Implementation costs</i>	5	2.4
- <i>Contingencies</i>	14	6.9
TOTAL PROJECT COSTS	204	100.0

I.A.4. Project Location: (Geographic location, information about the key environmental and social characteristics of the area and population likely to be affected, and proximity to any protected areas, or sites or critical natural habitats, or any other culturally or socially sensitive areas.)

Components 1 and 2 are not expected to be geographically localized.

Component 3 is expected to finance the de-bottlenecking (through minimal rehabilitation and no realignment) of the existing (non-covered) road Kisangani - Beni and the existing (non-covered) Bukavu - Mbuji Mayi road in order to make them passable. It will also provide resources for a supplemental to the existing contract for the rehabilitation of the Matadi - Kinshasa road, to complete works already launched;

Component 4 will be implemented in selected cities, which are expected to include Bukavu, Goma, Kindu, and Kisangani (with an expected focus on urban streets, drainage, and education / health facilities rehabilitation);

Component 5 will be implemented in pilot areas, which are expected to include the districts of Gemena, Isiro, and Masisi.


B. Check Environmental Classification: B (Partial Assessment)

Comments:

The Emergency Reunification Project is classified as environmental category B because activities financed under the Project are not expected to have significant negative environmental impacts. No new major construction is envisaged (rather, the Project will support the rehabilitation and reconstruction of deteriorated infrastructure).

The Emergency Reunification Project is an emergency recovery operation, processed under OP 8.50. A full environmental assessment will be completed within one year of effectiveness.

C. Safeguard Policies Triggered (from PDS)

(click on  for a detailed description *or* click on the policy number for a brief description)

Policy	Triggered
Environmental Assessment (OP 4.01, BP 4.01, GP 4.01)	<input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> TBD
Natural Habitats (OP 4.04, BP 4.04, GP 4.04)	<input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> TBD
Forestry (OP 4.36, GP 4.36)	<input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> TBD
Pest Management (OP 4.09)	<input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> TBD
Cultural Property (OPN 11.03)	<input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> TBD
Indigenous Peoples (OD 4.20)	<input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> TBD
Involuntary Resettlement (OP/BP 4.12)	<input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> TBD
Safety of Dams (OP 4.37, BP 4.37)	<input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> TBD
Projects in International Waters (OP 7.50, BP 7.50, GP 7.50)	<input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> TBD
Projects in Disputed Areas (OP 7.60, BP 7.60, GP 7.60)*	<input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> TBD

Section II - Key Safeguard Issues and Their Management

D. Summary of Key Safeguard Issues. Please fill in all relevant questions. If information is not available, describe steps to be taken to obtain necessary data.

II.D.1a. Describe any safeguard issues and impacts associated with the proposed project. Identify and describe any potential large scale, significant and/or irreversible impacts.

Environmental Assessment (OP 4.01, BP 4.01, GP 4.01). Activities financed under Components 3, 4, and 5 are expected to include some rehabilitation activities, in particular infrastructure repairs. These activities, however, are expected to remain limited in nature and scope, with a screening out of all activities with a potential negative impact and no adequate mitigation measures. Activities financed under Components 1 and 2 are not expected to have any significant environmental impact (see below for forestry). Safeguard policy 4.01 on environmental assessment safeguards is triggered.

Natural Habitats (OP4.04, BP 4.04, GP 4.04). Activities in natural habitats will be screened out from Components 4 and 5. Activities under Component 3 are not expected to have an impact on natural habitats.

Forestry (OP 4.36, GP 4.36). The support to implementation of economic reforms will include assistance in implementing forestry reforms throughout the country. These reforms, which have been developed with the assistance of the Bank, are already implemented in Government-held territories - with significant achievements (including a provision for re-distribution of 40% of forest fees to local communities, and the effective cancellation of 24 millions hectares of invalid concessions). The Project aims to extend the implementation of such measures to the rest of the country. It is not aimed at changing forestry policies, but rather at implementing changes already supported through earlier operations (in particular the Economic Recovery Credit). The safeguard on forestry is triggered.

Pest Management (OP 4.09). The Project is not expected to finance pesticides or activities which could have affect agricultural or public health.

Cultural Property (OPN 11.03). The Project is not expected to affect any cultural property. Activities under Components 4 and 5 which could have a negative impact on cultural property will be screened out during the selection process.

Indigenous Peoples (OP 4.20). The Project is not expected to include activities in areas inhabited by indigenous peoples.

Involuntary Resettlement (OP/BP 4.12). Some activities financed under Components 3 and 4 may require the resettlement of limited groups of people. Involuntary resettlement safeguard is therefore triggered.

Safety of Dams (OP4.37, BP 4.37). The Project does not include the financing of dams, or dam-related activities.

Projects in International Waters (OP 7.50, BP 7.50, GP 7.50). No activity financed under the Project is expected to be located in international waters.

Projects in Disputed Areas (OP 7.60, BP 7.60, GP 7.60). No activity financed under the Project is expected to be located in disputed areas.

II.D.1b. Describe any potential cumulative impacts due to application of more than one safeguard policy or

due to multiple project component.

Project components are implemented in distinct areas and there is therefore no expected cumulative impact.

II.D.1c Describe any potential long term impacts due to anticipated future activities in the project area.

The long term environmental impact of the rehabilitation of infrastructure and the revival of economic activity on the environment is not expected to be significant. In addition, the Project will contribute to stabilizing the situation after a conflict which has caused large population movements, with significant environmental consequences.

II.D.2. In light of 1, describe the proposed treatment of alternatives (if required)

N/A.

II.D.3. Describe arrangement for the borrower to address safeguard issues

Compliance with safeguards for activities financed under Component 3 will require that a Social and Environmental Assessment be carried out early on, so that, to the extent possible, its recommendations can be incorporated in the design of the civil works contract(s). The Social and Environmental Assessment may result in identifying affected people - and if that is the case a Resettlement Action Plan will be prepared. Ideally, the assessment teams would work in parallel with the team responsible for technical design.

Compliance with safeguards for activities financed under Components 4 and 5 will require: (i) a screening out of proposed activities which would not be consistent with Bank policies; and (ii) a definition of adequate processes and procedures to design and implement sound environmental and social mitigation measures for environmental and involuntary resettlement issues. This is expected to be achieved through the preparation of an Environmental and Social Management Framework and a Resettlement Policy Framework, which will define both screening criteria and mechanisms for mitigation. The Frameworks will be reflected in the Operational Manual (which will be based on Operational Manuals currently used under the EERP and EMRRP) as soon as available.

Compliance with safeguards for activities financed under Components 1 and 2 will not require any specific action.

II.D.4. Identify the key stakeholders and describe the mechanisms for consultation and disclosure on safeguard policies, with an emphasis on potentially affected people.

Key stakeholders will be the communities living in pilot areas and in areas along the infrastructure to be rehabilitated under Component 3. Consultation and disclosure mechanisms are expected to be part of the recommendations under the Social and Environmental Assessments for Component 3, and of the Operational Manuals to be prepared by the respective implementation agencies for Components 4 and 5. Disclosure of an Environmental and Social Management Framework and a Resettlement Policy Framework will be in-country and in the Bank's InfoShop in Washington, DC as soon as available and at the latest, within a year of effectiveness.

E. Safeguards Classification (select in SAP). Category is determined by the highest impact in any policy. Or on basis of cumulative impacts from multiple safeguards. Whenever an individual safeguard policy is triggered the provisions of that policy apply.

- S1. – Significant, cumulative and/or irreversible impacts; or significant technical and institutional risks in management of one or more safeguard areas
- S2. – One or more safeguard policies are triggered, but effects are limited in their impact and are technically and institutionally manageable
- S3. – No safeguard issues
- SF. – Financial intermediary projects, social development funds, community driven development or similar projects which require a safeguard framework or programmatic approach to address safeguard issues.

F. Disclosure Requirements

<i>Environmental Assessment/Analysis/Management Plan:</i>	<i>Expected</i>	<i>Actual</i>
Date of receipt by the Bank	8/31/2004	
Date of "in-country" disclosure	9/30/2004	
Date of submission to InfoShop	9/30/2004	
Date of distributing the Exec. Summary of the EA to the Executive Directors (<i>For category A projects</i>)	Not Applicable	Not Applicable
<i>Resettlement Action Plan/Framework:</i>	<i>Expected</i>	<i>Actual</i>
Date of receipt by the Bank	8/31/2004	
Date of "in-country" disclosure	9/30/2004	
Date of submission to InfoShop	9/30/2004	
<i>Indigenous Peoples Development Plan/Framework:</i>	<i>Expected</i>	<i>Actual</i>
Date of receipt by the Bank	Not Applicable	Not Applicable
Date of "in-country" disclosure	Not Applicable	Not Applicable
Date of submission to InfoShop	Not Applicable	Not Applicable
<i>Pest Management Plan:</i>	<i>Expected</i>	<i>Actual</i>
Date of receipt by the Bank	Not Applicable	Not Applicable
Date of "in-country" disclosure	Not Applicable	Not Applicable
Date of submission to InfoShop	Not Applicable	Not Applicable
<i>Dam Safety Management Plan:</i>	<i>Expected</i>	<i>Actual</i>
Date of receipt by the Bank	Not Applicable	Not Applicable
Date of "in-country" disclosure	Not Applicable	Not Applicable
Date of submission to InfoShop	Not Applicable	Not Applicable

If in-country disclosure of any of the above documents is not expected, please explain why.

<u>Signed and submitted by</u>	<u>Name</u>	<u>Date</u>
Task Team Leader:	Xavier Devictor	04/22/2003
Project Safeguards Specialists 1:	Kristine M. Ivarsdotter/Person/World Bank	04/22/2003
Project Safeguards Specialists 2:	Robert A. Robelus/Person/World Bank	04/22/2003
Project Safeguards Specialists 3:		

<u>Approved by:</u>	<u>Name</u>	<u>Date</u>
Regional Safeguards Coordinator:	Charlotte S. Bingham	04/22/2003
Sector Manager	Cadman Atta Mills	04/22/2003

REPUBLIQUE DEMOCRATIQUE DU CONGO

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PROJET D'URGENCE DE SOUTIEN AU PROCESSUS DE RÉUNIFICATION
ECONOMIQUE ET SOCIALE

PREPARATION D'UN PLAN DE ZONAGE FORESTIER

TERMES DE REFERENCE - DRAFT**1. CONTEXTE ET ENJEUX : UNE ACTIVITE STRATEGIQUE POUR L'AVENIR**

La République Démocratique du Congo contient la moitié des forêts tropicales humides d'Afrique. Ces forêts congolaises couvrent environ 880,000 km². Le Gouvernement entend réaliser un plan d'affectation de son espace forestier, voulu comme instrument dynamique de concertation entre les acteurs et véhicule pour la mise en oeuvre progressive du nouveau code forestier sur le terrain. Ce plan de zonage doit constituer un cadre transparent et négocié d'accès aux espaces et aux ressources. Cette opération consiste à fournir des produits (cartes, base de données) mais aussi et surtout à conduire un processus vivant d'analyse et de concertation sur l'aménagement du territoire et l'allocation des ressources.

Cette activité sera conduite par le Ministère chargé de l'Environnement, de la Conservation de la Nature, des Eaux et Forêts, avec l'assistance d'un consultant dont les TDR sont présentés ici, et de concert avec l'ensemble des autres administrations concernées : Ministères du Plan, de l'Aménagement du Territoire, autres ministères techniques et administrations territoriales. La coordination inter-ministérielle sera organisée autour du Conseil Consultatif Provincial des Forêts, et du Comité Inter-ministériel National pour l'Aménagement du Territoire. Cette activité s'inscrit dans le cadre du Programme National Forêts et Conservation de la Nature en cours de préparation par le Ministère de l'Environnement.

L'objectif est d'aboutir à un plan de zonage indicatif (plan d'affectation des terres) qui distingue les espaces voués en priorité à : (a) l'aménagement forestier durable sous le régime des concessions ; (b) le développement rural ; ou (c) la conservation de la nature¹. Ce plan de zonage est destiné à être validé par le gouvernement à titre indicatif, pour servir ensuite de point de départ à des procédures plus détaillées de classement des forêts pour l'aménagement ou la conservation. L'objectif est donc de disposer d'une assise cartographique connue et acceptée par l'ensemble des parties prenantes, qui puisse être utilisée par le Gouvernement, par exemple, pour : (i) définir la localisation et l'échéancier des futures adjudications de concessions, l'extension ou la création de nouvelles aires protégées, la création de nouvelles infrastructures; et (ii) éviter que des usages concurrents ou incompatibles ne se superposent géographiquement, tels que l'aménagement forestier et l'agriculture, ou bien la protection de la biodiversité et l'exploitation minière. Ce travail devrait conduire à clarifier et à sécuriser les droits de différents utilisateurs des espaces forestiers en RDC.

Vu la rapide croissance démographique en RDC, la forte demande internationale pour les bois tropicaux, la relance générale de l'économie et la réhabilitation des infrastructures, ce zonage est une activité stratégique qui aura un impact déterminant sur l'avenir des forêts congolaises, sur le développement de ce secteur et sur sa contribution à la relance économique du pays et à la croissance durable. Il définira la partie du territoire national censée restée à long terme sous couverture forestière naturelle.

¹ Le nouveau code forestier de 2002 (chapitre II) définit trois grandes catégories de forêts : les forêts classées (à vocation écologique) ; les forêts de production permanente (à vocation de production sous aménagement durable) et les forêts protégées (englobant les autres espaces forestiers). Il introduit d'autres innovations importantes comme l'aménagement durable des forêts de production, la possibilité pour les communautés locales de gérer directement des concessions, le classement de 15% du territoire en aires protégées, la consultation locale avant l'attribution de nouvelles concessions, etc. (cf. annexe I)

2. OBJECTIFS ET RESULTATS ATTENDUS ⁽²⁾

Le consultant aidera le Gouvernement à conduire le processus d'affectation des terres en zone forestière, à en faire un cadre spatial qui soit reconnu par les parties prenantes et qui puisse servir d'assise à la mise en oeuvre sur le terrain de la nouvelle politique d'accès et de gestion des espaces forestiers : (1) à l'échelle nationale en se limitant à un niveau général de macro-zonage ; et (2) à l'échelle d'une région pilote en allant jusqu'au stade plus détaillé d'un plan de zonage indicatif. Ce zonage projettera sur carte la vision spatiale du développement dans les 10 à 30 prochaines années, de façon très provisoire pour le macro-zonage national, et de façon plus précise pour la région-pilote.

1. **En ce qui concerne la région-pilote**, l'objectif est d'aboutir à un plan de zonage indicatif qui distingue les espaces voués en priorité : à l'aménagement forestier durable sous concession, au développement rural ; ou à la conservation de la nature. Ce plan de zonage sera soumis par le Ministère de l'Environnement à la validation à titre indicatif de l'ensemble du Gouvernement, pour servir dans l'avenir comme point de départ à des procédures plus détaillées de classement définitif. L'objectif est donc de disposer d'une assise cartographique connue et acceptée qui puisse être utilisée par le Gouvernement (Ministère de l'Environnement, ICCN ainsi que les autres Ministères et administrations territoriales) pour décider la localisation et l'échéancier des futures concessions, l'extension ou la création de nouvelles aires protégées ; la création de nouvelles infrastructures, l'allocation d'autres concessions agricoles, minières ou autres ; et pour éviter que des usages concurrents ou incompatibles ne se superposent géographiquement, par exemple l'aménagement forestier et l'agriculture, ou des concessions minières et la conservation de la nature.
2. **A l'échelle nationale**, l'objectif est le même, mais avec un moindre niveau de précision des travaux, de compréhension des problématiques et de concertation multi-acteurs. Par conséquent, ce plan de macro-zonage national restera provisoire et évolutif. Il pourrait constituer la première esquisse d'un éventuel futur un plan national d'aménagement du territoire, au moins pour la zone forestière du pays. Il reportera sur carte les informations disponibles actuellement et constituera une base provisoire pour la réflexion et la vision d'ensemble du développement socio-économique du pays, susceptible d'évoluer en permanence. Ce macro-zonage servira donc d'assise à un processus évolutif, qui sera affiné pièce par pièce au fur et à mesure que de nouvelles régions-pilote seront couvertes par des exercices de zonage plus approfondis (similaires à celui conduit dans la région pilote susmentionnée).

Cette assistance au zonage forestier revêt simultanément trois dimensions :

- A. **la dimension technique** (cartographie, études, travaux de terrain, etc.). Le principal résultat sera la délivrance d'un plan schématique de macro-zonage à l'échelle nationale et d'un plan de zonage indicatif pour la zone-pilote. Le plan schématique de macro-zonage couvrira l'entière des forêts denses humides et servira de cadre de concertation permanent sur les questions de zonage forestier et d'aménagement du territoire en RDC. Ces deux plans seront accompagnés par les bases de données qui les sous-tendent et (pour le plan régional uniquement) par les résultats des travaux de terrain et des analyses démographiques, socio-économiques, écologiques.
- B. **la dimension participative et d'aide à la décision**. L'accent de cette opération est placé sur l'animation d'un processus vivant de réflexion collective et de concertation à l'intérieur de la société congolaise et avec les partenaires internationaux. Le prestataire de service aidera le gouvernement à animer ce processus de consultation et de négociation, pour préparer le terrain à des décisions tenant compte du point de vue de tous les acteurs. Le résultat recherché est donc une connaissance et une adhésion aux propositions de zonage aussi large que possible au sein de la société congolaise et de ses partenaires internationaux.

² La présente opération de zonage forestier s'inscrit dans le cadre de la composante forestière du Projet d'urgence de Soutien au Processus de Réunification Economique et Sociale dont les objectifs généraux sont : d'appuyer la mise en oeuvre sur le terrain du nouveau Code Forestier et des réformes de l'Agenda prioritaire de relance du secteur ; de faciliter le processus de réunification économique et sociale et d'initier le processus de renforcement des institutions sur le terrain et à Kinshasa.

- C. **la dimension de renforcement institutionnel.** Cette opération est conduite par le Ministère de l'Environnement de concert avec les autres ministères et administrations concernées. Le mandat du consultant est d'assister les institutions dont le zonage forestier est la mission normale. Chaque activité conduite par le consultant doit donc venir renforcer la capacité du MINENV et des autres administrations à conduire le processus de zonage de façon autonome dans l'avenir. Le principal résultat attendu au terme du projet consistera en ce que le MINENV et les autres administrations concernées (notamment dans le cadre du Conseil Consultatif Provincial des Forêts, et du Comité Inter-ministériel National pour l'Aménagement du Territoire aient acquis/retrouvé la capacité institutionnelle (humaine, technique, organisationnelle) à conduire eux-mêmes les prochaines phases du processus de zonage forestier en RDC.

3. TACHES ET ACTIVITES

Le consultant assistera le Ministère de l'Environnement qui est maître d'ouvrage pour la mise en place du zonage forestier. Il travaillera avec les différentes unités de ce ministère (cf. section 3.4, section 6 et annexe 2) sous la supervision directe du Secrétariat Général. Il facilitera la coordination inter-ministérielle et assistera, sur leur demande, le Conseil Consultatif Provincial des Forêts, et du Comité Inter-ministériel National pour l'Aménagement du Territoire.

Les travaux peuvent être divisés en quatre groupes de services, qui ne sont pas des tâches distinctes ni successives mais qui seront au contraire intimement imbriqués tout au long de l'exécution du mandat :

- 3.1. APPUI A LA REALISATION DU MACRO-ZONAGE A L'ECHELLE NATIONALE
- 3.2. APPUI A LA REALISATION D'UN PLANS DE ZONAGE INDICATIF POUR UNE REGION-PILOTE
- 3.3. APPUI A L'ANIMATION DU PROCESSUS DE CONCERTATION ET D'APPUI A LA DECISION
- 3.4. RENFORCEMENT INSTITUTIONNEL/TRANSFERT DE CAPACITE

3.1. APPUI A LA REALISATION D'UN MACRO-ZONAGE A L'ECHELLE NATIONALE

L'objectif du macro-zonage est d'indiquer sur carte l'utilisation actuelle de l'espace rural et forestier à l'échelle nationale et de mettre à la disposition des différents acteurs une plateforme commune pour orienter les décisions et les projets de développement dans les années à venir ³.

Le consultant aidera le Ministère à acquérir une couverture satellitaire Landsat ou Spot de l'ensemble de la couverture de forêt dense du pays. Il aidera le Ministère à reporter sur carte les informations existantes sur l'utilisation actuelle de l'espace rural dans les provinces couvertes par la forêt dense humide, et à rassembler ces informations dans une base de données consolidée (par exemple Arcview-Access). Cette opération ne comporte pas de travaux de terrain ni d'études spécifiques. Elle débouchera sur une carte nationale de l'espace forestier (échelle possible: 1:2500000^{ème}). Les couches d'informations de la carte et de la base de données comporteront notamment les concessions existantes, les aires protégées, les voies de communication, le tissu industriel, les densités de population, les centres urbains, projets

³ Il est probable que le gouvernement sera amené à prendre des décisions assez rapidement (sans pouvoir attendre la réalisation de plans de zonage ministériels pour le pays entier) par exemple sur l'allocation de nouvelles concessions dans différentes parties du massif forestier, sur des travaux d'infrastructure ou d'autres projets de développement ou industriels. Afin d'assurer que ces décisions s'inscrivent en harmonie avec l'utilisation actuelle de l'espace et avec les impératifs de développement rural et de conservation de la nature, le Gouvernement démarre une réflexion transparente et participative pour l'ensemble des forêts denses humides de la RDC. Le plan schématique de macro-zonage préparé par le MINENV avec l'aide du consultant aidera donc le Gouvernement à localiser les concessions à attribuer, à localiser de nouvelles aires protégées, à planifier des tracés routiers et d'autres projets de réhabilitation d'infrastructure (dragage, chemin de fer, etc.). Le plan schématique de macro-zonage permet d'initier sans attendre un processus de réflexion collective et participative sur des questions critiques et parfois urgentes d'aménagement du territoire: choix de zones pour l'exploitation forestière, localisation des aires protégées, travaux d'infrastructure, etc.

d'infrastructures, cadastre minier, agro- industries. Cette base de données devra être compatible avec celles des autres ministères en interface. Elle contiendra les informations et les fonctionnalités nécessaires pour constituer le cadastre forestier au sens de l'article 28 du code forestier.

Ce macro-zonage offrira une lecture à grande échelle de l'utilisation du paysage rural telle qu'elle se présente actuellement, et fera apparaître les éventuelles incohérences ou incompatibilités actuelles à l'échelle nationale ; et la latitude/flexibilité correspondant à des espaces non- affectés. Il produira aussi, à l'aide des outils SIG et de simulation spatiale, des analyses visuelles et quantitatives pour mieux comprendre, rationaliser et quantifier les enjeux du zonage et les tendances évolutives (ex. analyse de l'accessibilité des forêts). Il aidera le Ministère et les autres acteurs à identifier les grands scénarios de macro-zonage qui pourraient éventuellement se dégager.

Ce macro-zonage couvre les provinces : Bas-Congo, Bandundu, Equateur, Province Orientale, Nord-Kivu, Nord-Kasaï et Maniema. Les limites définitives seront définies dans les deux premiers mois de l'opération par le Ministère de l'Environnement sur le conseil du consultant.

Ce plan schématique de macro-zonage, y inclus les analyses et simulations spatiales et les grands scénarios qui pourraient éventuellement se dégager, sera présenté et discuté dans un atelier national et dans le cadre du Comité Inter-ministériel National pour l'Aménagement du Territoire. Il sera ensuite largement diffusé. Un mécanisme d'affinement progressif et d'actualisation automatique annuelle sera mis en place, en coordination avec l'ensemble des ministères concernés (dans le cadre du Comité Inter-ministériel National pour l'Aménagement du Territoire) et en prévoyant un mécanisme ouvert de consultation avec l'ensemble des parties prenantes non-gouvernementales (secteur privé, ONG nationales et internationales, autres partenaires au développement). Le plan schématique de macro-zonage sera établi pendant l'année 1, et une première actualisation sera effectuée à l'année 2 du projet.

Le consultant s'assurera que les différents partenaires du Ministère (autres administrations, acteurs non-gouvernementaux) ont la possibilité d'apporter leur contribution au macro-zonage.

3. 2. APPUI A LA REALISATION D'UN PLAN DE ZONAGE INDICATIF POUR UNE REGION PILOTE

La région-pilote identifiée se situe dans le massif de la Cuvette Centrale (Carte en Annexe 2). Elle couvre environ 82,278 km². Les limites et la superficie sont indicatives et seront définies au cours des 6 premiers mois de l'opération par le Gouvernement avec le conseil du prestataire de service. Dans tous les cas la priorité sera donnée à la qualité du processus de zonage et du processus participatif plutôt qu'une maximisation de la superficie couverte.

Ce travail offrira une lecture fine de l'utilisation actuelle du paysage rural et fera apparaître : les éventuelles incohérences entre plusieurs affectations ou plusieurs acteurs ; et la latitude/flexibilité correspondant à d'éventuels espaces non-affectés. Il proposera différentes options pour résoudre les incohérences, et pour affecter les espaces qui ne le sont pas encore.

La lecture du paysage actuel, et l'analyse avec les acteurs des différents scénarios possibles sont des étapes intermédiaires. Le résultat final sera un plan de zonage forestier à titre indicatif proposant les limites du domaine de conservation, de production permanente et du domaine rural. A l'intérieur du domaine permanent, il identifiera des sous-classes correspondant par exemple à des unités forestières d'aménagement individuelles pouvant être allouées en concessions ou à divers statuts d'aires protégées (parcs nationaux, réserves, etc.) et leurs zones tampons. A l'intérieur du domaine non-permanent, il identifiera des sous-classes correspondant par exemple aux terres agricoles, aux mosaïques agro-forestières, à des usages miniers, agro-industriels ou autres. Il développera des critères pour évaluer la possibilité de superposer, ou non, ou d'avoir, ou non, des usages compatibles ou incompatibles entre eux (zones multi-usages, zones tampons).

Cet enchaînement d'étapes est dynamique et flexible. Dès le début, en se basant sur de l'information disponible immédiatement (routes, villages, cartes de densité de population, limites des concessions forestières) un processus de réflexion sur le zonage régional peut démarrer et être discuté avec des parties prenantes. Cette approche pro-active permettra d'identifier dès le début des lacunes d'information et d'orienter les missions sur le terrain. Elle permettra de démarrer le plus tôt possible les consultations et entretiens sur les choix difficiles liés au zonage et de mobiliser les parties prenantes autour du processus.

Ce volet comprend deux sous-groupes d'activités, en plus des concertations :

- 3.2.1. Production de cartes thématiques et de banque de données géo- référencée.
- 3.2.2. Travaux de terrain et analyses socio -économiques

3.2.1. Production de cartes thématiques et banque de données géographiques

Le consultant aidera le Ministère à acquérir une couverture satellitaire Landsat TM et/ou Spot Végétation sur l'ensemble de la région pilote. Les images seront sélectionnées sur catalogue, sur la base de critères de qualité, d'actualité et de relative homogénéité de périodes d'acquisition. Les images feront l'objet de traitement de base, radiométrique et géométrique avec réalisation d'ortho-images mosaïquées et géo-référencées conformes au système de coordonnées utilisé en RDC. Au moins deux types de composition colorées seront proposés, par combinaison parmi les six canaux multi-spectraux. Les ortho-images seront ensuite travaillées pour être plus facilement exploitables par le SIG.

Le consultant utilisera ces images satellites (Landsat TM et/ou Spot végétation) ainsi que des interprétations déjà existantes (comme les données Africover disponibles en 1:200 000) pour effectuer la lecture du paysage actuel. L'interprétation distinguera différents faciès forestiers utiles pour le zonage, notamment forêts denses humides, forêts marécageuses, forêts déjà exploitées ou secondarisées, terres agricoles et jeunes jachères, les formations herbeuses. Cette interprétation permettra d'estimer l'étendue actuelle des terroirs agricoles (villageois et industriels). Cette lecture du paysage englobe toutes les couches d'informations socio-économiques et écologiques en relation avec la gestion forestière et le développement rural. La base de données et les cartes contiendront notamment les couches d'informations géologiques et les potentialités minières, pédologiques et le potentiel agricole, la couverture végétale, les recensements de population, les limites de concessions forestières, agricoles ou minières, des données sur, des projets d'infrastructure, les routes, la navigabilité des rivières, les zones déjà exploitées pour le bois ou autre activité passée, les principales routes des concessions forestières, les sites connus d'intérêt pour la conservation.

Les cartes et analyses thématiques dérivées par superposition de couches SIG, identifieront des incohérences, par exemple entre l'occupation du sol et le positionnement de titres forestiers, et des priorités d'affectation. Elle proposeront et simuleront sous forme de scénario de zonage, des solutions pour restaurer la cohérence dans l'utilisation des espaces et sécuriser les droits et responsabilités des différents acteurs, ainsi que des priorités d'affectation et des alternatives.

Le résultat est la mise en place progressive d'une base de données géographique, contenant les simulations spatiales et affinée par itérations successives. Cette base de donnée centrale (par exemple ArcView-Access) sera réalisée et logée sein du SPIAF avec une antenne dans la délégation provinciale concernée.

3.2.2. Travaux de terrain et analyses socio -économiques

Ce volet complète le précédent. Les travaux de terrain visent, pour la zone pilote, à :

- (a) Effectuer la vérité-terrain pour la lecture de l'utilisation actuelle de l'espace rural dans la région - pilote
- (b) Consulter une grande variété d'acteurs : villages, chefs lieu de territoire et district, opérateurs économiques, etc.) dans le but de concevoir et d'évaluer la faisabilité de différents scénarios de zonage ; une attention spéciale sera portée à la consultation des groupes pygmées en tenant compte des particularités de leur mode de vie nomade ou semi-nomade ;
- (c) Acquérir une compréhension fine des enjeux fonciers et des dynamiques agricoles locales, de l'utilisation de l'espace forestiers par différents groupes ethniques, notamment les pygmées, des coutumes en matière d'accès à la terre et de droit foncier, droits d'usages traditionnels ;
- (d) Mettre à jour l'information sur la distribution spatiale de la population humaine, y inclus une estimation des mouvements de population provoqués par les conflits, et évaluer les tendances de l'évolution démographique dans l'avenir : croissance démographique, prédominance des déplacements vers les villes ou vers les campagnes;
- (e) Mettre à jour l'information sur les concessions agricoles, foncières, minières et sur d'autres projets industriels ou de développement susceptibles d'affecter le zonage forestier ; et apporter toute information de terrain nécessaire au développement des scénarios de zonage.

Ces données ainsi recueillies seront géo-référencées pour être introduites dans la base de données générale. Les missions de terrain pourraient être de deux types : des missions socio-économiques qui visitent les villages et les différents acteurs sur le terrain ; et des missions de reconnaissance biologique pour identifier des sites critiques de conservation.

Toutes ces missions et ces consultations sont conduites ou supervisées par la Coordination Provinciale du Ministère de l'Environnement ou de l'ICCN, avec l'assistance méthodologique et les services de facilitation du consultant (ou des partenaires et sous-traitants qui auront été identifiés par le Ministère et le consultant). Au cours de ces missions de terrain, il y a non seulement lieu de collecter de l'information manquante mais également d'échanger avec les acteurs locaux sur les scénarios et idées de zonage.

Le consultant exécutera les études nécessaires pour la bonne compréhension des dynamiques socio-économiques et foncières au niveau local. Ces analyses feront appel aux expertises nationales (universités, etc.) appuyées par de l'expertise internationale en tant que de besoin. Ces études l'intégration de la problématique forêts communautaires dans le plan de zonage). Les soumissionnaires effectueront une compilation des travaux analytiques et un bilan des données déjà disponibles, afin de ne pas répliquer les recherches déjà existantes. Le consultant recherchera la collaboration d'autres organismes pour les travaux de terrain et de consultation locale.

Une étape délicate dans la réalisation du plan de zonage indicatif est de déterminer la limite entre la forêt permanente et le domaine non-permanent. Trois domaines d'analyse retiennent une attention particulière :

Projection démographique et estimation des besoins en terres agricoles. Il faudra acquérir une compréhension aussi fine que possible des principaux facteurs déterminant les surfaces à réserver pour l'agriculture et les autres usages des populations locales dans les 30 prochaines années⁴. Le consultant aidera le ministère et les administrations territoriales à analyser ces facteurs et développera un modèle quantitatif pour estimer les surfaces à réserver pour les terres agricoles et les autres usages des populations locales dans les 30 prochaines années. Au besoin, différents scénarios seront développés.

⁴ Ces facteurs sont notamment: les besoins actuels d'espaces agricoles, les règles coutumières d'accès à la terre, la croissance démographique, les éventuelles tendances d'exode rural, le mode de vie et les tendances d'évolution des populations de chasseurs-cueilleurs pygmées, d'autres flux migratoires ou d'intensification agricole, le potentiel de développement agro-industriel, la nécessité de maintenir une partie du domaine rural sous couvert forestier pour des besoins locaux et pour maintenir une certaine mosaïque forêt – marécages – jachères – champs, d'autres paramètres liés aux dynamiques foncières et démographiques susceptibles d'affecter les choix de zonage forestier.

Problématique des populations forestières autochtones. Il faudra aussi rassembler ou acquérir une compréhension aussi fine que possible de la dynamique d'utilisation de l'espace forestier par les peuples autochtones, essentiellement les pygmées, qui ne sont pas sédentaires. Cette dynamique particulière sera prise en compte dans les scénarios de zonage, en montrant dans quelle mesure le fait d'affecter un objectif prioritaire mais non-exclusif à certains espaces (aire de conservation, concession d'aménagement durable) est compatible avec le respect des droits traditionnels et du mode de vie de ces populations, ou comment le processus de zonage peut venir sécuriser l'exercice de ces droits.

Problématique des concessions communautaires. C'est une innovation du code forestier qui n'est pas encore entrée en pratique, et qui aura un impact sur la délimitation du domaine permanent et non-permanent. Cette catégorie de forêts appartient-elle au domaine permanent ou au domaine rural, ou bien un système hybride serait-il plus approprié? Le consultant identifiera les avantages et inconvénients des différentes approches dans les conditions écologiques et socio-économiques particulières de la région-pilote considérée, et proposera un choix réfléchi adapté à la région-pilote considérée.

Au terme des missions de terrain et des consultations locales, le consultant pourra aider le ministère et l'administration territoriale à proposer des scénarios de zonage avec des priorités et des alternatives, en indiquant les avantages et inconvénients de chaque scénario, sur lesquels les parties prenantes se prononceront lors des ateliers et des concertations bilatérales.

3.3. APPUI AU PROCESSUS DE CONCERTATION ET D'AIDE A LA DECISION

Les deux premières étapes, conduites sous forme de constat factuel, détermineront le degré de liberté qui subsiste pour « faire des choix » ou « planifier » l'aménagement du territoire par rapport à la situation existante et aux projections. Elles permettront de développer et d'analyser différents scénarios de zonage. Les choix entre les différents scénarios possibles doivent être effectués de façon transparente et sur la base d'un débat public associant toutes les parties prenantes, au moins sur le mode de la consultation. Tout au long du processus le projet financera des réunions des services forestiers dans les provinces pour les informer sur les objectifs et les enjeux du zonage. De même, dès la délivrance des premiers supports cartographiques reflétant la lecture du paysage actuel, le projet organisera des séances de sensibilisation et de consultations avec les administrations, les opérateurs privés, la société civile afin d'entraîner une dynamique de réflexion collective sur l'affectation de l'espace forestier.

Le consultants appuiera ce processus de concertation, de négociation et d'aide à la décision qui se déroulera au niveau local et au niveau national, autour des axes suivants :

- **Maîtrise d'ouvrage du Ministère de l'Environnement.** Ce Ministère assure la maîtrise et la conduite du processus de zonage et la maîtrise des scénarios de zonage qui seront proposés. Le consultant travaillera sous la supervision directe du Secrétaire Général à l'Environnement, en appui quotidien au SPIAF, à la DGF, l'ICCN, et aux Coordinations Provinciales concernées. Les services extérieurs seront responsabilisés sur les travaux de terrain et enquêtes socio-économiques, ainsi que dans la conduite du processus de concertation au niveau provincial et local.
- **Cadres formels de concertation, au niveau national et provincial.** Le consultant aidera à ré-activer le Comité Inter-ministériel National pour l'Aménagement du Territoire ou, selon le choix du gouvernement, une autre instance interministérielle incluant notamment les Ministères du Plan, de l'Aménagement du Territoire des Mines, du Développement Rural, des Transports et des Travaux Publics. De la même façon le consultant aidera le Ministère et le Gouverneur du ressort duquel relève la région-pilote à mettre en place le Conseil Consultatif Provincial des Forêts créé par le nouveau Code (articles 29 et 30). Ces consultations et séances d'information seront donc menées simultanément à Kinshasa, essentiellement sur le macro-zonage national, et au niveau local (territoires, districts, province) pour le plan d'affectation régional.

- **Concertation permanente avec l'ensemble des acteurs et participation locale.** Le consultant assurera que des différentes parties prenantes soient consultées et puissent apporter leur savoir-faire et faire valoir, leurs droits, leurs souhaits, leurs contraintes. Outre les différentes administrations et autorités locales, il s'agit aussi des ONG nationales et internationales, associations et collectivités locales, des instances académiques, exploitants forestiers, agro-industries, autres opérateurs privés, autres partenaires au développement. Le consultant aidera le Ministère à tenir ces groupes régulièrement informés et associés aux évolutions du travail en cours, à travers des consultations bilatérales et des ateliers. Des techniques de facilitation, négociation et de prévention de conflits seront mises en place. Autant que possible le projet valorisera l'expertise et les compétences locales. Tant pour les missions de terrain que pour les consultations provinciales et locales il s'appuiera sur les organisations et associations déjà actives sur le terrain. L'équipe chargée de l'activité doit maintenir un processus participatif dès le début et tout au long du parcours. En dehors des grands ateliers d'information et d'échanges, l'équipe doit veiller à consulter, au cours des enquêtes socio-économiques par exemple, un maximum d'acteurs-clés.
- **Organisations d'ateliers.** Au début, un atelier national de démarrage sera organisé, ainsi qu'un atelier régional pour informer les concernés sur les objectifs et la méthodologie du zonage forestier. Lorsqu'une partie des résultats de terrain sera disponible et que des consultations individuelles auront permis de réaliser une première ébauche des scénarios de zonage, un atelier intermédiaire permettra d'informer les concernées et intégrer leurs contributions. Après cet atelier le travail est à affiner et un dialogue à maintenir avec les parties prenantes pour atteindre un consensus satisfaisant. Un atelier de validation provincial sera réalisé. Il opérera de façon pragmatique saisissant des opportunités pour organiser des consultations au niveau local. Et pour renforcer l'adhésion et la reconnaissance du processus au niveau national. Une séquence possible d'ateliers nationaux et provinciaux est présentée en section 5.
- **Information publique.** Le consultant produira et aidera le Ministère à diffuser des supports de communication et de vulgarisation pour assurer une bonne compréhension du processus de zonage et de ses résultats avant, pendant et après les travaux. Les produits finis du zonage seront mis à la disposition du public, sur le site internet du Ministère et par multiplication et diffusion des cartes.
- **Adoption par le Gouvernement à titre indicatif.** Une fois qu'un plan de zonage régional est validé par les parties prenantes représentatives, il est transmis au Gouvernement pour adoption formelle à titre indicatif. Dans la pratique toutes les administrations concernées auront été associées dès la préparation de ce plan de zonage indicatif à travers le Conseil Consultatif Provincial des Forêts et le Comité Inter-ministériel National pour l'Aménagement du Territoire.

3. 4. RENFORCEMENT INSTITUTIONNEL ET TRANSFERT DE CAPACITE

Cette prestation doit aider et renforcer la capacité du Ministère de l'Environnement à mener à bien la mission à lui confiée par le code. Le projet vise à ré-activer les institutions par rapport à des objectifs. Le renforcement institutionnel interviendra donc explicitement dans le but d'atteindre des objectifs assignés. Autant que possible, ces activités de renforcement s'aligneront sur les recommandations de la revue institutionnelle du secteur qui seront conduites parallèlement à la première année du projet.

Le consultant viendra en appui du Ministère de l'Environnement, qui est le maître d'ouvrage pour la mise en place du zonage forestier. Il travaillera avec les différentes unités de ce Ministère et en particulier avec le Secrétaire Général à l'Environnement, le Cabinet du Ministre, la Direction de la Gestion Forestière (DGF), le Service Permanent des Inventaires et Aménagements des Forêts (SPIAF) et l'Institut Congolais pour la Conservation de la Nature (ICCN) et les services de terrain au niveau de la province, des districts et des territoires.

Au début de l'opération, le consultant commencera par conduire un diagnostic rapide de la capacité des différentes institutions impliquées dans le zonage forestier (niveau central et la province -pilote) afin de

confirmer de commun accord avec le Ministère le programme d'acquisition d'équipement et de formation qui pourra ensuite être lancé. La durée de ce diagnostic initial ne devrait pas excéder deux semaines.

Le programme de renforcement institutionnel s'appuiera donc sur la note de cadrage présentée en annexe 2 qui aura été revue à la lumière du diagnostic rapide initial de commun accord avec le Ministère :

- **Fourniture d'équipement.** Le consultant fournira l'équipement et le matériel nécessaire pour conduire l'activité et atteindre les objectifs fixés (cf. Annexe 3). Pour la durée de l'activité cet équipement et matériel sera sous gestion du consultant. Après la réalisation de l'activité, le matériel sera transféré au Ministère de l'Environnement. Le consultant ne fournira pas seulement le matériel mais assurera qu'un système de gestion correspondant aux standards internationaux est mis en place et appliqué (logbook du véhicule et des moteurs hors- bord, listes d'inventaire du matériel, etc.).
- **Transfert de méthodologie et de technologie - Formation.** Le consultant délivrera un programme de formation aux agents du MINENV et de l'ICCN de façon à construire au sein de ces institutions la capacité technique, organisationnelle et de médiation, nécessaire pour conduire le processus de zonage de façon autonome. La formation combinera l'encadrement continu (*learning by doing*) et des sessions formelles d'apprentissage. Développer les compétences et l'expertise existantes au sein du SPIAF, de l'ICCN de la DGF et de la délégation provinciale, notamment dans les domaines suivants :
 1. Mise en place, structuration et utilisation de base de données (par exe mple ArcView-Access), traitement d'images, manipulations de matériels et logiciels de cartographie, archivage, technique de télédétection, modèles quantitatif de simulations spatiale, etc.
 2. Méthode de reconnaissance biologique et socio- économique et traitement quantitatif des résultats pour la mise à jour des données démographiques, sur la densité des activités agricoles et économiques, sur les systèmes fonciers, sur l'impact de la guerre sur la distribution humaine.
 3. Techniques d'information et de consultation des acteurs locaux (ex. cartographie participative à grande échelle) afin d'appréhender la faisabilité de différents scénarios. Technique de facilitation, prévention de conflits, d'appui au processus décisionnel. Cette formation s'adresse notamment aux responsables provinciaux qui seront les animateurs du processus de concertation au niveau de leur région.
- **Ré-activer les mécanismes de suivi -évaluation et de gestion des ressources humaines.** A la faveur de ces missions, le Ministère et l'ICCN devront aussi restaurer des lignes de communication et des mécanismes de programmation et d'évaluation de résultats entre services centraux et services extérieurs, qui sont aujourd'hui coupés. Le consultant concevra et assurera la gestion d'un programme de primes de performance de façon à encourager l'atteinte des résultats et à combler, dans la mesure du possible, les carences actuelles du système de rémunération de la fonction publique.
- **Stimuler une plate-forme de collaboration entre les différents services du Ministère, et entre les différentes administrations.** Créer un cadre propice aux échanges d'information, d'idées, à la coordination des programmes de travail des différents services du Ministère de l'Environnement autour de la mission commune de zonage forestier. De la même façon le consultant conseillera et assistera à leur demande le Conseil Consultatif Provincial des Forêts de la province dont relève la région-pilote, et le Comité Inter-ministériel National pour l'Aménagement du Territoire dans l'exercice de leur fonction de coordination et de pilotage du zonage forestier et de l'aménagement du territoire.

4. ÉCHEANCIER ET PRODUITS ATTENDUS

La durée prévue pour l'activité est de deux années. Le contrat sera conclu pour une période probatoire de 1 an et sera confirmé pour l'année suivante en fonction de l'atteinte des résultats de la première année. Ce contrat pourrait être éventuellement étendu au-delà des deux années initiales pour couvrir d'autres prestations d'appui aux phases ultérieures du zonage forestier en RDC.

En plus des produits indiqués dans les sections 2 et 3 ci-dessus, le consultant produira des rapports semestriels sur l'avancement de l'opération, les difficultés rencontrées et les solutions apportées et les ajustements proposés au programme de travail ou à la méthodologie.

Au terme de 2 ans, le consultant fournit un rapport final assorti d'une évaluation interne des résultats avec ses recommandations quant aux techniques et méthodes les plus appropriés pour les phases ultérieures du zonage forestier en RDC : à l'échelle nationale, évolution du plan schématique de macro-zonage vers un plan national d'aménagement du territoire ; et au niveau régional, réplication du même exercice sur d'autres régions pilote avec une autonomie plus grande des institutions pérennes.

Les acquisitions et les produits du projet sont la propriété exclusive du gouvernement de la RDC et sont mis spontanément à sa disposition. Les équipements sont gérés par le prestataire de services pendant la durée du projet et sont transférés au MINENV la fin du projet.

L'échéancier ci-contre est proposé pour guider les soumissionnaires dans la préparation de leurs propres propositions de chronogramme et programme d'intervention :

Activités réalisées – Résultats atteints	
0-6 mois après signature du contrat	
•	Atelier de lancement à Kinshasa (atelier national) et à Mbandaka (Cuvette).
•	Diagnostic institutionnel achevé ; équipement livré ; bureaux à Kinshasa et Mbandaka aménagés
•	Comité interministériel sur l'aménagement du Territoire ré-activé
•	Partenariats et contrats de sous-traitance conclus
•	Démarrage des activités de terrain, et développement besoins en espace rural dans la Région -pilote
•	Formation et transfert de capacité en cours ;
•	Plan de travail et budget détaillé (6-24 mois) adopté
6-12 mois après signature du contrat	
•	Macro-zonage discuté en atelier national et en Comité National Interministériel d'Amgt du Territoire
•	Bases de données géographiques (macro-zonage et région-pilote) opérationnelles au Ministère
•	Activités de terrain (analyses socio-économiques, consultations locales) en cours dans la Région -pilote
•	Modèle spatial pour projeter les besoins en terres rurales, et analyses spécifiques d'appui, en cours
•	Formation et transfert de capacité en cours ; système de primes de performances opérationnel
•	Conseil Consultatif Provincial opérationnel dans la région-pilote ; information publique en cours
12-18 mois après signature du contrat	
•	Activités de terrain (analyses socio-économiques, consultations locales) achevés dans la Région-pilote
•	Projection quantitative des besoins en terres rurales dans la région -pilote, discutée et affinée
•	Scénarios du plan de zonage indicatif pour la région-pilote discutés en atelier régional
•	Formation et transfert de capacité en cours ; système de primes de performances opérationnel
2 ans après signature du contrat	
•	Macro-zonage national mis à jour en atelier national ; cadre de référence reconnu au niveau national
•	Plan de zonage régional adopté à titre indicatif ; carte diffusée
•	Capacité technique au sein du MINENV et de coordination inter-ministérielle

Chronogramme indicatif – Suggestions d'ateliers à organiser

Ateliers	6	12	18	24 mois

Atelier national de lancement, Kinshasa	X			
Atelier régional de lancement, Région -Pilote	X			
Atelier intermédiaire- consultation, Région -Pilote			X	
Atelier national présentation macro -zonage, Kinshasa		X		
Atelier régional de validation, Région-Pilote				X
Atelier national d'actualisation du plan de macro -zonage et de validation du plan de zonage régional, Kinshasa				X

5. PROPOSITIONS TECHNIQUES, COMPETENCES ET DIMENSIONNEMENT

Propositions techniques. Dans leurs propositions, ils présenteront les spécifications techniques des outils utilisés et des produits délivrés, ainsi que la méthodologie et le programme d'intervention et le chronogramme précis qu'ils entendent développer pour aider le gouvernement à atteindre les résultats indiqués dans la section 2 des présents TDR. Pour cela, ils s'appuieront sur les éléments -clefs abordés dans les sections 3 et 4, mais sans toutefois que ceux-ci constituent une liste exhaustive.

Ils présenteront notamment le support de télédétection qu'ils proposent d'utiliser, les traitements et les rectifications des images et fonds de carte, les caractéristiques des bases de données et les méthodes de modélisation spatiale. Ils expliqueront les raisons de ces choix et les avantages du point de vue du récipiendaire.

Ils esquisseront les termes de référence des principales analyses socio- économiques qu'ils comptent mener pour le zonage régional, et les méthodes de projections démographiques et d'estimation des besoins en terres agricoles.

Ils décriront les méthodes utilisées pour assurer la participation de tous les acteurs dans le processus de zonage, par exemple des méthodes inspirées de la cartographie participative à grande échelle.

Les soumissionnaires sont invités à faire connaître leurs remarques et suggestions sur les présents TDR.

Le mandat proposé étant complexe, les soumissionnaires sont invités à faire preuve d'imagination tout en s'inspirant des expériences dans d'autres pays (Gabon, Cameroun, autres). Il sont aussi invités à rechercher les économies d'échelle et les partenariats pour tirer parti des synergies possibles avec des initiatives en cours et accroître l'adhésion des acteurs au processus et aux produits. Les soumissionnaires montreront identifieront les groupes, associations, opérateurs qui sont déjà actifs dans le pays ou sur le terrain et qui de ce fait disposent d'un avantage comparatif pour assurer la qualité des travaux de terrain et de concertation, et avec qui ils se proposent de collaborer. Le projet visera à valoriser les initiatives déjà en cours et à valoriser l'expertise locale. En annexe 4 figure une énumération indicative des partenaires potentiels avec lesquels des collaborations pourraient être concrétisées. Seront consultés, en plus des ministères et administrations locales : les institutions académiques, les associations et ONG régionales, les exploitants forestiers et autres opérateurs privés opérant la région-pilote.

Les soumissionnaires indiqueront aussi comment ils entendent traiter les défis suivants :

- **Les difficultés logistiques.** La région-pilote de l'Equateur ne devrait pas présenter de risque lié à l'insécurité. Toutefois, les contraintes logistiques sont réelles surtout en ce qui concerne le transport et les communications. Les soumissionnaires décriront concrètement comment ils proposent de conduire les travaux et les consultations sur le terrain. Ils proposeront des chefs d'équipes ou des méthodes pour identifier ces chefs d'équipe, pour les missions longues sur le terrain.
- **La communication et l'appui au processus de réunification économique et sociale.** Les soumissionnaires indiqueront comment ils entendent assurer une communication efficace, de sorte

que le processus de zonage soit un instrument au service de la réunification économique et sociale. Le zonage résulte d'une négociation et d'un compromis entre intérêts divers ; il ne devrait pas devenir un enjeu de négociation politique écarté des priorités techniques. Le processus participatif devra commencer très en amont et avec une communication active pour assurer une bonne compréhension du processus, et éviter de susciter des attentes ou des craintes infondées. Les désaccords possibles doivent aussi être identifiés et résolus le plus en amont possible.

Ancrage institutionnel. Le zonage forestier est conduit par le Ministère de l'Environnement auquel le consultant apporte l'assistance technique et le renforcement institutionnel décrit dans les présents TDR. Le consultant travaille sous la supervision directe du Secrétariat Général de l'Environnement. Ce travail se fait aussi en coordination avec les autres administrations concernées, notamment dans le cadre du Conseil Consultatif Provincial des Forêts duquel relève la région-pilote, ainsi qu'au Comité Inter-ministériel National pour l'Aménagement du Territoire. Avant le démarrage du projet, le gouvernement précisera à l'attention du consultant dans une note d'organisation institutionnelle les mandats de chaque institution et de chaque instance inter-ministérielle impliquée, et le rôle du consultant par rapport à ces institutions. Le consultant mettra en place un assistant technique pour la durée de l'activité qui viendra en appui des services du Ministère de l'Environnement et des instances de coordination inter-ministérielle. La banque de donnée principale sera logée au SPIAF, et des copies seront régulièrement envoyées aux différents services et instances de coordination mentionnés ci-dessus.

Compétences/Expertise. Ce mandat requiert une large gamme de compétences dont notamment :

- Compétences techniques en cartographie, télédétection, création et entretien de SIG et bases de données géographiques, mise en réseau d'institutions, modélisation spatiale
- Aptitude à faciliter un processus de consultation et de négociation impliquant une large gamme de parties prenantes autour d'un instrument cartographique avec des enjeux socio-économiques, écologiques, politiques, fonciers, dans un contexte de réunification nationale et de relance économique ; Aptitude démontrée en facilitation, médiation et communication. Capacité de bâtir et communiquer une vision commune entre une différents acteurs et institutions (populations locales, services administratifs, élites, autorités politiques, administratives, etc.) ; capacité de mobiliser à la fois la structure administrative et la société civile pour conduire un processus de réflexion collective jusqu'à la prise de décision ;
- Renforcement d'institutions publiques au niveau des services centraux et de terrain, et transfert de capacités techniques et organisationnelles ; acquisition et transfert de matériel ; formation.
- Capacité faciliter la coordination entre administrations, dans le cadre d'instances telles que le Conseil Consultatif Provincial des Forêts et le Comité Inter-ministériel National pour l'Aménagement du Territoire
- Expertise dans les domaines de l'écologie, la foresterie, sociologie, droit foncier, démographie, économie et développement rural, aménagement du territoire ;
- Organiser des missions de terrain dans des conditions logistiques difficiles et la capacité de former des équipes performantes et motivées qui ont à la fois un mandat technique et de consultation.
- Création et diffusion de cartes et autres supports de communication et de vulgarisation ;

Dimensionnement. Le coût total de l'opération est estimé à environ US\$2 millions. Le tableau en Annexe 4 donne des indications/suggestions sur le dimensionnement financier des différents volets de cette opération. Les consultants sont invités à formuler leurs remarques par rapport à ces suggestions, ainsi que leurs propres propositions.

Le volume des ressources humaines à mobiliser serait d'environ :

- Assistant technique permanent (2 ans)
- Expertise internationale ponctuelle sous forme de missions court terme (24 ho.mois)
- Expertise nationale (équivalent à 50 ho.mois en supplément des cadres de l'administration). Une partie peut se faire par sous-traitance avec associations/ONG locales ou universités.

Il est suggéré qu'un assistant technique polyvalent soit placé en permanence au sein du Ministère. Cet assistant travaillerait en appui et sous la supervision du Secrétariat Général. Il pourrait être logé au SPIAF qui doit assurer le rôle le plus actif dans ce travail de zonage, mais il travaillera en interface avec tous les autres services et administrations concernées. Ses missions seraient par exemple :

- Mise au point de la méthodologie et des programmes d'intervention ; et encadrement opérationnel tout au long des travaux et analyses ; suivi mensuel;
- Acquisition et traitement des images, et cartographie de base ; création de la base de données de macro-zonage national et de celle du zonage régional ; appuis aux analyses des scénarios de zonage ;
- Encadrement du processus de concertation et d'aide à la décision au niveau local et national ;
- Coordination des missions de terrain et analyses socio-économiques, consolidation des résultats; négociation des éventuels accords de collaboration et contrats de sous-traitance
- Suivi de la délivrance des produits intermédiaires ; contrôle et validation de la qualité des résultats ;
- Encadrement et formation des cadres nationaux aux différentes étapes du zonage ; mise en réseau des différents départements concernés ;
- Diffusion produits intermédiaires et finaux
- Gestion administrative et financière de la mise en œuvre du projet ; production des rapports semestriels, et final.

ANNEXE 1. QUELQUES ENJEUX A CONSIDERER DANS LA FORMULATION DES PROPOSITIONS TECHNIQUES

- (a) **Maîtrise d'ouvrage du Ministère de l'Environnement.** La préparation de ce zonage forestier incombe au Ministère de l'Environnement, y inclus l'ICCN. Le travail du consultant consiste à appuyer le Ministère dans cette mission, en s'assurant d'une implication et d'une participation maximales des structures de ce Ministère (dans la capitale et dans les provinces) parce que c'est cette institution qui devra ensuite mettre en œuvre le zonage proposé, répliquer les méthodes développées à d'autres régions-pilote. Le travail de l'assistance technique contribuera au nécessaire renforcement des capacités du Ministère. Le zonage est également un exercice qui permettra de réactiver les différents services de Ministère et qui demandera à tous ces services de réfléchir de façon holistique sur l'avenir des forêts congolaises. C'est donc non seulement un exercice technique, mais aussi un exercice de renforcement des capacités du MINENV.
- (b) **Pilotage du secteur et prévention des conflits fonciers.** Le plan d'affectation des terres est l'instrument qui guidera le gouvernement pour la mise en œuvre sur le terrain des innovations apportées par le code forestier : attribution transparente des concessions, aménagement durable, participation des communautés locales, atteint e de 15% du territoire national en forêts classées. Dans une certaine mesure, le zonage forestier sera porteur d'enjeux importants comme le désenclavement de régions rurales isolées, la distribution géographique des opportunités d'emplois, la rétro -cession des recettes fiscales. C'est aussi l'instrument qui doit canaliser le développement du secteur et éviter les conflits d'intérêts entre agriculteurs, exploitants forestiers, groupes de conservation, tant à l'échelle locale que nationale et internationale. Il constitue la matérialisation géographique des droits fonciers et des responsabilités de bonne gestion de chaque groupe d'acteurs. Il doit apporter une sécurité juridique à long -terme à ces multiples utilisateurs des espaces forestiers. C'est un cadre stratégique négocié qui vise à sécuriser les droits et les responsabilités, et à prévenir les conflits fonciers. Il doit assurer que le développement du secteur forestier se fait de façon harmonieuse en rencontrant les besoins et attentes légitimes des parties intéressées.
- (c) **Cohérence entre différentes politiques sectorielles.** Le plan d'affectation des terres doit apporter la visibilité nécessaire au gouvernement et à la société congolaise pour faire des choix de développement à long terme et à l'échelle du pa ys tout entier. Il constitue l'assise à partir de laquelle pourra se dessiner une vision de la reconstruction du pays. Il doit aussi permettre de renforcer les synergies entre les différentes politiques sectorielles (infrastructures et communications, développement minier, agro-industries, programmes d'infrastructures rurales, etc.).
- (d) **Concertation et participation, appui au processus de réunification.** Le zonage proposé deviendra un pilier du développement rural uniquement s'il est reconnu et respecté par les parties prenantes. Dans cette démarche le processus de zonage peut aussi contribuer au processus de réunification économique et sociale. Ainsi les plans de zonage proposés résulteront d'un processus participatif avec les multiples acteurs concernés (populations locales, pouvoirs politiques et économiques au niveau local et central, différents ministères et services étatiques, autorités et élites, ONG's nationales et internationales, etc.). La concertation et la consultation avec les parties prenantes ne sont pas seulement une question d'organisation d'ateliers, mais avant tout un processus continu ayant lieu partout (Kinshasa, capitales et chefs- lieu en province, villages) et conduit par des cadres avec une solide vision commune sur les questions du zonage. Cette activité n'est donc pas seulement un exercice technique mais aussi et surtout l'appui à un processus collectif et multi-sectoriel de concertation destiné à être validé (à titre indicatif) par l'ensemble du gouvernement.
- (e) **Exercice de macro-zonage.** Le gouvernement a besoin d'une vision d'ensemble de l'affectation des espaces forestiers à l'échelle nationale, ceci sans attendre que les plans d'affectation des terres soient définis de façon minutieuse pour chaque partie du territoire. Par exemple, dan s des délais relativement courts, le Gouvernement sera amené à attribuer progressivement des nouvelles concessions forestières de façon à satisfaire la demande en nouvelles concessions nécessaire pour la reprise des activités productives. La présente activ ité inclura donc la mise en place d'un « processus

continu de macro-zonage » (couvrant l'entièreté des forêts denses humides de la RDC) qui permettra d'orienter l'attribution de concessions forestières dans des régions qui ne sont pas encore dotées d'un plan de zonage indicatif ou de définir des zones d'intérêt particulier pour la conservation de la nature. Il est espéré que l'exercice de macro-zonage contribuera à minimiser les conflits entre intérêts liés à l'exploitation forestière, besoins agricoles, besoins miniers et besoins de conservation des écosystèmes.

- (f) **Poursuite des réformes engagées.** Pour assurer que la relance du secteur se déroule sur des bases saines, la RDC a mis en place un Agenda Prioritaire qui contient des mesures visant à protéger les intérêts nationaux contre la spéculation et le commerce des concessions. Ces mesures contiennent entre autres un moratoire sur toute nouvelle allocation par gré -à-gré et l'élévation progressive de la taxe de superficie sur les surfaces attribuées. Le Gouvernement a également annulé 25 millions d'ha de contrats forestiers considérés caduques, et qui avaient été attribués sans un effort préalable de mise en cohérence spatiale. Les forêts ainsi récupérées par le domaine public doivent aujourd'hui faire l'objet de cette réflexion collective sur l'aménagement du territoire, avant d'être ré-attribuées sous forme de concessions ou bien d'être affectées au domaine rural ou à la conservation de la nature. La RDC reste le seul pays dans la région qui contient de vastes surfaces de forêts exploitables encore libres de titre forestier, sur lesquelles il reste une latitude de décision. La demande pour de nouvelles concessions forestières s'accroît, et le zonage sera le cadre qui permettra de programmer pour les décennies à venir la mise en concession de ces surfaces, ou l'orientation de ces surfaces vers le développement rural ou la conservation.
- (g) **Définition du domaine agro-forestier ; foresterie communautaire.** Le zonage aboutit aussi à définir un domaine agro-forestier contenant les terres qui ne sont pas nécessairement vouées à une couverture forestière permanente et qui pourront être utilisées pour des besoins agricoles ou agro-forestiers. L'étendue de ce domaine agro-forestier doit prendre en compte les besoins futurs en terres agricoles, les besoins de l'agriculture industrielle, ainsi que le scénario de maintenir une partie du domaine agro-forestier sous couverture forestière (forêts communautaires, mosaïque forêts – jachères – marécages). C'est un exercice délicat dans laquelle les marges de flexibilité sont relativement grande. Le nouveau code forestier (article 22) prévoit la possibilité pour les communautés locales de gérer des concessions forestières. Les textes d'application doivent encore définir les modalités de type d'exploitation forestière. Pour le zonage forestier, la question se pose de situer ces « forêts communautaires » dans le domaine forestier permanent ou dans le domaine « agroforestier » non permanent (voir dans les tâches : études techniques à réaliser).
- (h) **Domaine forestier permanent, et croissance démographique.** La population de la RDC, estimée à environ 50 millions d'habitants en 2000, pourrait atteindre 200 millions d'habitants en 2050 (UNFPA). Une telle croissance démographique aura un impact énorme sur les forêts en RDC. Le zonage est l'outil qui permet de définir le domaine forestier permanent, légalisé par des actes de classement. Le zonage est également un outil qui permettra d'orienter les flux de migration internes et l'installation de nouveaux villages. Le zonage permet également de prévoir l'inter-connectivité écologique entre massifs forestiers. Sans un processus de zonage qui protège un domaine forestier permanent, il est probable qu'en 2050 la forêt congolaise ne sera plus qu'une ombre de ce qu'elle est aujourd'hui. Le zonage doit fonder le réseau national de forêts permanentes sur des principes sains : prévoir suffisamment d'espace pour le développement agricole dans le demi-siècle à venir et canaliser cette dynamique spatiale, situer des aires protégées dans les parties les plus intactes de la forêt (le cœur des massifs forestiers mieux protégée contre le braconnage) et dans des sites d'un intérêt écologique particulier, tamponner les aires protégées avec des concessions forestières sous aménagement, préserver la connectivité écologique entre massifs forestiers.
- (i) **Tracer le réseau national d'aires protégées.** Le réseau d'aires protégées de la RDC reste encore très incomplet et le zonage permettra de définir un domaine de conservation qui devrait atteindre au moins 15% du territoire national selon le code forestier.

- (j) **La question des forêts édaphiques (inondées de façon permanente ou périodique).** Dans la cuvette centrale, des étendues considérables de forêts marécageuses bordent les grandes rivières. Elles sont relativement moins riches en biodiversité et en bois d'œuvre. Elles contiennent peu de grande faune et sont d'accès facile pour les pêcheurs et chasseurs. La question se pose d'intégrer ce type de végétation dans le zonage forestier. Une compréhension du rôle économique, sociale et écologique de ces forêts marécageuses sera nécessaire pour bien mener l'exercice de zonage dans et autour de ce type de végétation.
- (k) **Le caractère semi-définitif des plans de zonage indicatifs.** Le gros du présent travail concerne la réalisation de plans de zonage régionaux qui devraient être validés par le Gouvernement à titre indicatif par décret inter-ministériel. L'expérience dans d'autres pays a montré que ces plans de zonage indicatifs régionaux subissent des modifications avant d'être ensuite confirmés par actes de classement définitif à l'échelle de chaque unité forestière individuelle. Toutefois il est difficile de faire des changements de grande envergure car ces plans indicatifs s'appuient déjà sur un grand nombre de travaux de photo-interprétation, de terrain et de concertations. Ceci implique donc une grande responsabilité quant à la proposition des limites du domaine rural, du domaine forestier permanent et d'aires protégées.
- (l) **Forêts permanentes de production.** Le domaine de forêts de production devrait être reparti en Unités Forestières d'Aménagement (UFA). Le dimensionnement des UFA tiendra compte des exigences d'y mettre en place un aménagement durable approprié. Le code forestier prévoit également des UFA pour d'autres fins que l'exploitation forestière (exemple tourisme, conservation, bio-prospection, récréation, séquestration de carbone) et le consultant en tiendra compte si opportun. Le consultant utilisera les données d'inventaires disponibles au SPIAF.
- (m) **Conservation / Services environnementaux.** Le consultant s'assurera qu'à travers les missions socio-économiques et les missions de prospection biologique, des sites critiques pour la conservation soient identifiés et provisoirement délimités. Par ailleurs, le nouveau code prévoit que l'aménagement forestier peut être orienté non seulement vers la production durable de produits forestiers mais également vers les services environnementaux, le tourisme et la chasse, et d'autres objectifs compatibles avec le maintien du couvert forestier et la protection de la faune sauvage. Le consultant étudiera si cette variété d'options est à prendre en compte lors du zonage (par exemple est-ce qu'il est réaliste ou opportun à ce stade de proposer des concessions orientées vers la conservation ou la séquestration de carbone, ou vers un mélange de ces objectifs).
- (n) **Problématique des concessions communautaires.** Faut-il prévoir cette utilisation des terres dans la forêt permanente ou dans le domaine rural ? Le consultant identifiera les avantages et inconvénients des différentes approches et proposera un choix réfléchi en tenant compte du développement des textes d'application concernant les forêts communautaires. Il suivra et contribuera au développement de ces textes d'application là où elles concernent le zonage. Il est possible que cette étude doivent être conduite en trois modules différents pour tenir compte des réalités sociales dans chacune des trois régions pilotes. Il prendra en compte l'expérience d'autres pays de la sous -région dans ce domaine.

ANNEXE 2. REGION-PILOTE POUR LE ZONAGE INDICATIF

ANNEXE 2 (SUITE) – REGION-PILOTE POUR LE ZONAGE INDICATIF

Les critères qui ont guidé le choix de cette région sont les suivants

Critère	Appréciation
• Zone importante pour le processus de réunification	+++
• Demande future pour de nouvelles concessions forestières	+++
• Concessions récemment rétro-cédés, nécessité de re -zonage	++
• Zones à vocation forestière (long terme)	+++
• Nécessité de prévenir les conflits fonciers à venir	+
• Autres enjeux fonciers (mines, agro -industries) à concilier	++
• Potentiel d'aires protégées et/ou extension d'aires existantes	++
• Accessibilité physique, contraintes logistiques	-
• Sécurité	+/-
• Potentiel de synergies/partenariat avec d'autres initiatives	+++

Description – Spécificités. Cette zone s'articule autour du bassin de la Lopori et de la Maringa. Elle atteint la Tshuapa au Sud et la route Ikela – Opala à l'Est. La zone est pour une grande partie accessible pour l'exploitation forestière à cause des rivières navigables qui la traversent. Elle contient encore des forêts relativement intactes et à forte densité de bonobo (exemple Lomako -Yekokora, la forêt de Wamba). Elle contient des zones à relativement faible densité de population. Le consultant proposera une délimitation précise de la zone à soumettre à un plan de zonage indicatif, basé sur des critères de faisabilité en sachant que plus d'importance est donné à la qualité du processus de zonage qu'à la superficie couverte. Le zonage demandera une bonne compréhension des besoins agricoles y inclus l'agriculture industrielle..

Suggestions pour l'organisation du travail – Partenariats. Ce site chevauche le landscape Lopori-Maringa de CARPE/CBFP. Le consultant cherchera une collaboration active avec les acteurs sur le terrain, en particulier le projet CARPE (AWF, CARE) qui pourront renforcer la qualité du processus et éviter des duplications.

Une base logistique pourra être mise en place à Mbandaka, au sein de la Coordination Provinciale à l'Environnement. Des bureaux seront à aménager et la Coordination provinciale pourra être équipée par un groupe électrogène. Du matériel informatique et mobilier est à procurer et un cadre GIS du Ministère pourra de façon ponctuelle appuyer les travaux sur le terrain en Equateur. Ce sera l'arrière-base pour les opérations de terrain. Le consultant veillera à responsabiliser dans le processus, autant que possible, la coordination provinciale et les services du Ministère au sein des chefs lieu de District et de Territoire. Un véhicule/moto pourra être basé à Mbandaka pour la logistique dans la ville et des motos, vélos et des pirogues motorisées seront utilisées par les équipes de terrain.

ANNEXE 3 – NOTE DE CADRAGE POUR LE RENFORCEMENT INSTITUTIONNEL ET LE TRANSFERT DE CAPACITE

Le prestataire de services sélectionné aidera l'administration à conduire le processus de zonage forestier en fournissant : (i) assistance technique et appui méthodologique ; (ii) formation ; (iii) équipement et moyens de fonctionnement. Ces services visent à ce que le ministère et les autres institutions publiques concernées retrouvent/acquièrent la capacité de conduire de façon autonome ce processus de zonage forestier pour d'autres régions-pilotes dans l'avenir.

Les principales administrations en charge du zonage forestier au sein du Ministère de l'Environnement sont : la Direction Générale des Forêts (DGF), l'Institut Congolais pour la Conservation de la Nature (ICCN), les coordinations provinciales et le Service Permanent des Inventaires et Aménagement Forestier (SPIAF). Etant donné les enjeux multiples de l'utilisation des ressources naturelles, une collaboration étroite sera nécessaire avec d'autres ministères telles que ceux en charge du développement rural et agricole, de l'aménagement du territoire, des mines, des industries et des transports. Cette collaboration s'établira dans le cadre du Comité Inter-ministériel National pour l'Aménagement du Territoire et du Conseil Consultatif Provincial des Forêts.

La DGF est principalement responsable de la gestion des ressources forestières. Sa Division exploitation et allocation forestière (DEAF) gère notamment les demandes d'allocation. Le zonage forestier constituera un outil important de gestion durable des ressources naturelles en aidant l'administration forestière à définir et attribuer les nouvelles concessions forestières tout en respectant l'espace socio-économique des populations locales, le développement d'autres activités économiques et les zones à protéger riches en biodiversité. Sa Division des statistiques forestières (DSF) dispose depuis l'an 2000 d'un ordinateur et d'un informaticien pour la compilation des données statistiques sur la production de bois, l'exploitation et les allocations forestières. L'équipement informatique de la DGF sera renforcé et une base de données mise en place pour améliorer la gestion des contrats de concessions forestières dans le cadre des appuis à la conversion des anciens contrats forestiers.

L'ICCN est principalement chargée de la gestion des aires protégées au niveau national. Ces zones couvrent actuellement environ 9 % du territoire national et devrait atteindre 15% conformément à la nouvelle Loi forestière. L'ICCN dispose de conservateurs spécialisés et d'agents techniques dans la plupart des aires protégées. Le zonage aidera notamment l'ICCN pour l'extension et la création de nouvelles aires protégées tout en évitant des superpositions géographiques avec d'autres usages concurrents ou incompatibles.

Les coordinations provinciales sont les principaux intermédiaires entre les autorités et populations locales, les entreprises forestières et le Ministère de l'environnement. Elles doivent donc être responsabilisées pour toutes les activités de terrain et notamment les opérations de sensibilisation et de négociations avec les différents acteurs du milieu rural. De plus, le zonage sera utilisé pour les coordinations provinciales afin de suivre l'évolution des concessions forestières attribuée par le ME dans leur zone, discuter avec les entreprises forestières des attributions de nouvelles concessions, résoudre les conflits liés aux dépassement des limites des concessions et vérifier l'exactitude de certaines données fournies par les entreprises. Les services extérieurs du ME manquent totalement de moyens d'intervention.

Le SPIAF est principalement chargé de réaliser, sur toute l'étendue du territoire national, des travaux d'évaluation des ressources forestières (inventaires) et des plans d'aménagement. A ce titre, il dispose de quelques équipements récents en cartographie et base de données informatiques, ainsi que d'une capacité technique limitée mais de bon niveau en système d'information géographique/SIG, cartographie et photo-interprétation.

Rôle des administrations partenaires

La réalisation du zonage forestier comprend trois grands groupes d'activités : (i) la télédétection, la production de cartes thématiques et la constitution d'une base de données SIG géo- référencée ; (ii) les travaux de terrain pour vérifier l'interprétation de certaines données satellitaires, préciser la localisation de sites à protéger et réaliser des enquêtes socioéconomiques pour dimensionner les zones rurales; et (iii) des appuis au processus de concertation et de décision avec tous les acteurs intéressés (administrations, opérateurs privés, société civile, populations locales) tant aux niveaux locaux, provinciaux que national à travers l'organisation de réunions, de séances de sensibilisation et de consultation, la mise en place de comités provinciaux et la réactivation du comité inter -ministériel national pour l'aménagement du territoire.

En tenant compte de leurs attributions et de leur capacité, les différentes administrations concernées seront impliquées de la façon suivante :

- (a) **Secrétariat général du ME** : vu les enjeux multidisciplinaires, il est proposé que le travail de zonage soit piloté par le Secrétariat général du ME avec l'appui d'un spécialiste en zonage et en animation de processus de concertation. Ce spécialiste pourrait être logé dans les bureaux du SPIAF lequel opère sous la supervision directe du SG.
- (b) **la DGF** : en tant que responsable de la gestion des ressources forestières, la DGF fournira au SPIAF l'ensemble des données relatives aux concessions forestières et pilotera principalement le processus de concertation autour des concessions forestières.
- (c) **l'ICCN** : en tant que gestionnaire des aires protégées, l'ICCN fournira au SPIAF l'ensemble des données relatives aux aires protégées, pilotera les équipes de reconnaissance des sites riches en biodiversité et participera aux séances de sensibilisation et de consultation organisées dans les zones avoisinant les aires protégées.
- (d) **les coordinations provinciales** collecteront toutes les données complémentaires nécessaires disponibles auprès des différents services administratifs provinciaux et dans les districts et accompagneront et organiseront tous les travaux de terrain ainsi que les différentes réunions de consultations à effectuer dans leurs zones. Les missions de terrain seront constituées d'un cadre représentant l'administration responsable au niveau national (DGF ou ICCN), d'un ou deux experts techniques nationaux, d'un cadre de la coordination régionale et d'aides locaux en fonction des besoins (enquêteurs, guide, pisteur, conducteur, porteur, etc.).
- (e) **le SPIAF** sera chargé de tous les travaux de cartographie et de la création d'une base de données. Il assurera la complémentarité de la base de données avec les autres programmes en cours ou en préparation liés à la gestion des ressources forestières telles que le Global Forest Watch, le Système d'Information Forestière (SIF) et le programme de conversion des anciens permis forestiers en contrats de concessions forestières. De plus, pour compléter ses capacités (expertise, données cartographiques de base, équipement, etc.), il travaillera en fonction des besoins en partenariat avec d'autres structures ou programmes telles que le DPFRI, la Faculté d'Agronomie, l'ERAIFT, la MONUC, METELSAT, CARPE, etc.). Quelques missions techniques pour préciser ou confirmer l'interprétation de données cartographiques ou satellitaires sont également prévues.
- (f) **les autres ministères concernés** faciliteront l'accès sur demande à des données spécifiques disponibles dans leur département et seront associés étroitement au processus de concertation et de décision à travers leur participation aux réunions et comités qui seront organisés tant au niveau des provinces que à Kinshasa ainsi qu'à des ateliers techniques spécifiques sur des problèmes qui les concernent.

ANNEXE 4 - QUELQUES EXPERIENCES ET PRODUITS EXISTANTS, INITIATIVES EN COURS, OU PARTENARIATS ET SYNERGIES POTENTIELS

- Zonage forestier et aménagement du territoire : programme Africover de la FAO ; composante zonage du projet TCP de la FAO ; opération de cartographie participative à grande échelle conduit par IRM dans l'Equateur ; programme de cartographie des aires protégées conduit par l'ICCN avec l'UCL
- Travaux de terrain, analyses socio-économiques et consultations multi-acteurs dans la Région -pilote : agences d'exécution du projet CARPE/CBFP (AWF, CARE) ; travaux de cartographie et d'aménagement par des entreprises forestières ; Conférence Economique de la Région Equateur
- Processus de concertation nationale: programme de vulgarisation du Code forestier conduit par le MINENV avec l'appui de la FAO ; Centre National des ONG pour le Développement ;
- Renforcement institutionnel : appuis du GFW au SPIAF dans le cadre de projets OIBT et CARPE ; revue institutionnelle et stratégie de renforcement conduite par le MINENV ; programme de formation appuyé par le SCAC ;
- Mise en place du Cadastre forestier : Programme de conversion des anciens contrats conduit par le MINENV, également appuyé par le Projet d'urgence de Soutien au Processus de Réunification Economique et Sociale
- Télédétection : Programmes du *Global Forest Watch* et du *Woodshole Research Center/NASA* pour le suivi des routes forestières dans les concessions en RDC et dans d'autres pays du Bassin du Congo.
- Base de données SIG en RDC : ERAIFT, CARPE, WCS.
- Missions de terrain dans des zones éloignées : expériences de certains projet en cours (WCS/MIKE au Parc National de la Salonga, prospections des exploitants forestiers).
- Outils de travail, CyberTracker qui devient de plus en plus performant et durable et qui permettra d'augmenter le nombre de données collectées et d'accélérer l'analyse des données de terrain.

ANNEXE 5 - SUGGESTIONS POUR LE DIMENSIONNEMENT DE L'OPERATION

Ce sont des suggestions. Il ne s'agit pas d'un budget complet. L'assistance technique n'est pas indiquée. Le coût total de l'opération est estimé à environ US\$2 millions comme ordre de grandeur.

Bénéficiaires	Description appui	Unité	C.U. \$	Quantité	C.Tot.\$
Appuis processus de concertation/négociation					350,000
Ateliers nationaux et provinciaux multi-acteurs (ministères, opérateurs privés, société civile)	Ateliers de sensibilisation, discussions des scénarios	/Atelier	30,000	6	180,000
Appuis au Conseil Consultatif Provincial et Conseil National pour l'Aménagement du Territoire	Mise en place des conseils, déplacements,	Forfait			40,000
Communication, diffusion des produits	Multiplication des cartes, notes d'information publique	Forfait			30,000
Autres appuis pour concertation et participation locale		Forfait			100,000
Fonctionnement					350,000
SPIAF, DGF, ICCN	Consommables Appuis administratifs	Forfait			20,000
DGF, SPIAF, ICCN, Coordination provinciale	Missions de terrain	Forfait			90,000
	- Carburant et entretien des moyens de transport				
	- voyages avion cadres et experts	Vol	400	100	40,000
	- Perdiems missions	/Jour	100	800	80,000
- Travaux missions de terrain	/Jour	50	800	40,000	
- Location de transport	Forfait			40,000	
DGF, SPIAF, ICCN, Coordination provinciale	- Primes de performances liées aux résultats obtenus à différentes phases du programme de travail	Forfait annuel	20,000	2	40,000
Formation					120,000
SPIAF, DGF, ICCN	Voyage d'étude à l'étranger	Voyage	20,000	1	20,000
Coordination provinciale	Sessions de formation à Kinshasa	Forfait			20,000
Autres programmes de formation		Forfait			80,000
Equipements/ Réhab					180,000
Secrétariat général et Cabinet du ME ; SPIAF ; ICCN ; DGF	Réhabilitation d'un bureau et d'un secrétariat archivage par entité. Un véhicule de liaison	/Service	8,000	5	40,000
Secrétariat général et Cabinet du ME, ; ICCN ; DGF ; SPIAF	Equipement salles informatiques Ordinateur de table, imprimante, base de données, mise en réseau	/Service	8,000	5	40,000
Direction provinciale et bureaux dans les Territoires	Equipement salles informatiques Ordinateur de table, imprimante, - Logiciel de base de données, mise en réseau, Groupe électrogène	/Province	20,000		20,000
SPIAF	Equipements spéciaux des ateliers : ordinateur 512 MB, Imprimantes laser, Photocopieuse, Onduleur, Logiciels, Scanner A0, Plotteur, etc	Forfait			20,000
SPIAF	Acquisition de données : Photos aériennes récentes, Cartographie, Images satellites, Survolés aériens	Forfait			30,000
Direction provinciale, bureaux dans les Territoires	Equipement (motos, pyrogues) pour les missions de terrain	/Province	30,000		30,000



Le Président

**DECRET N° 05/976 DU 24 OCT 2005 FIXANT LES
MODALITES DE CONVERSION DES ANCIENS TITRES
FORESTIERS EN CONTRATS DE CONCESSION FORESTIERE ET
PORTANT EXTENSION DU MORATOIRE EN MATIERE D'OCTROI
DES TITRES D'EXPLOITATION FORESTIERE.**

Le Président de la République ;

Vu la Constitution de la Transition, spécialement en ses articles 71 et 203 ;

Vu la loi n° 011/2002 du 29 août 2002 portant Code Forestier, spécialement ses articles 21, 71, 74, 82, 88, 118 et 155 ;

Vu le Décret n° 03/025 du 16 septembre 2003 portant organisation et fonctionnement du Gouvernement de Transition ainsi que les modalités pratiques de collaboration entre le Président de la République, les Vice-Présidents de la République, les Ministres et les Vice-Ministres, spécialement en ses articles 10, 50 et 54 ;

Vu l'Arrêté CAB/MIN/AF.F-E.T./194/MAS/02 du 14 mai 2002 portant suspension de l'octroi des allocations forestières ;

Considérant la nécessité de fixer les modalités indispensables à la mise en œuvre des dispositions transitoires du Code Forestier relatives à la conversion des titres détenus par les exploitants forestiers en contrats de concession forestière ;

Vu l'urgence et la nécessité ;

CHAPITRE I^{er} : DES CONDITIONS GENERALES DE CONVERSION

Article 1^{er} :

Sont considérées comme anciens titres forestiers aux termes du Code Forestier les conventions portant octroi de la garantie d'approvisionnement en matière ligneuse et les lettres d'intention conclues ou émises avant la publication du présent Décret.

Article 2

Toute personne physique ou morale sollicitant la conversion d'un ancien titre forestier en contrat de concession forestière en fait la demande en introduisant une requête auprès du Ministère en charge des Forêts, avec copie au Secrétaire Général en charge des Forêts.

Pour être recevable, la requête doit être accompagnée des documents ci-après :

- 1) Pour le requérant personne physique, son registre de commerce conforme à la réglementation en vigueur, mentionnant l'exploitation forestière ou l'industrie du bois parmi ses activités.
- 2) Pour le requérant personne morale :
 - a) les statuts notariés de la société et son registre de commerce conforme à la réglementation en vigueur, mentionnant l'exploitation forestière ou l'industrie du bois parmi ses activités ;
 - b) le procès-verbal de l'Assemblée Générale ou, selon le cas, du Conseil d'Administration de la société dûment signé, notarié et reçu au greffe de commerce du tribunal compétent attestant la désignation des personnes chargées de la gestion ou de l'administration de la société, ou tout acte y tenant lieu conformément aux règles de désignation des dirigeants des entreprises telles que définies par la législation commerciale.

- 3) Pour tout requérant, une copie conforme de l'ancien titre forestier pour lequel est sollicitée la conversion, y compris ses annexes, ainsi qu'un plan de relance à moyen terme élaboré conformément à l'article 7 du présent Décret.

Article 3

Les détenteurs des anciens titres forestiers ont un délai de trois mois à compter de la publication du présent Décret pour introduire la requête de conversion. Dans un délai de 7 jours après cette date limite, l'Administration Forestière publie par voie de presse ainsi que par affichage auprès des gouvernorats concernés la liste des titres pour lesquels un dossier de conversion a été reçu. Les titres pour lesquels une requête de conversion n'a pas été reçue à l'échéance du délai de trois mois prévu ci-dessus n'engagent plus la République.

Article 4 :

Dès réception de la requête, la Direction de la Gestion Forestière et le Service Permanent d'Inventaire et d'Aménagement Forestiers et la Direction Générale des Recettes Administratives procèdent à la vérification du dossier y afférent. Elles recueillent les informations nécessaires auprès des autres administrations concernées et joignent à leur rapport de vérification les attestations dressées par ces administrations pour les obligations qui relèvent de leur compétence. Si le résultat de ces vérifications est positif, elles préparent un projet de contrat de concession. Pour chaque requête, la vérification porte notamment sur les éléments suivants :

- a) la conformité des éléments constitutifs du dossier de conversion conformément à l'article 2 ci-dessus ;
- b) la validité juridique des conventions dont la conversion est sollicitée et de leur transfert éventuel à des tiers ;
- c) le respect des obligations juridiques, environnementales, sociales et fiscales découlant de la convention, par le détenteur du titre ou par tout tiers à qui les droits d'exploitation auraient été transférés ;
- d) l'existence et le maintien en fonctionnement effectif de l'unité de transformation conformément aux termes de la garantie d'approvisionnement et/ou de la lettre d'intention, sauf cas de force majeure dûment prouvé ;
- e) l'analyse du plan de relance proposé.

Article 5 :

La vérification de la validité juridique des titres est effectuée au regard des dispositions légales et réglementaires en vigueur au moment de leur signature. Il en est de même en ce qui concerne la régularité de leur transfert et/ou cession éventuel. Toute requête concernant un titre non valide au regard des dispositions légales et réglementaires en vigueur au moment de sa signature sera d'office rejetée.

Le respect par le requérant des obligations découlant de son titre est, en particulier, vérifié au regard des éléments ci-après :

- a) le paiement intégral des termes échus de la redevance de superficie forestière à partir de l'an 2003 jusqu'à l'année en cours ;
- b) le respect des limites de la concession telles qu'elles résultent de la convention et de la carte topographique y annexée ;
- c) l'existence et le maintien en fonctionnement d'une unité de transformation conformément aux clauses du titre, sauf cas de force majeure dûment prouvé.

Le non respect de l'une de ces trois obligations contractuelles entraînera le rejet de la requête et la résiliation dudit titre.

Article 6 :

La Direction de la Gestion Forestière, le Service Permanent d'Inventaire et d'Aménagement Forestiers et la Direction Générale des Recettes Administratives sont assistés d'un Expert qualifié et indépendant dont le mandat consiste à aider l'administration dans les vérifications et dans la préparation des rapports et des projets de contrats de concession à transmettre à la Commission.

L'expert accède librement à toute documentation et information relative au processus de conversion, participe à toutes les séances de travail et à toute mission sur terrain.

Il dresse son propre rapport intérimaire dans lequel il donne un avis sur la régularité de la vérification technique et sur la conformité de cette vérification aux dispositions du présent Décret, ainsi que ses recommandations. Il remplit également les missions visées à l'article 10 ci-dessous.

Article 7

Le plan de relance présenté par le requérant sera utilisé comme élément pour la préparation des projets de contrats de concession forestière pour les requêtes qui seront acceptées. Il comprend les éléments ci-après :

- a) la présentation d'un bilan relatif aux données statistiques disponibles sur la production, la transformation et l'exportation des produits forestiers au cours des années précédentes ;
- b) la présentation d'un bilan relatif aux capacités techniques et financières de l'exploitant, notamment la structure du capital social ainsi que le matériel et les équipements d'exploitation ; à ses ressources humaines notamment l'effectif et les attributions du personnel ; et à ses infrastructures et matériel d'exploitation, unités de transformation, matériels et équipements de sécurité sur les lieux de travail ;
- c) l'estimation relative aux limites et surfaces de la concession en adéquation avec les capacités techniques et financières présentes et projetées de l'investissement, tenant compte de surfaces déjà exploitées et des superficies envisagées pour une exploitation future ;
- d) les propositions relatives à la remise en cohérence des limites de la concession par rapport aux droits d'usage des populations locales et aux droits fonciers éventuellement détenus par des tiers, ainsi qu'à la présence des zones agricoles ou inexploitable. Ces propositions sont accompagnées des comptes-rendus des consultations locales conduites par le requérant ;
- e) les propositions relatives aux surfaces, volumes et essences à exploiter au cours des cinq prochaines années, et aux produits à commercialiser ;
- f) les propositions relatives aux conditions environnementales et sociales de l'exploitation, y compris les investissements et services socio-économiques à réaliser en faveur des communautés locales vivant autour de la concession et les modalités de consultation avec elles. Ces propositions sont accompagnées des comptes-rendus des consultations locales conduites par le requérant.

CHAPITRE II : DE LA PROCEDURE DE CONVERSION

Section 1^{ère} : De l'examen de la demande de conversion

Article 8

Dès la fin des opérations de vérification technique et, en tout état de cause, dans un délai ne dépassant pas quatre mois après la date limite de réception des requêtes, le Ministre en charge des Forêts convoque la réunion de la commission interministérielle prévue par l'article 9 du présent Décret. Il transmet à la commission les requêtes de conversion, les rapports de vérification visés à l'article 4 ci-dessus et le rapport intérimaire de l'expert indépendant visé à l'article 6 ci-dessus.

Dans le même délai, le Secrétaire Général en charge des Forêts publie par voie de presse ainsi que par affichage auprès des gouvernorats concernés la liste des titres pour lesquels un projet de contrat de concession a été préparé et de ceux pour lesquels le rapport de vérification recommande le rejet en application des articles 4 et 7 ci-dessus. Le rapport intérimaire de l'expert indépendant peut être consulté librement auprès du Ministère de l'Environnement.

Article 9 :

Il est institué une commission interministérielle ayant pour missions d'examiner et d'approuver ou de rejeter les rapports de vérification établis conformément aux articles 1 à 7 du présent Décret et les projets de contrats de concession forestière.

Article 10

La Commission interministérielle est placée sous l'autorité du Ministre en charge des forêts et présidée par le Secrétaire Général en charge des forêts. Elle comprend, outre le Secrétaire général, les membres suivants :

- a) Quatre représentants du Ministère en charge des Forêts :
 - le Directeur en charge de la Gestion Forestière ;
 - le Directeur en charge des inventaires et aménagements forestiers ;
 - le Conseiller chargé des forêts du Ministère en charge des forêts ;
 - un représentant de l'administration provinciale en charge des forêts dans le ressort duquel se trouve la forêt concernée.
- b) Un représentant du Ministère en charge de la Justice ;

- Deux représentants du Ministère en charge des Finances dont un Délégué de la Direction Générale des Recettes Administratives, Domaniales et de Participations ;
- d) Un représentant du Ministère en charge du Plan ;
 - e) Un représentant du Ministère en charge de l'Industrie ;
 - f) Un représentant du Cabinet du Président de la République
 - g) Un représentant du Cabinet du Vice-Président de la République chargé de la Commission Reconstruction et;
Un représentant du Cabinet du Vice-Président de la République chargé de la Commission Economique et Financière ;
 - i) Deux représentants du Comité Professionnel Bois de la Fédération des Entreprises du Congo, non concernés directement par les dossiers à l'étude ;
Deux représentants des organisations non gouvernementales nationales agréées et exerçant dans le secteur forestier ;
 - k) Un représentant des communautés locales riveraines du titre concerné ;
 - l) L'expert indépendant visé à l'article 6 ci-dessus ;

Les membres de la commission sont nommés par Décret du Président de la République sur proposition des Ministères et organismes dont ils relèvent, en raison de leur compétence, de leur expérience et de leur intégrité morale établies. Ils ont droit à une prime dont le montant et les modalités de paiement sont fixés par le décret de nomination.

L'Expert indépendant visé à l'article 6 du présent Décret assiste à tous les travaux de la commission en qualité d'observateur sans voix délibérative. Il dresse un rapport portant sur la régularité des travaux de la commission et la conformité de ses conclusions à la lettre et à l'esprit du code forestier et du présent Décret, assorti de ses propres recommandations.

Article 11 :

La Commission examine les rapports de vérification. Elle utilise toute documentation pertinente, notamment les lois et règlements en vigueur, les dossiers de requête, les plans de relance proposés, et le rapport intérimaire de l'expert indépendant. Elle écarte toute requête dont la vérification technique montre qu'elle n'a pas respecté les critères indiqués à l'article 5 du présent Décret. Elle examine les autres dossiers et se prononce sur la base du rapport de vérification, du rapport intérimaire de l'expert indépendant et de tout autre avis qu'elle jugera nécessaire d'obtenir à cette fin. La Commission se prononce sur la

pertinence du projet de contrat de concession, et le cas échéant, elle y apporte des amendements.

Article 12 :

La Commission ne siège valablement que si elle réunit un quorum d'au moins trois quarts de ses membres. Elle élabore son règlement intérieur.

La Commission délibère par consensus. Si le consensus n'est pas obtenu, elle délibère à la majorité qualifiée des deux tiers des membres présents. En cas de partage de voix, celle du Président de la séance est prépondérante.

Les constats et recommandations de la Commission sont consignés dans un procès-verbal signé par les membres présents.

Article 13 :

La Commission clôt sa session au plus tard 45 jours après la date de transmission des rapports de vérification par l'Administration en charge des Forêts. Dans le délai de sept jours après la clôture de la session de la Commission, le Président de la Commission transmet au Ministre en charge des Forêts le procès-verbal de la Commission. L'Expert indépendant transmet son rapport au Ministre en charge des Forêts dans le même délai.

Dès la clôture de la session de la Commission, le rapport de vérification et les deux rapports de l'expert indépendant visés aux articles 6 et 10 ci-dessus peuvent être consultés librement auprès du Ministère en charge des forêts.

Article 14 :

Dans un délai de 15 jours, le Ministre en charge des Forêts informe le requérant des recommandations de la Commission, par courrier recommandé ou avec accusé de réception.

Dans le même délai, il publie par voie de presse ainsi que par affichage auprès des gouvernorats concernés un tableau récapitulatif par titre des recommandations de la Commission.

Dès la réception du courrier du Ministre, le requérant dispose d'un délai de quinze jours pour formuler par écrit ses observations sur les recommandations de la Commission. Ces observations sont adressées sous forme de recours, par courrier recommandé ou avec accusé de réception, au Ministre en charge des Forêts qui les soumet à la Commission pour second examen. Le requérant peut être entendu sur ses observations à sa demande ou à celle de la Commission. La Commission saisie au second tour par le Ministre a un délai de quinze jours pour donner impérativement ses recommandations sur ces recours.

Article 15 :

En cas de recommandation favorable de la Commission le Ministre en charge des Forêts dispose d'un délai de 15 jours pour inviter le requérant, par lettre recommandée ou avec accusé de réception, à la signature du contrat de concession forestière.

En cas de recommandation défavorable de la Commission, le Ministre en charge des Forêts dispose d'un délai de 15 jours pour notifier au requérant, par lettre recommandée ou avec accusé de réception, la décision de rejet de la requête, et pour procéder à la résiliation du titre.

Les conclusions de la Commission sont publiées par voie de presse ainsi que par affichage auprès des gouvernorats concernés dans un délai de 15 jours. Les deux rapports dressés par l'expert indépendant en application des articles 6 et 10 ci-dessus sont publiés simultanément.

Article 16

En aucun cas la conversion d'un titre ne peut entraîner l'extension des superficies concernées ou leur substitution par des nouvelles. Les superficies peuvent être réduites en raison de la remise en cohérence des limites de la concession avec les terroirs agricoles et les zones non productives, ou à la demande du requérant.

Article 17

Sans préjudice des dispositions des articles 8, 13 et 14 du présent Décret, le Ministre en charge des Forêts et les membres de la Commission traitent les documents déposés en exécution des dispositions du présent Décret de manière à éviter la divulgation de leur contenu aux autres exploitants et aux tiers. Sauf s'ils en sont requis par le Gouvernement ou la Justice, les membres de la Commission sont tenus au secret des délibérations.

Section 3 : Du recours contre la décision du Ministre

Article 18 :

L'exploitant forestier dispose d'un droit de recours contre la décision lui notifiée par le ministre en charge des Forêts. Ce recours est exercé conformément à la procédure en vigueur en matière de droit administratif.

Section 4 : De la signature du contrat de concession forestière

Article 19 :

Le contrat de concession forestière est signé par le Ministre en charge des Forêts et le concessionnaire pour une durée de vingt-cinq ans renouvelable. Il sera automatiquement résilié si, dans les 4 ans qui suivent sa signature, la concession ne dispose pas d'un plan d'aménagement dûment approuvé par l'Administration en charge des Forêts.

Le cahier des charges indiquant les infrastructures sociales et les services socio-économiques convenus de commun accord entre les communautés riveraines et le concessionnaire, sera annexé au contrat de concession forestière. Ces accords pourront être amendés de commun accord entre les communautés riveraines et le concessionnaire à l'occasion de la préparation du plan d'aménagement visé à l'alinéa 1 du présent article. De même les limites de la concession pourront faire l'objet de rectifications au cours de la préparation du plan d'aménagement en consultation avec les communautés riveraines, pour tenir compte notamment des droits coutumiers de ces dernières, sans que ceci ne conduise à inclure de nouvelles surfaces dans ladite concession.

Article 20 :

Le contrat de concession forestière dûment signé en deux exemplaires est transmis, en original, à l'exploitant forestier et au Service de Cadastre Forestier et, en copie, au Secrétaire Général du Ministère en charge des Forêts et à l'Administration Provinciale des Forêts du ressort de la concession. Dès la signature du contrat, le concessionnaire fait parvenir une copie du contrat de concession et du cahier des charges y annexé aux chefs et représentants des communautés riveraines de la concession.

CHAPITRE III : DES DISPOSITIONS PENALES

Article 21 :

Seront punis conformément aux dispositions des articles 147, 148, 149 bis, 149 ter, 150 et 150e du Code Pénal, livre II, les actes de corruption et de trafic d'influence ainsi que les pressions et menaces exercées sur les membres de la Commission en vue d'entraver la procédure de conversion, telle que prévue par le présent Décret.

Sans préjudice des sanctions prévues à l'alinéa 1^{er} du présent article, tout acte de corruption, de trafic d'influence, de menace ou toute forme de pression ainsi que toute tentative de Commission de ces infractions, dûment constatées, entraînent de plein droit le rejet de la requête de conversion.

CHAPITRE IV : DES DISPOSITIONS FINALES

Article 22 :

Les anciens titres forestiers non convertis en concessions forestières à l'issue de la procédure de conversion, et dans tous les cas, à l'écoulement d'une période d'un an à compter de la date d'entrée en vigueur du présent Décret, deviennent caducs de plein droit et les forêts concernées retournent dans le domaine forestier privé de l'Etat. Les équipements acquis par l'exploitant demeurent sa propriété. Les droits traditionnels et coutumiers des communautés riveraines continueront à s'appliquer sur ces forêts.

Article 23 :

Le moratoire instauré par l'arrêté /AF.F-E.T./194/MAS/02 du 14 mai 2002 portant suspension de l'octroi des allocations forestières, reste en vigueur jusqu'à la réalisation des deux conditions supplémentaires suivantes : la publication des résultats définitifs du processus de conversion y compris la résiliation effective des titres non convertis, et l'adoption, sur base d'un processus consultatif, d'une programmation géographique des futures allocations à l'horizon de trois ans.

Ce moratoire couvre toute acquisition de droit d'exploitation, y compris par échange, relocalisation ou réhabilitation d'anciens titres. Après que les trois conditions susmentionnées seront remplies, ce moratoire sera levé par Décret du Président de la République.

Article 24 :

Sont abrogées toutes les dispositions antérieures et contraires au présent Décret.

Article 25

Le Ministre en charge de l'Environnement est chargé de l'exécution du présent Décret qui entre en vigueur à la date de sa signature.

Fait à Kinshasa, le 24 octobre 2005

Joseph KABILA

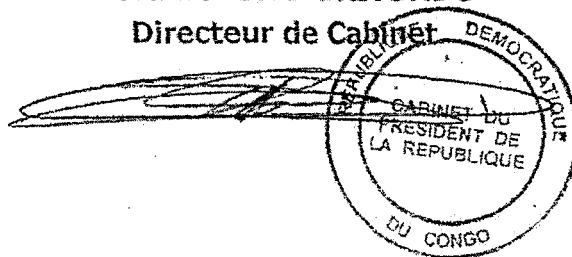
Pour copie certifiée conforme à l'original

Le 24 octobre 2005

Le Cabinet du Président de la République

Léonard SHE OKITUNDU

Directeur de Cabinet



DECLARATION DE LA SOCIETE CIVILE CONGOLAISE AU FORUM SUR LA FORET ET
LA CONSERVATION DE LA NATURE EN RDC DU 13 NOVEMBRE 2004 A KINSHASA

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THE INSPECTION PANEL

Depuis août 2002, la RDC est engagée dans la réforme en matière de la législation forestière avec la promulgation du nouveau Code Forestier en remplacement de l'ancien régime forestier de 1949 devenu inadapté face aux réalités actuelles en matière d'exploitation et de conservation des ressources forestières.

Cette réforme s'est faite pendant une période de fortes turbulences marquées par la guerre ayant consacré la division du pays en plusieurs parties avec des institutions et administrations parallèles. Cette situation chaotique a occasionné le pillage, la spoliation, l'exploitation illégale des ressources naturelles, la violation des aires protégées, la raréfaction des espèces protégées, etc.

Aujourd'hui avec la réunification du pays, cette réforme devait tenir compte des exigences de la planification de la consultation et de la participation pour assurer un devenir meilleur aux forêts congolaises tel que le prévoit le Code Forestier.

C'est ainsi que la Société Civile a saisi cette occasion pour s'impliquer dans le processus en organisant en novembre 2003 un atelier national qui s'est tenu à Kinshasa sous le thème « *L'implication de la Société Civile dans la mise en œuvre du Code Forestier* ». Avouons-le, cet atelier a été pour la Société Civile une opportunité d'échanger sur les avancées du processus entamé par le Gouvernement et les partenaires. D'où la nécessité pour la Société Civile de s'engager davantage dans le processus de la législation dont un acquis important a été la majoration du quota de la Société Civile dans le Comité de Pilotage.

L'évaluation du processus engagé démontre des points forts et des faiblesses. Parmi les points faibles on note :

- le blocage observé au niveau du Comité de Pilotage ayant pour conséquence le retard dans l'élaboration des mesures d'application du Code Forestier,
- l'attribution des concessions après le moratoire,
- l'insuffisance de la vulgarisation du Code Forestier,
- la faible gouvernance des uns et des autres,
- l'absence de la transparence,
- l'insuffisance d'implication des tous les acteurs,
- l'inexistence d'un zonage à l'échelle nationale,
- la marginalisation des peuples autochtones,
- la non - prise en compte des intérêts des communautés locales et
- la sous - qualification des animateurs chargés de la mise en œuvre du Code Forestier.

Ce tableau sombre laisse présager le péril qu'encourent les écosystèmes forestiers et les communautés locales de la RDC si les mesures urgentes et appropriées ne sont pas envisagées. C'est pourquoi la Société Civile préconise les solutions ci-après :

1. Concernant le moratoire

Vu ce qui précède, nous soutenons la décision prise par le Ministère de l'Environnement, Conservation de la Nature, Eaux et Forêt, par son arrêté n°194/MINAFFET du 14 mai 2002 instituant le moratoire sur les allocations de nouveaux contrats forestiers et que cette mesure pourra être levée qu'après l'élaboration d'une politique forestière nationale, la mise en place et la formation des institutions chargées de l'application du Code Forestier, le renforcement des capacités de l'administration locale en charge des forêts, la mise en œuvre d'étude des nouvelles alternatives face à l'exploitation industrielle, l'implication effective de la Société Civile.

Nous encourageons ceux d'entre les concessionnaires forestiers, titulaires des garanties d'approvisionnement ou de lettres d'intention, à se lancer déjà dans l'effort des rétrocessions volontaires, en évacuant de la superficie de leurs concessions des villages, des espaces forestiers utilisés par les communautés locales dans leurs droits coutumiers.

Nous exhortons le Gouvernement à renforcer davantage le respect du moratoire en annulant les contrats portant sur les 9 millions d'hectares octroyés en violation dudit moratoire.

2. Concernant le zonage

Pour la Société Civile, le zonage en tant que le travail essentiel pour les multiples valeurs de la forêt et les droits des différentes parties prenantes, notamment les communautés locales et les peuples autochtones, doit être un processus participatif.

Nous demandons au Gouvernement d'adjoindre aux concessionnaires détenteurs des garanties d'approvisionnement et des lettres d'intention de concéder aux communautés locales les terres forestières sur lesquelles elles ont les droits d'usage et coutumiers.

3. Concernant la gouvernance et la transparence

Pour la Société Civile, les forêts sont une ressource publique qui doit être gérée dans l'intérêt de la collectivité et de façon transparente. A ce propos, il doit être clairement entendu que l'information doit être disponible pour le public. Cependant, nous regrettons cette pratique très courante au sein de l'administration forestière de rétention de l'information. Nous demandons au Gouvernement et aux acteurs impliqués dans le secteur forestier de faciliter l'accès à l'information pour la Société Civile en vue de garantir la transparence du système et de lui permettre de mieux contribuer au travail de monitoring et avoir un droit de regard sur :

- l'octroi des concessions forestières
- le recouvrement des taxes et redevances
- la redistribution de 40% de recettes des entités décentralisée
- les contrôles forestiers : les infractions constatées et les sanctions appliquées

Nous demandons aux bailleurs de fonds d'exiger plus de bonne gouvernance et de transparence vis-à-vis du Gouvernement et les exploitants qui bénéficient des crédits.

4. Concernant la prise en compte des besoins des communautés locales et peuples autochtones

La Société Civile préconise :

- l'implication des communautés locales et des peuples autochtones dans l'élaboration et l'exécution du plan de zonage et dans tout le processus concernant la législation forestière ;
- le respect des cahiers de charges par les exploitants forestiers ;
- la rétrocession des 40 % des taxes aux entités décentralisées au profit des communautés locales et leur gestion de manière participative.

5. Concernant les sanctions, les litiges et les indemnisations

Considérant les multiples violations et irrégularités dans l'exploitation forestière au détriment de communautés locales et peuples autochtones, la Société Civile recommande :

- l'application des sanctions sévères à l'encontre des exploitants fautifs ;
- l'indemnisation des préjudices causés aux victimes ;
- le règlement des litiges, notamment celui des peuples pygmées expulsés de la forêt de **Kahuzi Biega**.

Pour clôturer, nous en appelons au Gouvernement de faire preuve de bonne gouvernance conformément aux recommandations de la Conférence interministérielle sur la législation forestière et la gouvernance en Afrique (AFLEG) et le respect de la convention sur la Biodiversité dont nous sommes partie prenante et sans laquelle un des massifs forestiers importants de l'écosystème forestier risquent de disparaître.

Ainsi fait à Kinshasa, le 13 novembre 2004

Centre National d'Appui au Développement et à la Participation Populaire

Conseil National des Organisations Non Gouvernementales de Développement du Congo

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THE INSPECTION PANEL
Goma, 18 février 2005

Au Représentant Résident de la Banque
Mondiale à Kinshasa/Gombe

Transmis copies pour information aux

- Président de la Banque Mondiale à Washington, USA,
- Bureau Région Afrique Centrale de la Banque Mondiale,
- Présidence de la République Démocratique du Congo,
- Présidence de l'Assemblée Nationale de la RDCongo,
- Président du Sénat de la RDCongo,
- Ambassade des Etats-Unis en RDCongo,
- Ambassade de la France en RDCongo,
- Ambassade de la Grande Bretagne en RDCongo,
- Ambassade des Pays-Bas en RDCongo,
- Ambassade de la Belgique en RDCongo,
- Délégation de l'Union Européenne en RDCongo.

Concerné : Manquements de la Banque Mondiale concernant les forêts et les peuples autochtones de la RDC

Nous, les organisations des autochtones Pygmées et accompagnant les Pygmées en République Démocratique du Congo ;

Relayons les opinions des communautés autochtones Pygmées et autres communautés locales à la base, que nous représentons et/ou accompagnons ;

Adressons ainsi par la présente des questions touchant directement aux droits et aux intérêts des communautés autochtones ;

Visons spécifiquement les activités que mène et/ou facilite la Banque Mondiale, à travers sa Représentation en RDC, dans le cadre de la mise en œuvre du Code Forestier, processus bénéficiant d'un important appui technique et financier de la Banque ;

Désirons manifester, une fois encore, notre volonté de participer activement à la définition et au suivi des conditions régissant la gestion des forêts de la RDC et de travailler en conséquence à une mise en œuvre des projets de la Banque Mondiale qui intègre et respecte les droits et intérêts des communautés autochtones, conformément aux conventions internationales ;

Prenons acte en ce jour, encore, de l'indifférence que manifestent la Banque Mondiale et sa Représentation en RDC à notre égard lorsque nous tentons de lancer des appels, relayés à maintes reprises par la Société Civile, ainsi que la communauté des ONGs internationales¹ .

¹ African Wildlife Foundation, CARE, Conservation International, Fauna and Flora International, Greenpeace, Rainforest Foundation, Wildlife Conservation Society World Wide Fund for Nature, Déclaration commune des organisations non-gouvernementales internationales œuvrant pour la gestion durable des écosystèmes forestiers de la RDC, Forum sur les Forêts, Kinshasa, 13 novembre 2004

Tenons par conséquent à exprimer, une fois de plus, nos préoccupations et inquiétudes, auxquelles s'ajoute aujourd'hui notre exaspération, suscitée non seulement par cette indifférence persistante, mais aussi et surtout par les manquements de la Banque Mondiale dans la planification et l'exécution de ses projets ; manquements qui mettent en péril l'existence même de nos forêts et la survie des peuples habitant ces forêts, spécialement les Pygmées, tributaires des produits de ces forêts, qui ne se résument pas uniquement à des grumes !

Dénonçons tout particulièrement et vigoureusement le fait que la Banque Mondiale ait sciemment omis d'appliquer la Directive Opérationnelle relative aux populations autochtones (OD 4.20) aux projets qu'elle finance en RDC, notamment le **Projet de soutien d'urgence à la réunification économique et sociale (PSURES)**, et qui, de par la nature de leurs activités, ont/auront nécessairement un impact considérable sur ces populations autochtones.

Les populations autochtones en RDC

La Banque Mondiale semble avoir décidé que sa directive OD 4.20 ne s'appliquerait pas en RDC à ses projets ayant une composante « forêts »², alors que ces interventions impliquent clairement la remise en question des droits et pratiques traditionnels des communautés autochtones. Ayant quelque mal à saisir les fondements d'une telle aberration, il nous semble nécessaire de rappeler à la Banque que **les forêts de la RDC sont réellement et effectivement habitées par des communautés autochtones**, dont la survie est directement liée à leur environnement naturel, et que des projets comme le PSURES menacent clairement les droits fondamentaux de ces communautés.

Permettez-nous donc de clarifier qui sont les peuples autochtones en RDC :

1. Les Pygmées, premiers habitants de la RDC, constituent dans le pays le groupe ethnique correspondant le mieux aux définitions et descriptions internationalement consacrées des *peuples/populations autochtones ou indigènes*.
- Pour la Banque Mondiale : « Les termes "populations autochtones", "minorités ethniques autochtones", "groupes tribaux" et "populations tribales" se réfèrent à des groupes sociaux présentant une identité sociale et culturelle distincte de la société dominante, les rendant susceptibles d'être désavantagés par le processus de développement. Dans le cadre de la présente directive, ces groupes seront désignés par le terme "populations autochtones" » - OD 4.20, paragraphe 3

Et d'ajouter : « ...Les peuples autochtones correspondent cependant souvent aux franges les plus pauvres de la population. Ils s'adonnent à des activités économiques diverses, emplois agricoles précaires à proximité ou dans les zones forestières, main-d'œuvre bon marché ou économie de marché à petite échelle. Les peuples autochtones peuvent être identifiés dans certaines zones géographiques données par les caractéristiques suivantes, présentes à des degrés divers :

- (a) fort attachement aux territoires ancestraux et aux ressources naturelles des zones correspondantes,
- (b) reconnaissance par eux-mêmes et par les autres groupes d'une identité culturelle spécifique,
- (c) langue autochtone, souvent distincte de la langue nationale,
- (d) présence d'institutions sociales et politiques coutumières et

² Banque Mondiale, République Démocratique du Congo, Crédit d'ajustement structurel (2002) , Programme multisectoriel d'urgence, de réhabilitation et de reconstruction (2002) ; Projet de soutien d'urgence à la réunification économique et sociale (2003)

(e) *production économique principalement orientée vers la subsistance.* » – OD 4.20, paragraphe 5

- L'Organisation Internationale du Travail (OIT), dans sa Convention n°169 concernant les *Peuples indigènes et tribaux* (article 1) parle de :

(a) « ...peuples tribaux dans les pays indépendants qui se distinguent des autres secteurs de la communauté nationale par leurs conditions sociales, culturelles et économiques et qui sont régis totalement ou partiellement par des coutumes ou des traditions qui leur sont propres ou par une législation spéciale », et de :

(b) « ...peuples dans les pays indépendants qui sont considérés comme indigènes du fait qu'ils descendent des populations qui habitaient le pays, ou la région géographique à laquelle appartient le pays, à l'époque de la conquête ou de la colonisation ou de l'établissement des frontières actuelles de l'Etat, et qui, quel que soit leur statut juridique, conservent leurs institutions sociales, économiques, culturelles et politiques propres ou certaines d'entre elles »

2. Les Pygmées, plus que tous les autres, sont le peuple de la forêt, en ce que, depuis des siècles, voire des millénaires, ils y vivent et en vivent presque exclusivement. Leur existence, leur survie, leur identité culturelle, leurs connaissances traditionnelles, sont intimement liées à la forêt qui est leur espace vital, leur mère nourricière, et ils la vénèrent.

Toutes ces descriptions permettent d'identifier les Pygmées comme étant le Peuple autochtone en RDC.

Il est intéressant de noter que le rapport national de la RDC de 2004 au Forum des Nations Unies sur les Forêts - 4^{ème} session (FNUF-4) donne à la page 9 la vision des populations congolaises sur les forêts congolaises: « ...Traditionnellement, les populations locales [au premier rang desquelles les Pygmées – c'est nous qui ajoutons] considèrent que les forêts leur appartiennent ; elles sont un héritage reçu des ancêtres. Les forêts constituent une source de vie pour ces populations ; elles y trouvent ce qu'il leur faut pour assurer la survie. La disparition des forêts représente une catastrophe incommensurable pour ces populations... ».

Ceci est extrêmement important que le Gouvernement de la RDC reconnaisse à ce niveau cette réalité indéniable et fondamentale. Malheureusement cette reconnaissance n'est pas suivie de faits. Mais que pouvons-nous espérer si les partenaires internationaux de l'Etat congolais eux-mêmes ignorent les communautés autochtones et nient, de fait, leur existence sur le territoire congolais ?

Nos inquiétudes et préoccupations

Nous sommes très inquiètes et préoccupées, entre autres, par :

1. Le rôle de la Banque Mondiale en RDC

Nous tenons à souligner que, de par sa position de principal bailleur de fonds, d'accompagnateur, de facilitateur et de conseiller du Gouvernement congolais, la Banque Mondiale qui est, on ne peut plus, un acteur de premier rang, influe ou peut influencer de façon déterminante - tant positivement que négativement, activement ou passivement - sur la définition, l'orientation et la conduite de la politique de la RDC, y compris la politique

forestière actuelle de la RDC, au regard de la question des populations autochtones. Le paragraphe 12 de l'OD 4.20 ne dit-il pas que « La banque est à même d'apporter une assistance technique pour développer les capacités de l'emprunteur à traiter des questions autochtones... » ?

Au sujet de cette politique forestière, précisément, nous exprimons nos inquiétudes légitimes - qui sont aussi celles des communautés que nous représentons et/ou accompagnons - concernant l'avenir des forêts de la RDC et le sort des nombreuses populations forestières et tributaires des forêts du pays, et plus particulièrement des populations autochtones Pygmées. Leurs droits traditionnels, c'est-à-dire leur droit à leurs forêts ancestrales auxquelles ils sont attachés ; leur droit séculaire à utiliser les ressources de ces forêts pour leur survie ; leur droit légitime à préserver leur propre culture et leur propre spiritualité, bref leur droit à décider de leur destinée, sont littéralement ignorés dans le processus actuel de mise en œuvre du Code Forestier. La responsabilité de la Banque est grande à cet égard !

2. L'adoption du Code Forestier

Nul besoin de rappeler comment nous percevons le Code Forestier. La Société Civile s'est évertuée à dénoncer ce texte élaboré sans sa participation, et évidemment sans aucune implication des communautés autochtones, largement inspiré du Code Forestier camerounais, synonyme pour les peuples autochtones de ce pays de négation de leurs droits traditionnels ayant favorisé l'apparition consécutive de conflits sociaux, précisément ancrés dans la non-prise en compte des limites des territoires traditionnels.

Comment avons-nous pu atteindre ce résultat ? L'explication se trouve peut-être dans le fait que la Banque Mondiale ait décidé que l'élaboration et l'adoption du Code Forestier seraient financées dans le cadre d'un crédit d'ajustement structurel, empêchant du même coup l'application des politiques et procédures de sauvegarde internes à la Banque, aussi bien en matière d'environnement, de forêts et de populations autochtones (OP 4.01, OP 4.36 et OD 4.20).

Par cette décision, la Banque Mondiale posait pourtant les fondements mêmes et les garde-fou de ses activités relatives au secteur forestier en RDC - ayant assurément des répercussions sur les communautés autochtones. A notre sens, cette décision constitue une erreur monumentale de la part d'une institution qui se veut assurer le bien-être de la population congolaise.

Nous voudrions ainsi connaître ce qui a justifié l'inclusion de l'adoption du Code dans un crédit d'ajustement structurel³, et obtenir également des éclaircissements sur la destination des US\$ 15 millions de la tranche « secteur forestier » du crédit en question destinés à l'adoption d'un texte, élaboré et promulgué dans la précipitation, dans un contexte non-démocratique, non-transparent, sans consultation de la Société Civile et des communautés autochtones, et annonçant de surcroît une répétition des erreurs commises par la Banque au Cameroun quelques années plus tôt.

3. Le non-respect du droit international

La Banque Mondiale nous assure malgré tout sur son site Internet officiel que le Code Forestier est au moins conforme à la Convention sur la diversité biologique.

³ World Bank, Democratic Republic of Congo, Economy Recovery Credit, May 17, 2002

La RDC a signé la Convention sur la diversité biologique en 1992 et l'a ratifiée en 1994, s'engageant ainsi à en respecter toutes les dispositions, y compris les articles 8 (j) et 10(c) dont la substance est que :

« Chaque Partie contractante, sous réserve des dispositions de sa législation nationale, respecte, préserve et maintient les connaissances, innovations et pratiques des communautés autochtones et locales qui incarnent des modes de vie traditionnels... » et, « protège et encourage l'usage coutumier des ressources biologiques conformément aux pratiques culturelles traditionnelles compatibles avec les impératifs de leur conservation ou de leur utilisation durable ».

Parlant des facteurs qui ont été à la base de la réforme du régime forestier, l'exposé des motifs du Code forestier, au sous-point 1.2. paragraphe 2 précise que :

« La République Démocratique du Congo est consciente du rôle de premier plan joué par son écosystème forestier dans l'équilibre de la biosphère au niveau tant international et continental que national et même local, et est disposée à assumer les responsabilités qui en résultent. C'est pour cette raison qu'elle a ratifié beaucoup de ces conventions [y compris la CDB - c'est nous qui ajoutons] et accords et s'est engagée, en conséquence, à harmoniser ses lois par rapport aux dispositions pertinentes de ces instruments internationaux ».

Il reste que le Code Forestier n'est pas « conforme » à la CDB. Les communautés autochtones sont englobées dans le concept de « communauté locale » du Code Forestier, ne leur reconnaissant donc de ce fait aucun droit spécifique, tels que ceux reconnus aux articles 8 et 10 de la CDB.

A notre avis, les partenaires de la RDC devraient l'aider à respecter ses engagements internationaux et à adapter ses lois (y compris sa législation forestière) aux instruments internationaux auxquels elle a souscrit. Or, pour ce faire, l'Etat congolais devrait s'assurer - ensemble avec ses partenaires - que les communautés autochtones et locales conservent leur cadre naturel de vie, en l'occurrence la forêt pour le cas des Pygmées et de plusieurs autres populations forestières en RDC.

Pour notre part, si nous ne désespérons pas de voir un jour le Code Forestier réformé, ce dernier est somme toute le texte qui constitue la loi du moment. Nous tentons ainsi, grâce aux seuls efforts de certains groupes de la Société Civile de contribuer au mieux à l'élaboration des mesures d'application du Code Forestier, même si cela n'est pas une garantie que nos préoccupations seront effectivement prises en compte dans le texte qui sera finalement signé par les autorités.

4. Le zonage des forêts de la RDC

L'une des étapes cruciales du processus de mise en œuvre du Code Forestier en RDC est le zonage des forêts.

Nous sommes très inquiètes sur ce point, et non sans raison, car : (a) l'opération est en train d'être menée de manière non participative et suivant des procédés non rassurants ; et (b) nous comprenons que les experts de la Banque Mondiale qui ont mené les opérations de zonage au Cameroun pourraient encore être mis à contribution en RDC. N'en déplaise à la Banque, à ses experts ou même au gouvernement camerounais, les résultats et l'impact de l'opération de zonage au Cameroun sont catastrophiques pour les populations autochtones Pygmées Baka. Nous avons eu l'occasion de constater par nous-mêmes que le zonage des forêts camerounaises a été une expérience négative pour elles, un cauchemar. Or, tous les ingrédients sont en place, tout le décor est planté, pour la réédition de la même expérience en RDC : les mêmes méthodes de la même Banque, le même mépris pour les droits

coutumiers, peut-être les mêmes experts... pour inéluctablement les mêmes résultats catastrophiques pour les populations autochtones, comme au Cameroun. Les mêmes causes produisent les mêmes effets, dit-on.

La planification du zonage des forêts de la RDC et le début de son exécution, vu leur caractère non participatif et non respectueux des droits des communautés dépendant de ces forêts, constituent pour nous et pour toutes les communautés que nous représentons et/ou accompagnons, un mauvais signal. Ce ne sont d'ailleurs pas les zonages pilotes dans les régions de Businga-Lisala-Bumba et Maringa-Lopori-Wamba qui contrediront le bien-fondé de nos inquiétudes et appréhensions.

a) Le plan de zonage pilote : axe Businga-Lisala-Bumba

Le zonage pilote effectué par la FAO avec le soutien de la Banque Mondiale dans la région de Businga-Lisala-Bumba, en province de l'Equateur l'an dernier, a été réalisé au moyen de photos satellites, les consultations opérées sur le terrain se limitant à un nombre insignifiant de villages, sur les principaux axes de communication, et ne touchant donc pas les communautés autochtones habitant les forêts.

Les discussions et concertations entre la Banque Mondiale et la FAO dans le cadre de l'application de cette expérience pilote n'auront pas permis de rectifier le tir. Il aurait pourtant été utile que la Banque incite la FAO à s'inspirer des dispositions des paragraphes 8 et 15(c) de l'OD 4.20 selon lesquelles les communautés devraient se voir offrir la possibilité de faire prévaloir leurs droits coutumiers et de signaler les espaces destinés à leurs activités traditionnelles de survie, ainsi que leurs sites sacrés réservés à des activités spirituelles et culturelles.

Nous dénonçons donc ce type de zonage basé sur des photos satellites, car il ne permet pas de localiser les villages et campements Pygmées enfouis sous les arbres de la forêt, pas plus que les sites vitaux pour les communautés traditionnelles. De surcroît, ce type de zonage n'identifie pas les limites des terres coutumières et traditionnelles des communautés et ne peut donc permettre la détermination des destinations des forêts - utilisation par les communautés locales / conservation / exploitation, si ce n'est au risque de générer de sérieux conflits entre les communautés et les autres acteurs intervenant dans le secteur forestier qui ne respecteraient pas ces limites, comme cela s'est produit au Cameroun. Ce type de zonage ne fait aucun cas des droits des communautés.

Dans leur lettre du 12 février 2004⁴ adressée à Son Excellence Monsieur le Ministre de l'Environnement, Eaux et Forêts de la RDC, à Monsieur le Représentant Résident de la Banque Mondiale à Kinshasa et à Monsieur le Représentant de la FAO à Kinshasa, plus de 265 ONGs congolaises tirant la sonnette d'alarme, avaient recommandé, entre autres :

- « La Prise en compte effective et systématique des droits et pratiques traditionnels et coutumiers des communautés locales dans le processus d'élaboration des normes d'application, ainsi que dans le développement d'un Plan Forestier National, et en particulier dans le plan de zonage »
- « La méthodologie et les critères de zonage doivent faire l'objet d'une attention particulière, en intégrant les recommandations recueillies à l'occasion de consultations élargies de la société civile »
- « Le plan de zonage pilote doit être accompagné des consultations locales effectives incluant des techniques de participation appropriées, par exemple pour la délimitation des territoires communautaires et la détermination de l'utilisation des terres ».

⁴ CENADEP/CNONGD. Le devenir des forêts de la République Démocratique du Congo et des populations vivant dans ces forêts. 12 février 2004

« La FAO doit s'assurer du respect de son engagement à garantir la participation de tous les acteurs concernés dans ses interventions en RDC, en particulier en matière de droits des communautés forestières »

Le zonage effectué par la FAO a précisément ignoré toutes ces recommandations pertinentes. Notre avis est que ses résultats doivent être purement et simplement invalidés

b) Le projet de zonage pilote de la Banque Mondiale sur l'axe Maringa-Lopori-Wamba

L'autre projet de zonage pilote, concocté par la Banque Mondiale pour le site de la région de Maringa-Lopori-Wamba, toujours dans la province de l'Equateur, ne nous rassure pas, non plus. Ce projet est en train d'être exécuté de manière étonnamment hâtive, non participative et non transparente. En effet, d'après nos investigations, dans la région pilote, les équipes des enquêteurs envoyées sur le terrain se sont contentées, en lieu et place d'une véritable consultation, de parcourir quelques villages, de poser quelques questions de curiosité à quelques habitants mal informés sur l'objet de leur visite, de prendre quelques photos pour enfin retourner en ville et élaborer leurs rapports.

Que ces interventions constituent ou non les activités effectives du PSURES, information que nous avons tenté d'obtenir à maintes reprises, franchement, une telle démarche, c'est de la poudre aux yeux ! Cela ne rassure pas quant à la suite de la mise en œuvre du plan global de zonage dans l'ensemble du pays.

Etant donné qu'en RDC la question des terres ancestrales - cet « *héritage reçu des ancêtres* » - a toujours été très sensible et souvent source de tensions, nous craignons qu'à l'ailure où vont les choses, le plan de zonage ne rate son but de développement et n'engendre à la place frustrations, mécontentements, voire des résistances susceptibles de troubler inutilement la paix sociale en RDC. Un scénario qui ne serait ni souhaitable pour un pays qui sort à peine de la guerre, ni rentable pour la Banque Mondiale.

5. La faible coopération et l'intransigeance de la part du personnel de la Banque Mondiale en RDC

Nous sommes inquiètes et préoccupées par le fait que la Représentation de la Banque Mondiale en RDC reste peu réceptive, peu coopérative et imperturbable face à toutes les remarques, observations et recommandations des organisations de la Société Civile l'invitant modestement à respecter les politiques et directives internes à la Banque protégeant les droits des communautés autochtones, et à faire preuve de responsabilité en modifiant sa « politique locale » concernant les forêts congolaises, compte tenu de leurs aspects socioculturels et des droits des communautés vivant dans ces forêts et vivant de ces forêts.

Des appels dans ce sens lui sont fréquemment lancés, soit lors de rencontres formelles ou informelles entre les organisations congolaises et des membres du personnel de la BM en RDC, soit par la voie des médias, de publications, de lettres, de mémorandums, etc...

Toutes nos recommandations et celles de la Société Civile sont restées jusqu'à ce jour lettres mortes, dans les tiroirs de la Représentation de la BM en RDC.

En octobre 2004, les organisations des autochtones Pygmées de la RDC, en collaboration avec leur partenaire MRG International (Minority Rights Group International), ont invité la Banque Mondiale à une réunion qu'ils organisaient à l'hôtel Memling à Kinshasa. Non seulement la Banque Mondiale n'a pas daigné déléguer quelqu'un à cette réunion, mais elle tenait une autre réunion au même hôtel Memling dans une salle située à moins de cinq mètres de la salle où se tenait la réunion des autochtones Pygmées, à

laquelle elle était invitée. La Banque Mondiale n'ayant fourni aucune explication, ni présenté aucune excuse pour sa non-réponse à leur invitation à ce rassemblement - le premier du genre, d'ailleurs - les organisations susdites ont conclu à un mépris à leur endroit de la part de la Représentation de la Banque Mondiale en RDC.

Elles ont trouvé cela suffisamment grave dans la mesure où les politiques et directives de la Banque Mondiale encouragent son personnel dans les pays emprunteurs, à une collaboration sincère avec les organisations des populations autochtones. Le paragraphe 15(d) de l'OD 4.20 dit, entre autres:

« La plupart des groupes autochtones de dimension importante possèdent leurs propres organisations représentatives qui offrent des canaux de communication efficaces pour les préférences locales. Les chefs/dirigeants traditionnels occupent des positions privilégiées pour la motivation des individus et devront donc être intégrés au processus de planification, en veillant à une réelle représentativité des populations autochtones ... »

Et le paragraphe 15(h) ajoute : *« ...Un contrôle assuré par des représentants des propres organisations de défense des populations autochtones peut constituer une méthode efficace d'intégration des points de vues locaux à la gestion du projet, et c'est là une démarche encouragée par la banque. »*

Evidemment, comme nous le disions plus haut, la Banque Mondiale n'a pas estimé que l'application de cette directive était opportune dans le cadre de ses projets comprenant des activités dans le secteur forestier en RDC. Sa Représentation à Kinshasa n'est donc pas tenue de nous écouter.

On pourrait également se poser la question: si la Représentation de la Banque Mondiale en RDC ne veut/peut pas traiter avec les organisations des autochtones Pygmées qui sont actives dans le pays et connues au niveau tant national qu'international comme représentatives des peuples Pygmées en RDC, et si elle ne traite pas avec la Société Civile, avec qui traitera -t-elle ?

La vidéo-conférence du 8 juillet 2004 avec le Président de la Banque Mondiale - principalement en anglais mais non traduite pour les participants se trouvant à Kinshasa - aura fait espérer pendant un temps à un changement de la « politique locale » de la Banque. Le Président Wolfensohn avait manifesté son attachement à une large consultation des populations locales et s'était engagé à suivre personnellement les questions relatives au secteur forestier en RDC. La seule mesure ayant débouché de cet « échange » est l'organisation d'un forum sur les forêts à Kinshasa qui au départ ne réunissait que les organisations de Kinshasa. La forêt et les peuples de la forêt ne se trouvent généralement pas dans la capitale !

Quoiqu'il en soit, la Banque Mondiale estime peut-être que notre préoccupation quant à la participation des communautés autochtones a été pleinement adressée par la simple organisation de ce non-événement. Pour nous, rien n'a changé. Nous ne sommes pas davantage écoutées et les communautés autochtones, sur le terrain, dans la forêt, voient toujours leurs droits traditionnels et leurs besoins spécifiques totalement ignorés, leurs forêts disparaître, quoi qu'en dise la Banque Mondiale, sur son site Internet par exemple qui ne fournit que des éléments bien choisis désinformant le public sur les activités de la Banque en RDC.

6. Les manquements de la Banque Mondiale quant à l'application de ses politiques et directives internes

De tout ce qui précède, dont chacun des points sera adressé cette fois-ci, nous l'espérons, de manière détaillée, transparente, sincère et constructive par la Banque, nous voulons dégager deux éléments qui retiennent toute notre attention et nous appellent à réclamer de la Banque des explications claires et précises.

Nous ne voulons pas de réponses creuses nous présentant les interventions de la Banque Mondiale dans le secteur forestier en RDC sous leur meilleur jour. Nous avons fait preuve d'une grande patience et compréhension, et nous nous estimons aujourd'hui en droit d'obtenir des informations claires et vraies sur la nature et les conditions d'exécution des interventions de la Banque en RDC.

Tout d'abord, nous comprenons que dans le cadre du PSURES, un volet forestier prévoit la préparation d'un plan de zonage des forêts de la RDC. Des opérations de zonage ont, comme nous le constatons plus haut, des conséquences évidentes sur les droits traditionnels des communautés autochtones. Si les activités de la Banque Mondiale, dans le cadre de l'exécution de ce plan de zonage, concernent le plan de zonage pilote de la région Maringa-Lopori-Wamba, comment la Banque Mondiale, sachant que cette région est habitée par de nombreuses communautés autochtones et que leur présence dans ces forêts appelait donc leur consultation et la prise en compte des limites de leurs territoires traditionnels, peut-elle conclure que l'OD 4.20 relative aux peuples autochtones ne s'appliquerait pas à ce projet, en justifiant en plus sa décision sur la supposée inexistence des peuples autochtones en Equateur et en Province Orientale : « **Le Projet n'est pas censé inclure des activités dans des aires habitées par des peuples autochtones.** » ?

Comment la Banque Mondiale peut-elle espérer réussir son projet si ce dernier n'est pas soumis à l'OD 4.20 et si la Banque Mondiale ne tient, de ce fait, pas compte dans l'exécution de ce projet :

- des droits fonciers coutumiers et droits aux ressources des communautés autochtones (OD 4.20, paragraphes 2, 15a, 15c et 17) ;
- de la participation des communautés autochtones (OD 4.20, paragraphes, 8, 9, 14a, 15d, 15e et 15h) ?

Le même projet appelle, selon l'appréciation de la Banque, l'application de l'OP 4.36 relative aux forêts. Cependant, la Banque a dans le même temps estimé que l'OP 8.50 relative à l'assistance d'urgence devait s'appliquer au projet, signifiant que toutes les autres politiques de sauvegarde ne s'appliqueraient que 12 mois après la date à laquelle le projet sera devenu effectif. Les évaluations d'impact environnemental et social n'ont toujours pas été réalisées. Qu'en est-il de l'effectivité de ce projet ?

De même, compte tenu du fait que du projet de zonage dépendra le type de gestion et, à plus long terme, l'existence même des forêts de la RDC, comment la Banque Mondiale peut-elle, en classant le PSURES comme projet de catégorie environnementale B, écarter en conscience l'application de politiques de sauvegarde essentielles attachées à la mise en œuvre des projets de catégorie environnementale A ? Nous sommes très inquiètes et sollicitons des explications quant à la classification opérée par la Banque qui va à l'encontre des impératifs de durabilité.

Nous sommes préoccupées par le fait que la Banque écarte de manière systématique l'application de ses politiques de sauvegarde dans le cadre de ses projets ayant des répercussions sur les forêts de la RDC et sur les habitants de ces dernières, particulièrement les peuples autochtones. Elle a en effet également décidé la non-application de l'OP 7.60 relative aux projets dans des zones de conflits, alors que le domaine forestier de la RDC est clairement l'objet de conflits, aussi bien entre factions rivales du pays qu'au niveau local. La Banque Mondiale reconnaît d'ailleurs cette situation de par le déclenchement de l'OP 8.50. Comment la Banque Mondiale justifie-t-elle cette anomalie ?

Nos recommandations

Vu la situation, telle que décrite à travers ces pages, nous demandons à la Représentation de la Banque Mondiale en RDC, ainsi qu'aux autres instances de la Banque, de suivre les recommandations suivantes :

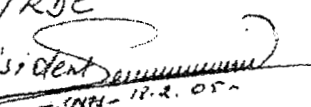

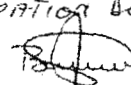
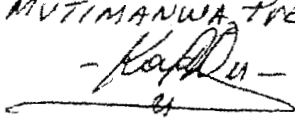
1. Suspendre le PSURES jusqu'à ce que l'OD 4.20 relative aux populations autochtones, ainsi que l'OP 7.60 relative aux projets dans des régions de conflits, soient appliquées dans leur totalité et de manière transparente ;
2. Classer le PSURES comme projet de catégorie environnementale A et appliquer les politiques de sauvegarde additionnelles liées à cette catégorisation ;
3. Fournir des explications sur les raisons ayant conduit à la non-application de l'OD 4.20 et de l'OP 7.60 au PSURES ;
4. Fournir des explications sur les raisons ayant motivé le recours à l'OP 8.50 dans le cadre du PSURES ;
5. Préciser si le PSURES est devenu effectif ;
6. Spécifier les critères permettant à la Banque d'apprécier de manière objective la date d'effectivité du projet ;
7. Procéder à une évaluation participative de la mise en œuvre des dispositions de la Politique Opérationnelle 4.36 (OP 4.36) relativement au PSURES ;
8. Reconnaître et respecter toutes les occupations foncières coutumières ainsi que les droits d'utilisation des autochtones et des travailleurs/agriculteurs de leurs terres, conformément aux dispositions de l'OP 4.36 paragraphe 10(b) ;
9. Répondre à toutes les préoccupations que nous avons formulées dans la présente ;
10. Même si nos démarches antérieures ont échoué, entretenir un véritable dialogue « ouvert » et « de confiance » qui soit suivi d'actes concrets visant à la protection des droits traditionnels et besoins spécifiques des communautés autochtones.

Dans l'espoir que vous répondrez à nos préoccupations, nous tenons à vous informer que nous envisageons de recourir au Panel d'Inspection de la Banque Mondiale dans les meilleurs délais, au cas où la présente et ultime démarche n'aboutissait pas à la communication des informations utiles et la prise en compte effective, vérifiable, de nos recommandations.

Nous saurions gré à toutes les personnes nous lisant en copie de bien vouloir confirmer la réception de la présente et restons à votre entière disposition pour toute information complémentaire.

Ainsi fait à Goma, le 18 février 2005

Les organisations

1. Réseau des Associations Autochtones Pygmées (RAPY), BUKAYU, SUD-KIVU / RDC
Achien SINAFASI MAKELO, Président 
-SNH- 17.2.05-
2. CENTRE D'ACCOMPAGNEMENT DES AUTOCHTONES PYGMÉES ET DINARIITAIRES VULNÉRABLES "CAMU" PACIFIQUE MUKUMBA ISUMBISHA / Directeur exécutif SUD-KIVU / RDC

3. UNION POUR L'EMANCIPATION DE LA FEMME AUTOCHTONE
ABOLIMNE MULAY 
Gadingbice
4. LIGUE NATIONALE DES ASSOCIATIONS AUTOCHTONES PYGMÉES DU CONGO, KINSHASA / RDC
KAPUPU DIWA MUTIMANWA, Président National


11 bis

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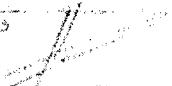


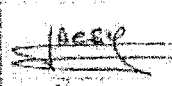

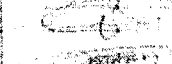

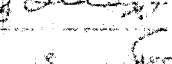

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Ainsi fait à Goma, le 18 février 2005

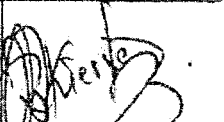
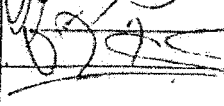
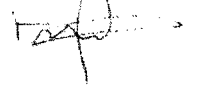


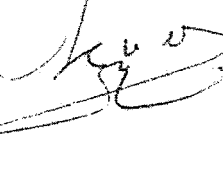
Les organisations

- 1- GROUPE POUR L'Intégration des minorités Equatoises (GIME) *Bey*
- 2- Cooperative des pêcheurs pygmées d'Itongo (COPEPI) *Abou*
- 3- Union des associations des pygmées de NIOUAKA P.O. *Abou*
- 4- Association des pygmées ressortissants d'Ingenda (APRI) *Abou*
- 5- Holoma - Mpembe *Abou*
- 6- Association des jeunes pygmées de Bongondo *Abou*
- 7- Association des pygmées de Nbandaka *Abou*
- 8- Association des femmes pygmées de Nbandaka *Abou*
- 9- Association des femmes minoritaires de Nbandaka *Abou*
10. Association des pygmées territoire de Bitoro P.O. *Abou*
11. Association des pygmées paysans de Lokelama *Abou*
- 12 Association des Pygmées / NKOLI-KOLI *Abou*
- 13 Association des Pygmées / BOSAGA *Abou*
- 14 Association des pygmées / BZOLE *Abou*
15. D.N.G.D.H. U.D.E ME EQUATEUR. *Abou*
16. Association Communautaire de l'édile Première de l'Etat *Abou*
- 17 Institut Technique Iténieraire En sigle IGEPA *Abou*
- 18 UNION DES ELEVEURS D'INDIGENES *Abou*

LISTE DES ORGANISATIONS AUTOCHTONES DU SUD-KIVU




N°	NOM DE L'ASSOCIATION	NOM ET FONCTION DU SIGNATAIRE	SIGNATURE
01	Région des Associations Autochtones Pygmées en République Démocratique du Congo « RAPH »	MUKIMBA - MUTIBASA PRÉSIDENTE	
02	Union pour l'émancipation de la Femme Autochtone « UFEA »	ESPERANCE MUTUYI VICE PRÉSIDENTE	
03	Centre d'Accompagnement des Autochtones Pygmées et Minoritaires Vulnérables « CAMV »	Aubert Mushi Secrétaire	
04	Action d'Appui pour la Protection des Droits de Mineurs en Afrique Centrale « AAPDMAC »	BABUYA Desire Comptable	
05	Solidarité pour l'émancipation des Peuples Autochtones « SIPA »	Mwili Mwanuzi Coord. national	
06	Action pour le Regroupement et l'Auto-promotion « ARAP »	MASANKA - CHAMUKWA Coordinateur	
07	Collectif pour le Peuple Autochtone du Kivu « CPAKI »	Isidore Mutuyi Coordinateur national	
08	Centrale Coopérative Autochtone des Produits Miniers et Forestiers « CECOMICO »	Sacraque Adairi Président Leonard Munguza Secrétaire	
09	Programme d'Intégration et de développement des Peuples Pygmées « PIDEP »	Ilombu Bulambe STEPHAN Coordinateur	

LISTE DES ASSOCIATIONS PYGMÉES
DU Nord - Kivu

N°	NOMS DES ASSOCIATIONS	ADRESSES DES ASSOCIATIONS	SIGNATURES
01.	UEFA asbl (Pierrot Kiene)	Tel : -9776 22 55 -9862 36 42 E-mail: uefafr@yahoo.fr	
02.	PIDP (Joseph ITANGWA)	Tel : 97914967 E-mail: pidpnoordkivu@yahoo.fr	
03.	ECHO ACTION		
04.	ACFD (SALAMA - Soëlle)	Tel : -08575904	
05.	RADIO SAUTI YA MWILI EZRA Kasereka - Directeur	msigoma@yahoo.fr B.P. 34136 Coma Tél. 0813134109	
06.	EFIM (jeanne D. ahali (Coordinatrice)		
07.	A.O.I.D.E ; Edouard Sengezi Chargé du Département Ment Communautaire	Tél: 08882526	
08.			
09.			

CRONGD / BANDUNDU
B.P. 5744 Kim I
KIKWIT
Point Focal RRR

LISTE DES STRUCTURES QUI ENCADRENT LES PEUPLES AUTOCHTONES
DANS LA PROVINCE DU BANDUNDU / District de Maï-Ndombe.



N°	STRUCTURES	Lieu (Territoire)	Responsable	Signature
01	Association de Développement Intégré pour la Promotion Rurale (ADIPR)	KIRI	Sr. Anne Marie MBOLAKALA	
02	Inongo Kalangela (Inokul)	Inongo	Freddy ENCO Bola Wanga	
03	Projet de Relance Rizicole d'Inongo/ Maï-Ndombe (PRIMA)	Inongo	Justin NTANGAWANGA BOONGO	

Kikwit, le 06 mai 2005

Pour le CRONGD Bandundu
Denis INPITI KAYAMIRA


Secrétaire Exécutif

PROVINCE ORIENTALE

N°	NOM DE L'ORGANISATION	LOCALISATION	NOM DU RESPONSABLE	SIGNATURE
1	Organisation pour la Sédentarisation, l'Alphabétisation et la Promotion des Pygmées(OSAPY)	KISANGANI	Willy LOYOMBO	
2	Association des Journalistes pour la Promotion des Peuples Autochtones(AJPA)	KISANGANI	André SAFARI	

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THE INFORMATION PANEL

Banque MondialeBANQUE INTERNATIONALE POUR LA RECONSTRUCTION
ET LE DEVELOPPEMENT
ASSOCIATION INTERNATIONALE DE DEVELOPPEMENTAvenue WAGENIA No. 4847
Kinshasa-Cornbe
République démocratique du CongoTél: (243) 994 - 9008 / 9011
Fax: (243) 997 - 5019

Kinshasa, le 5 juillet 2005

Monsieur Adrien Sinafasi Makelo
Président du Réseau des Associations des Pygmées
Bukavu, Sud-Kivu
Kinshasa

*Objet : Opérations de la Banque Mondiale concernant les forêts et les peuples
autochtones de la RDC*

Monsieur,

Je me réfère à votre lettre en date du 18 février 2005, concernant le sujet mentionné ci-dessus. Cette lettre a retenu toute notre attention et nous en remercions. Elle nous est parvenue le 06 juin dernier.

Nous avons noté avec intérêt vos analyses et recommandations portant sur les modalités d'application des Directives et politiques opérationnelles de la Banque relatives aux Populations Indigènes (OP/BP 4.20). Vous avez notamment sollicité des clarifications relatives au Projet d'Urgence de Soutien au Processus de Réunification Economique et Sociale (PUSPRES). Comme vous le savez, ce projet est exécuté par le Ministère du Plan. Nous vous recommandons de bien vouloir y prendre attache avec l'Unité de Coordination du Projet (UCOP), qui est chargé de sa mise en oeuvre, afin d'examiner plus en détail vos questions. Nous voulons également vous faire part des observations ci-après.

Le rôle de la Banque que vous rappelez à la page 3 de votre lettre est bien celui qu'elle joue. En aucun cas, la Banque ne peut se substituer au Gouvernement qu'elle conseille et accompagne. Ainsi, à propos du crédit d'appui budgétaire que vous appelez d'ajustement structurel, son utilisation est du ressort du Gouvernement qui en a été le bénéficiaire. C'est donc à celui-ci que nous vous recommandons de bien vouloir adresser vos requêtes. Contrairement à l'opinion répandue, la Banque Mondiale ne gère pas les crédits qu'elle accorde au Gouvernement. Son rôle consiste à vérifier comment les crédits ont été utilisés et à faire des recommandations au Gouvernement selon les résultats de cette vérification de manière à ce que les fonds soient utilisés au financement des projets retenus dans le cadre des réformes nécessaires à la relance de l'économie.

Nous voulons aussi lever une confusion très répandue dans l'opinion publique, qui assimile le Bureau Central de Coordination (BCECO) à la Banque mondiale. Le BCECO est une structure gouvernementale mise en place pour gérer les fonds provenant

de divers bailleurs du Gouvernement congolais, y compris la Banque Mondiale, l'Union Européenne et la Banque Africaine de Développement. La Banque Mondiale, pas plus que les autres bailleurs, n'exerce aucune activité directe dans le secteur forestier ni dans aucun autre domaine de notre assistance. Elle accompagne financièrement le Gouvernement dans la réalisation des actions qu'il a décidées d'entreprendre pour relancer l'économie nationale et lutter contre la pauvreté. Elle n'est donc ni opérateur ni agence d'exécution des projets du Gouvernement.

En ce qui concerne le code forestier et vos remarques relatives à l'identification des communautés autochtones, nous estimons que la définition qu'il donne d'une communauté locale est globalisante. Cette définition comprend sans l'ombre d'un doute les communautés autochtones pygmées. En effet, le code définit une communauté locale comme « une population traditionnellement organisée sur la base de la coutume et unie par des liens de solidarité clanique ou parentale qui fondent sa cohésion interne. Elle est caractérisée, en outre, par son attachement à un terroir déterminé ». Avec cette définition, nous estimons qu'il n'est point besoin de discriminer les communautés autochtones pygmées.

Le code forestier qui est une loi régissant l'ensemble des forêts de la République s'applique à toutes les populations directement concernées par l'exploitation de ces forêts, sans discrimination. C'est ainsi que plusieurs de ses articles reconnaissent le rôle irremplaçable que doivent jouer ces populations. A titre d'exemple, nous citerons l'article 5 qui consacre l'implication de l'ensemble des acteurs tant publics que privés concernés dans l'élaboration de la politique forestière nationale. L'article 6 précise qu'afin d'adapter la politique forestière nationale aux particularités de chaque province, un plan forestier provincial est élaboré par chaque Gouverneur de province concernée après avis du conseil consultatif provincial. Ce dernier, dont les attributions sont définies à l'article 31, est un cadre propice pour que toutes les populations des forêts concernées puissent faire valoir leurs droits. L'article 24, alinéa 3, abonde dans le même sens en précisant l'implication des ONG.

De même, le préalable obligé au classement d'une forêt (article 15) et à l'octroi de toute concession (article 84), ainsi que le pouvoir reconnu aux associations représentatives des communautés locales et aux ONG nationales, montrent à suffisance le souci du code forestier de sauvegarder les intérêts des populations des forêts, étant entendu que la forêt constitue la source de leur vie. En outre, le titre III du code (comprenant trois chapitres : articles 36 à 44) est entièrement consacré aux droits d'usage forestiers des populations vivant à l'intérieur ou à proximité du domaine forestier.

En ce qui concerne le secteur forestier, nous voulons attirer votre attention sur les priorités que lui consacre le projet de Document de stratégie de réduction de la pauvreté (DSRP) en préparation au Ministère du Plan. Vous comprendrez que ce secteur est classé parmi ceux considérés comme porteurs de la croissance dans le cadre de la relance économique du pays. Dès lors il va de soi que la Banque mondiale, qui se propose de suivre les aspects qualitatifs des réformes décidées par le Gouvernement pour relancer l'économie nationale, puisse inclure ce secteur important dans le crédit d'appui

budgétaire. Et dans ce contexte, le code forestier constitue un jalon important des réformes dans le secteur de la forêt et la conservation de la biodiversité. C'est ce que traduit en d'autres termes l'extrait de l'exposé des motifs du code forestier que vous avez repris à la page 5 de votre lettre. Aussi, faudra-t-il rappeler que le code forestier ne traite pas de problèmes fonciers qui sont régis par le droit foncier.

Nous aimerions souligner que votre implication dans l'élaboration de la politique forestière tant au niveau national que provincial et le rôle reconnu aux ONGs qui encadrent les populations autochtones sont autant d'atouts que vous devrez saisir pour faire prendre en compte les préoccupations légitimes des communautés autochtones pygmées. Nous vous recommandons d'avoir des contacts réguliers et suivis avec le Ministère de l'Environnement de façon à être informées sur les différentes activités en relation avec les forêts.

Au sujet du zonage, nous sommes surpris d'apprendre que « l'opération est en train d'être menée de manière non participative et suivant des procédés non rassurants » et que des équipes des enquêteurs ont été envoyées sur terrain. Il ne faut surtout pas faire de l'amalgame entre le zonage « test » effectué par la FAO dans la zone Businga-Bumba-Lisala et le zonage que pourrait financer la Banque Mondiale dans la zone Maringa-Lopori-Wamba. Le zonage test a pour objet de mettre au point une méthodologie appropriée du processus participatif de zonage et des critères de découpage des territoires forestiers. Le projet de zonage « Maringa- Lopori-Wamba » n'a pas encore débuté. Le moment venu, il sera mené avec l'appui d'une assistance technique mobilisée avec le concours du BCECO.

Vous stigmatisez la faible coopération et l'intransigeance de la part du personnel de la Banque Mondiale en RDC. Nous aimerions vous faire savoir que notre Bureau à Kinshasa n'a ménagé aucun effort pour entretenir un dialogue fructueux avec les différents acteurs de développement dans ce domaine, comme dans d'autres secteurs d'activités. Depuis novembre 2004, nous avons recruté un Spécialiste chargé des questions des forêts, qui a eu plusieurs contacts avec les ONGs représentant les populations autochtones pygmées. De même, plusieurs missions venant de notre Siège à Washington avaient eu des rencontres avec vos « représentants » lors de leurs visites en RDC.

Une difficulté réelle pour la Banque est que les ONGs encadrant les Pygmées à l'intérieur du pays contestent celles basées à Kinshasa. Avec qui donc dialoguer du côté des populations pygmées ? C'est une question que vous devriez régler entre vous et mettre au point les mécanismes qui permettent à vos délégués résidant en province de vous représenter physiquement lorsqu'une rencontre concernant les populations des forêts est envisagée. Dans tous les cas, nous pouvons vous assurer que les portes de la Banque restent ouvertes au dialogue. Certains d'entre vous pourront bien le témoigner. A titre illustratif, nous citerons l'UEFA/RAPY, le LINAPYCO et le CIDB.

A propos de votre invitation adressée à la Banque pour assister à la réunion que vous aviez organisée en octobre 2004, nous n'étions pas en mesure d'y participer.

Pour terminer, je voudrais vous assurer de notre bonne disposition à continuer à œuvrer, de concert avec tous les acteurs concernés, pour un développement harmonieux, participatif, et soutenable du secteur forestier au Congo.

Je vous prie d'agréer, Monsieur, l'expression de mes sentiments distingués.



Jean-Michel Happi
Représentant Résident

Ampliation

S.E. Mr. Anselme Enerunga, Ministre de l'Environnement
Mr. Carlo de Filippi, Représentant de l'Union Européenne
Mr. Dibobol Kitnut, Coordonnateur de l'UCOP
Mr. Adrianus Sijkers, Représentant de la FAO

**DÉCLARATION COMMUNE
DES ORGANISATIONS NON GOUVERNEMENTALES INTERNATIONALES
OEUVRANT POUR LA GESTION DURABLE DES ÉCOSYSTÈMES
FORESTIERS DE LA RDC
(Kinshasa, le 13 novembre 2004)**

Excellence Monsieur le Vice-Président,
Excellences Messieurs les Ministres du Plan et de l'Environnement, Conservation de la
Nature, Eaux et Forêts,
Chers Collègues,
Distingués invités,

Les ONG internationales oeuvrant pour la gestion durable des forêts en RDC souhaitent remercier le gouvernement congolais pour l'organisation de ce forum. L'allocation que je vais livrer exprime le point de vue de nos organisations sur les défis auxquels la RDC et ses partenaires font face actuellement, et sur les priorités d'action.

Le secteur des forêts et de la conservation de la nature est en pleine restructuration. D'importantes actions ont déjà été entreprises par le gouvernement dans le cadre de son Agenda Prioritaire. Elle permettent de jeter les bases d'une gestion plus saine du patrimoine naturel du Congo. Il s'agit notamment de l'élaboration du nouveau Code Forestier, de l'établissement d'un moratoire sur l'allocation des concessions, et de la récupération dans le domaine public de 25 millions d'hectares de concessions non-valides. Toutes ces décisions prises, ainsi que celles à venir prochainement, auront d'importantes conséquences sur le développement économique, social et environnemental de la RDC. La résiliation des contrats et le moratoire sont importants pour protéger les forêts congolaises, qui sont un patrimoine public, contre les acquisitions spéculatives qui se sont multipliées avant et pendant la période de conflit qu'a connue la RDC.

Nous souhaitons encourager le gouvernement à continuer à garder le cap de ces réformes, et à les mettre en œuvre. Nous soulignons que beaucoup d'étapes restent encore à franchir afin d'assurer à la fois des bénéfices durables pour les populations locales et la conservation de la biodiversité. Enfin nous affirmons notre volonté de collaborer aux côtés du peuple congolais et de son gouvernement dans cette direction.

L'examen du processus actuel en RDC ainsi que les expériences similaires développées dans d'autres pays du bassin du Congo, démontrent clairement qu'une extrême prudence doit être de mise dans la gestion des ressources forestières, sur lesquelles des millions d'habitants comptent quotidiennement pour leur survie. Au vu de cette importance de la forêt, les ONG internationales soulignent la nécessité de renforcer les capacités institutionnelles et d'explorer des alternatives à l'exploitation industrielle du bois pour la sauvegarde de massifs de forêts primaires.

C'est à titre d'acteurs actifs dans ce secteur et de partenaires de l'Etat congolais, que nous voulons exprimer nos positions communes sur les priorités d'actions en vue d'une gestion rationnelle et durable des écosystèmes forestiers. Selon nous, les mesures d'urgence

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prioritaires que le gouvernement devrait mettre en oeuvre, avec l'appui de ses partenaires internationaux peuvent se résumer comme suit :

Le respect et le maintien du Moratoire

Compte tenu du fait que la RDC évolue dans un contexte particulier de relance économique et sociale, les ONG Internationales recommandent l'application stricte du moratoire sur toute nouvelle concession forestière permettant ainsi la mise en place des conditions nécessaires à la gestion durable du secteur sur la base de textes qui garantissent que les conditions de transparence et de bonnes gouvernances sont en place, à savoir :

La transparence

Assurer la transparence de l'État envers la société civile, aussi bien nationale qu'internationale, est urgent et indispensable. Une méthode simple et efficace retient particulièrement l'assentiment des ONG internationales, Elle consiste à publier les décisions de l'État dans la presse ou sur internet. Ce processus d'information publique devrait comporter deux étapes: la première publication permettant d'informer la société civile et de recueillir ses réactions; la deuxième publication, présente les décisions prises par l'État sur la base notamment des réactions du public. Au moins quatre mécanismes, qui forment l'architecture du secteur, devraient suivre ce processus strict d'information publique :

- l'octroi des concessions forestières;
- le recouvrement des taxes et redevances;
- la redistribution d'une partie des recettes aux entités locales.
- Le contrôle forestier, c'est-à-dire les infractions constatées et les sanctions appliquées

Le monitoring indépendant

Le nouveau Code Forestier pose des principes intéressants. Néanmoins, pour les concrétiser, un contrôle rigoureux sera nécessaire. Le monitoring indépendant est l'outil indispensable permettant l'application de la législation forestière. Afin de réduire les risques, le système de monitoring doit obligatoirement être transparent et accessible à tous y compris et surtout les populations locales qui pourraient jouer un rôle dans la fourniture d'information Il doit aussi être suivi de sanctions dissuasives lorsque des infractions sont constatées, jusqu'à la résiliation du contrat de concession. Le suivi indépendant devrait s'appliquer au moins dans quatre domaines, à savoir:

- Premièrement, la revue légale des concessions existantes. Nous encourageons le gouvernement à résilier les contrats alloués en contravention du moratoire ou du nouveau code;
- Deuxièmement, l'attribution des concessions forestières futures. Sur ce point nous encourageons le gouvernement à éliminer

Handwritten signatures and initials:
 A K P T A CSF
 AA

complètement la méthode du gré-à-gré et à utiliser uniquement l'adjudication publique pour l'octroi de futurs contrats. L'adjudication devrait se faire avec la participation d'un observateur indépendant similaire à celui qui est recruté pour la revue légale des anciens contrats

- Troisièmement, le contrôle de l'exploitation forestière sur le terrain, Le monitoring indépendant devrait aider l'administration à rédiger les rapports de constats d'infractions et suivre l'exécution des pénalités prononcées par l'Administration ou par la Justice à l'encontre des contrevenants.
- Quatrièmement, le monitoring de la redistribution des recettes aux entités locales, de l'utilisation de ces quote-parts pour le développement local, et de la réalisation des cahiers des charges,

Le respect des droits des communautés locales et des peuples autochtones

Le Code Forestier traite des droits des communautés locales mais n'aborde pas les droits spécifiques des peuples autochtones. Les impacts positifs sur les communautés locales risquent d'être minimes si les décrets d'application et les programmes de mise en œuvre sur le terrain n'intègrent pas de façon claire leurs droits coutumiers et traditionnels en tant que premiers bénéficiaires de l'exploitation forestière. Afin d'assurer le respect de leurs droits et coutumes, il convient notamment:

- de les impliquer dans la préparation du plan de zonage prévu, suivant le principe de consentement préalable, libre et informé;
- de les impliquer dans l'attribution et l'aménagement des concessions suivant le principe de consentement préalable, libre et informé ;
- Définir, tester et identifier les forêts communautaires.

La finalisation de la Loi sur la Conservation de la Nature

Tel que cela est stipulé dans le Code Forestier, la Loi sur la Conservation de la Nature sera un outil primordial pour la gestion durable des forêts. Il est donc nécessaire que cette loi soit rapidement achevée dans un esprit de complémentarité avec le code forestier, avec la participation des communautés locales et des peuples autochtones et qu'elle soit appliquée de concert avec celui-ci. Cette loi devrait fixer des règles claires concernant le commerce de la viande de brousse car celui-ci met actuellement en péril plusieurs espèces animales importantes pour l'environnement mondial et pour la survie des populations locales elles-mêmes. Cette loi devrait aussi fixer les responsabilités claires en matière de protection de la faune dans les concessions forestières.

Handwritten signatures and initials:
 JH CSEF
 KMR SC
 JH

Le respect de l'intégrité des aires protégées actuelles et futures

Dans l'intérêt des populations, aussi bien nationales que mondiales, il est impératif que soit respectée l'intégrité des aires protégées de la RDC. Pour ce faire, l'application des principes de base de la Stratégie Nationale de la Conservation élaborée par l'Institut Congolais pour la Conservation de la Nature (ICCN) doit être assurée.

Suivant ces orientations, il est recommandé de:

- Réviser l'ensemble des aires protégées actuelles sur le plan légal ainsi que sur leurs capacités à jouer effectivement leurs rôles attribués.
- Augmenter, de façon participative, la superficie totale des aires protégées réservées à la protection et à la conservation, en conformité avec les objectifs nationaux et à la Convention des Nations Unies sur la Diversité Biologique.
- Octroyer, conformément aux dispositions légales prévues en RDC, les statuts à l'ensemble des aires protégées classifiées comme telles.

Nous saluons l'objectif fixé par le Code forestier d'aboutir à un réseau d'aires protégées et nous essaierons avec le gouvernement congolais de mobiliser les appuis internationaux nécessaires pour soutenir cet effort collectif.

Nous sommes également prêts à réfléchir avec le gouvernement et la société civile à développer des modèles alternatifs de valorisation des forêts et des services environnementaux. Nous apprécions que le code forestier ouvre la voie à de nouvelles méthodes de valorisation des forêts, dans l'intérêt du peuple congolais et de la collectivité mondiale.

Nous sommes conscients que toutes les innovations du code ne seront pas pleinement appliquées dans la pratique si on ne renforce pas les capacités des institutions publiques chargées de gérer ce secteur et la société civile.

Pour finir, nous encourageons d'une part la communauté des partenaires au développement à coordonner ses efforts à travers une matrice de suivi évaluation du secteur et aux Institutions de Bretton Woods d'assurer une plus grande transparence de leur action.

Le renforcement institutionnel, à tous les niveaux de l'appareil de l'État, ainsi que le renforcement des institutions de la société civile, sont nécessaires et devraient être en tête de la liste des priorités du gouvernement et des bailleurs de fonds oeuvrant dans le secteur forêt et conservation de la nature.

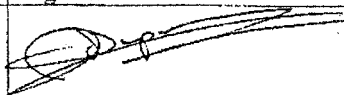
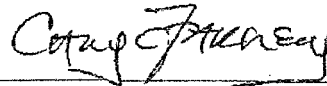
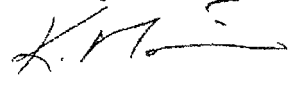

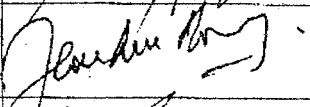
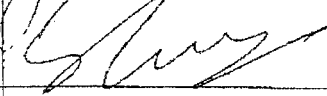
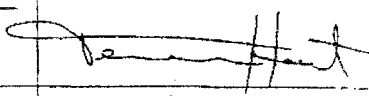

Les ONG Internationales tiennent à souligner, leur disposition à mettre au service du peuple congolais et de son gouvernement leur expertise et leur capacité de mobilisation internationale. Elles souhaitent collaborer étroitement avec le Gouvernement congolais,

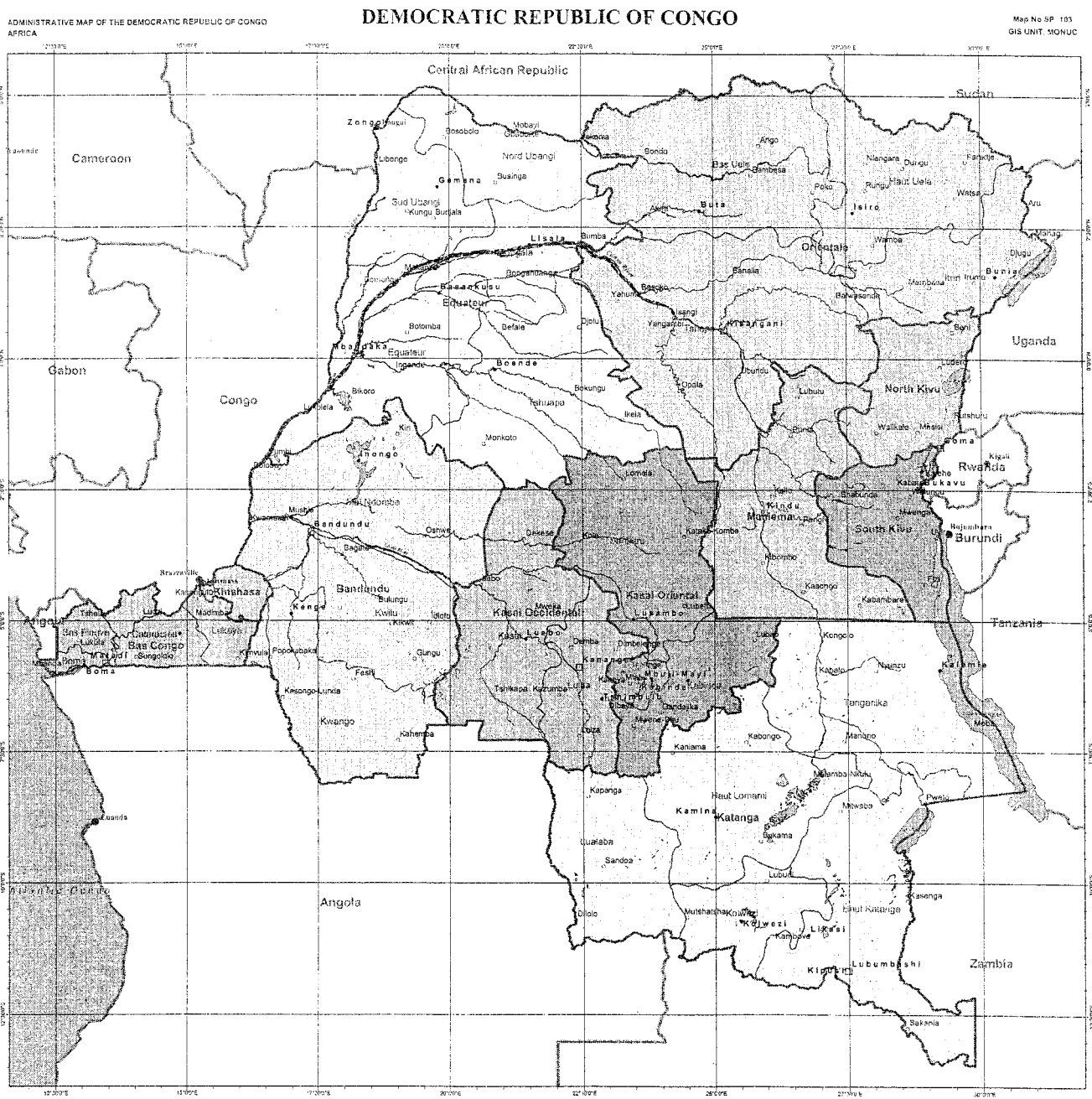
M. R. H. C. S. F.

dans la réforme du secteur forestier, au profit de l'ensemble des populations actuelles et futures.

Je vous remercie pour votre attention.

Cette déclaration a été lue au nom des organisations suivantes :

ONG	Mandataire	Signature
African Wildlife Foundation	Jef Dupain	
CARE	CARY FARNEY	
Conservation International	KARL MORRISON	
Dian Fossey Gorilla Fund International		
Fauna and Flora International	KAREN MAYER	
Greenpeace	JEAN-LUC ROU JLH	
Rainforest Foundation	SIMON COUNSELL	
Wildlife Conservation Society	Terese Hart	
World Wide Fund for Nature	MARTIN TCHANA BA	



ADMINISTRATIVE MAP OF THE DEMOCRATIC REPUBLIC OF CONGO
AFRICA

DEMOCRATIC REPUBLIC OF CONGO

Map No 5P 193
GIS UNIT, MONUC



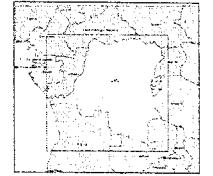
- Legend**
- Capital Cities
 - Province Head Quarter
 - District Head Quarter
 - Territory Head Quarter
 - ▭ Provinces
 - ▭ Districts
 - Country Boundaries
 - ▨ Hydrography

ADMINISTRATIVE MAP OF THE DEMOCRATIC REPUBLIC OF CONGO

Source : Vector map level 0
DATUM WGS 84
1:250,000 and compiled by GIS UNIT MONUC HQ-Kinshasa

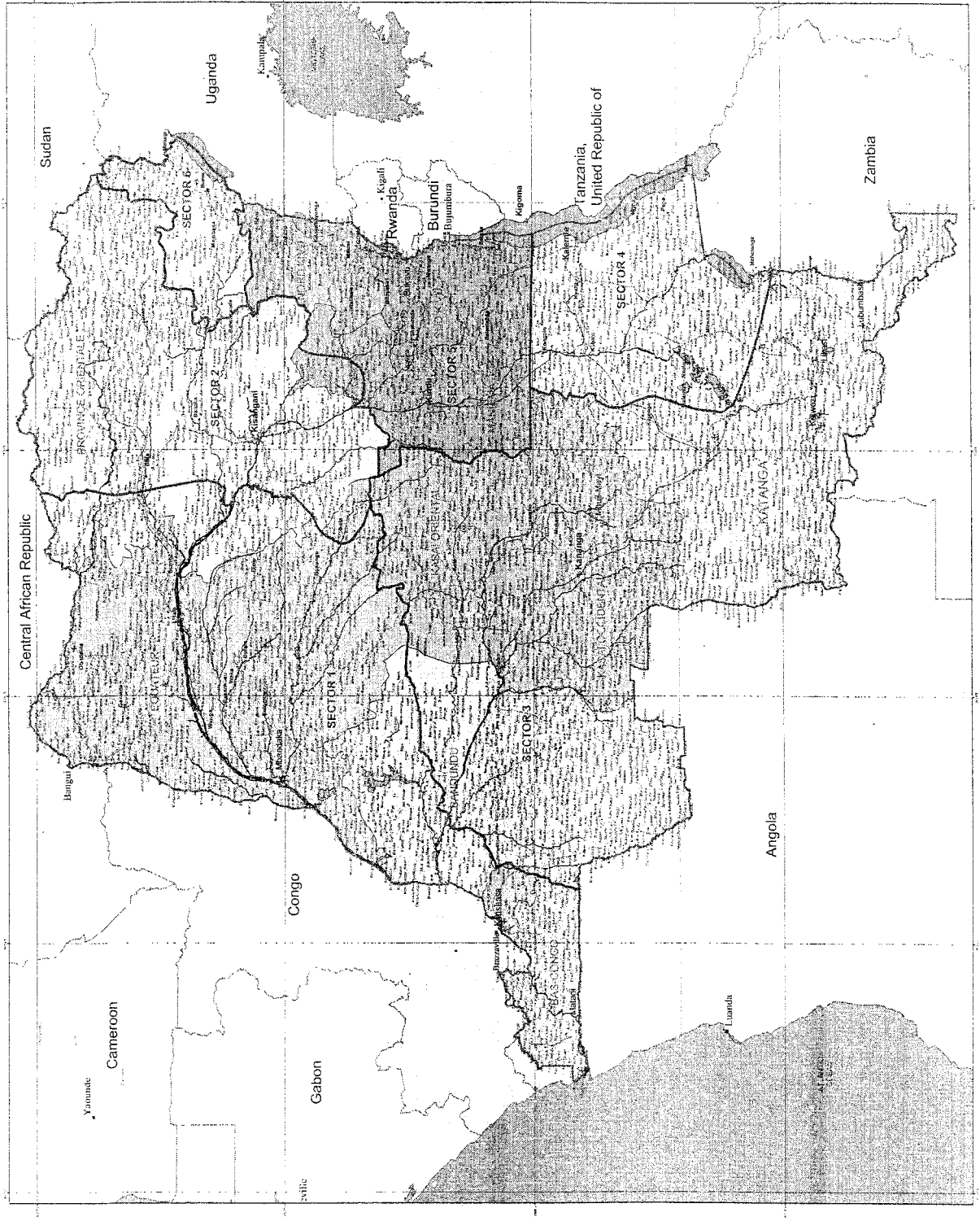


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ANNEXE 30

DEMOCRATIC REPUBLIC OF CONGO Population Map



LEGENDE

- REGIONS
- PROVINCES
- COMMUNES
- ADMARQUES
- ROADS AND RAILWAYS
- Water Courses
- Urban Areas
- Urban Boundaries
- INTERNATIONAL BOUNDARY
- ADMINISTRATIVE BOUNDARY
- UNCLASSIFIED



Maringa-Lopori-Wamba Landscape

The Maringa-Lopori-Wamba Landscape encompasses 4.2 million ha of lowland rain and swamp forest in the Equateur province of DRC. It falls within the districts of l'Equateur, Mongala, and Tshuapa. The ecological significance of the landscape is high, not only because it is covered by a globally significant area of rain forest, but also because it is home to the highly endangered bonobo, a member of the great ape family, and other species endemic to the central basin of DRC. Many other important wildlife species are extant as well, such as sitatunga, forest elephant, Congo peacock, more than 10 species of rare primates, amphibians and reptiles. The landscape has an extremely diverse avifauna life.

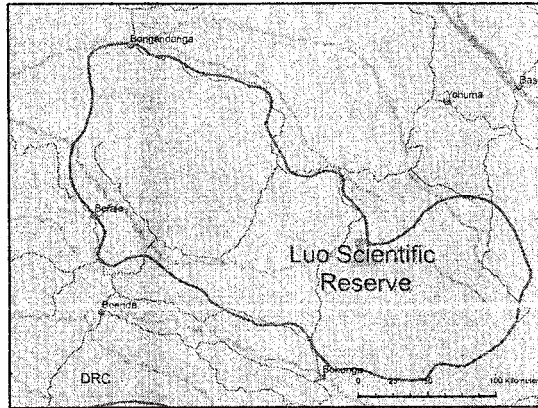
The biodiversity value of this landscape continues to be high despite the negative impacts of forest conversion, slash-and-burn agriculture, commercial and illegal logging, and the bushmeat trade. These impacts are the result of the ongoing political crisis, military occupation during the Congo war, and steadily increasing poverty.

Sustainable Resource Management

Most of the Maringa-Lopori-Wamba Landscape has been divided up for logging and agricultural concessions. In an unprecedented move, landscape-scale operational and conservation planning has been initiated with broad stakeholder participation. In October 2004, extensive biological and socioeconomic surveys were conducted with a large number of local and international NGOs. Data from this inventory of biophysical, socioeconomic, and infrastructure status is being used for the first landscape management plan that includes land use zoning for pioneering community forest management areas, enterprises, agriculture, and sustainable logging.

Natural Resource Governance

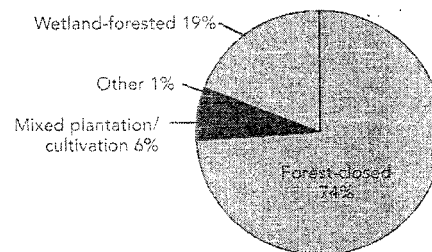
Capacity support for forest management mandates is a critical aspect of the conservation program being implemented in the Maringa-Lopori-Wamba Landscape. In collaboration with the Ministry of Environment and the World Bank-funded Forest Zoning Project, a conceptual framework for strengthening civil society to improve forest governance in DRC is under way. Preliminary assessments and stakeholder consultations are complete and a civil society specialist will be hired. Pilot sites selected in the landscape will provide a model for expanding the scope and scale of forest governance and institutional support work. As the landscape has only one small



protected area (the 628 km² Luo scientific reserve), there are exceptional opportunities for introducing community-managed forest reserves to reduce destructive consequences of unmanaged, unsustainable use of forest resources.

Natural Resource Monitoring Institutionalized

The landscape's information system is being designed and will include community ranger-based monitoring, a socioeconomic survey, law enforcement, forest watch, and remote sensing/change detection. A landscape information officer has been hired and is working with local monitoring agencies and landscape partners. The results of the comprehensive meso- and macro-scale socioeconomic and biological surveys are forming the baseline for the monitoring network. Extensive trainings have been conducted with local stakeholders for their effective participation in the ongoing monitoring program.



Landscape Highlights

Surface Area: 102,847 km²
 Partners: ICCN, WWF, WCS, ZSM, MPL, LWRI
 National Parks: 1 (2 sectors), covering an estimated 36,560 km² (36% of landscape)
 Biodiversity (N species): TBD
 Mammals: 53 (est.)
 Birds: > 101
 Plants: TBD

Threatened Species

Animals
 • Forest elephant
 • Bonobo
 • Congo peacock
 • Bongo
 Plants
 TBD

Major Threats to Landscape

- Direct
- Commercial hunting
 - Settlement and resource use in the national park
 - Heavily armed poachers and national lawlessness
- Indirect
- Lack of information
 - Weak capacity
 - Exclusion of local communities in decision making and management
 - Lack of alternative protein and work for local people
 - Civil strife and war

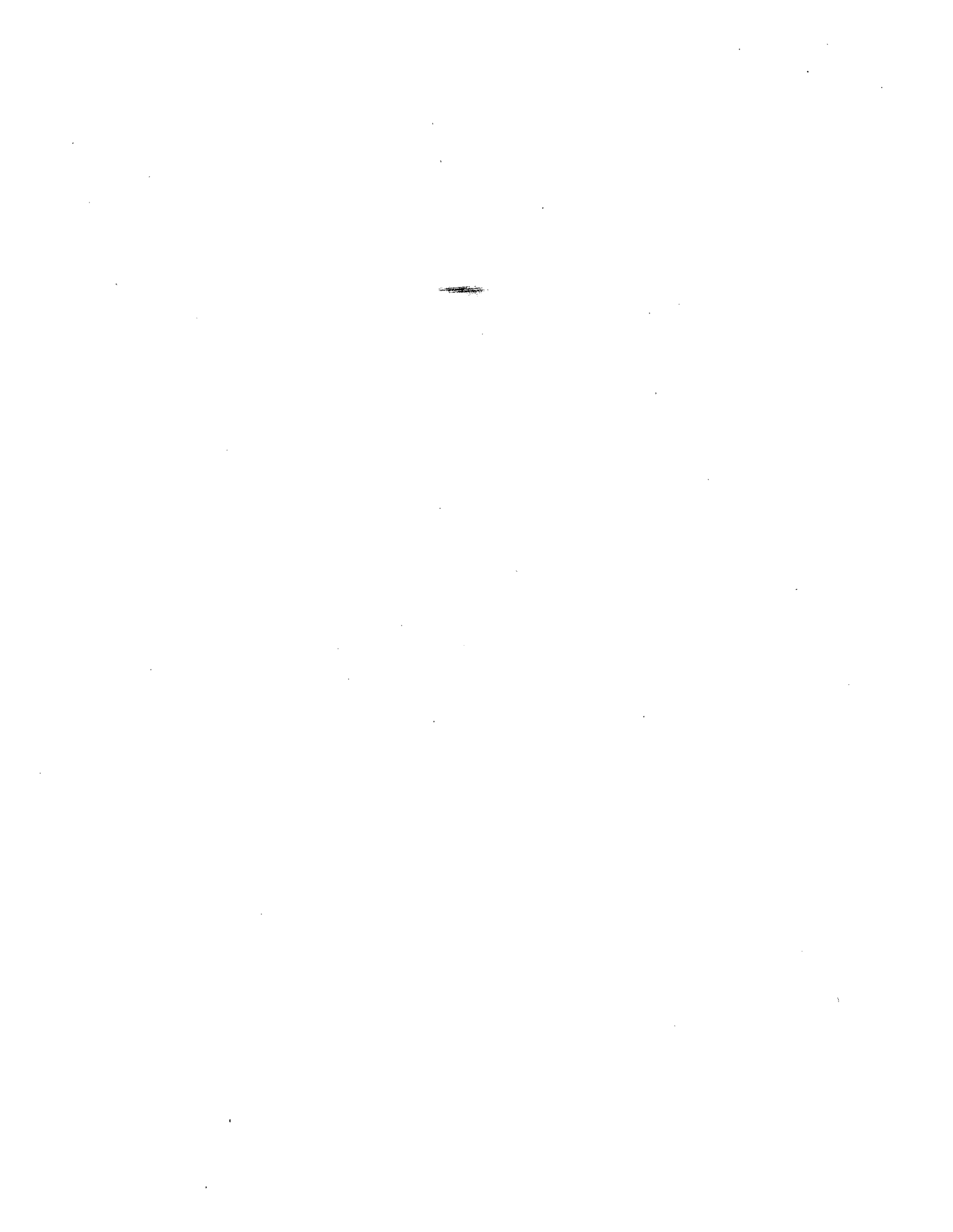
Key Interventions

- Improving land use planning through socioeconomic and resource use studies
- Reinforcing ICCN capacity
- Including local communities in decision making and management
- Establishing site-based GIS database with links to national databases
- Reinforcing park management structures
- Lobbying provincial and national entities to stop armed, uniformed poachers

ANNEX II
MANAGEMENT RESPONSE

**BANK MANAGEMENT RESPONSE TO
REQUEST FOR INSPECTION PANEL REVIEW OF THE
DEMOCRATIC REPUBLIC OF CONGO: TRANSITIONAL SUPPORT FOR
ECONOMIC RECOVERY OPERATION (GRANT NO. H 192-DRC) AND
EMERGENCY ECONOMIC AND SOCIAL REUNIFICATION SUPPORT
PROJECT (CREDIT NO. 3824-DRC AND GRANT NO. H 064-DRC)**

Management has reviewed the Request for Inspection of the Democratic Republic of Congo: Transitional Support for Economic Recovery Operation (TSERO) (Grant H 192-DRC) and Emergency Economic and Social Reunification Support Project (EESRSP) (Credit No. 3824-DRC and Grant No. H 064-DRC), received by the Inspection Panel on November 19, 2005 and registered on December 1, 2005 (RQ05/2). Management has prepared the following response.



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Map 1. IBRD No. 34464

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Annex 7. Exchange of Correspondence between the Bank and RAPHY, a Pygmy Organization, in 2005 and

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Annex 9. Exchange of Letters between LINAPHYCO, a Pygmy Organization and the Bank, in 2005

Annex 10. DRC Forest Question and Answers posted in March 2004 on the Bank website

Annex 11. Bibliography of Key Documents

ABBREVIATIONS AND ACRONYMS

AAA	Analytic and Advisory Activities
AWF	African Wildlife Foundation
BCeCo	Bureau Central de Coordination (Central Bureau of Coordination)
BP	Bank Procedures
CENADEP	Centre National d'Appui au Développement et à la Participation Populaire (National Center for Development and Popular Participation)
CIFOR	International Forest Research Center
CIRAD	International Research Center for Agriculture Development
CNONGD	Conseil National des Organisations Non Gouvernementales de Développement du Congo (National Council of Congolese Development Non-Governmental Organizations)
DDR	Demobilization, Disarmament and Reinsertion
DRC	Democratic Republic of Congo
EA	Environmental Assessment
EC	European Commission
EERP	Emergency Early Recovery Project
EESRSP	Emergency Economic and Social Reunification Support Project
EMRRP	Emergency Multi-Sector Rehabilitation and Reconstruction Program
ERC	Economic Recovery Credit
ESMF	Environmental and Social Management Framework
ESRP	Emergency Stabilization and Recovery Project
ESW	Economic and Sector Work
FAO	Food and Agricultural Organization of the United Nations
GTF	Groupe de Travail Forêts
IBRD	International Bank for Reconstruction and Development
ICCN	Institut Congolais de Conservation de la Nature (Congolese Institute for Nature Conservation)
IDA	International Development Association
IPN	Inspection Panel
ISDS	Intègrated Safeguards Data Sheet
MONUC	United Nations Observer Mission in the Congo
NGO	Non governmental organization
ONATRA	Public Enterprise for Transport
OP	Operational Policy
PAD	Project Appraisal Document
PAP	Programme d'Appui aux Pygmées (Pygmy Support Program)
PCU	Project Coordination Unit
PFZP	Pilot Participatory Forest Zoning Plan

PID	Project Information Document
PRERC	Post-Reunification Economic Recovery Credit
PRSP	Poverty Reduction Strategy Paper
REPEC	Réseau des Partenaires pour l'Environnement au Congo
RFF	Rainforest Foundation
RN	Route nationale (national road)
ROC	Regional Operations Committee
RPF	Resettlement Policy Framework
RVP	Regional Vice President
SDR	Special Drawing Rights
TF	Trust Fund
TOR	Terms of Reference
TSERO	Transitional Support for Economic Recovery Operation
TSS	Transitional Support Strategy
UNDP	United Nations Development Programme
USD	United States Dollar
VC	Videoconference
WB	World Bank
WCS	Wildlife Conservation Society
WWF	World Wide Fund for Nature

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: Transitional Support for Economic Recovery Credit (TSERO) (approved on December 8, 2005) and Emergency Economic and Social Reunification Support Project (EESRSP) (Credit No. 3824-DRC and Grant No. H 064-DRC), approved on September 11, 2003 financed by the International Development Association (IDA).

2. **Structure of the Text.** The document contains the following sections: Section II presents information regarding the Request and Section III provides background to the EESRSP and TSERO. Other issues pertinent to the Request are discussed in Section IV. Section V takes note of lessons learned and next steps. A summary of Management’s response is provided in Section VI. Annex 1 presents the Requesters’ claims, together with Management’s detailed responses, in table format. Additional annexes include, inter alia, Terms of Reference for the Pilot Forest Zoning Plan, documentation on the forest reform agenda, statements from the 2004 Forest Forum and relevant correspondence. A map of the region follows the Annexes (Map 1, IBRD No. 34464).

II. THE REQUEST

3. The Request for Inspection 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 affected local communities living in the Democratic Republic of Congo (hereafter referred to as the “Requesters”). Representatives of local communities of Kisangani in the Orientale Province, of Béni and Butembo in the Nord-Kivu Province, of Kinshasa/Mbandaka and Lokolama in the Equateur Province, of Inongo in the Bandundu Province, of Kindu in the Maniema Province, and of Bukavu in the Sud-Kivu Province, are signatories to the Request.

4. Attached to the Request are 32 annexes:

- (i) Annex 1: Emergency Economic and Social Reunification Support Project, Technical Annex, Report No.: T7601-R.
- (ii) Annex 2: Emergency Economic and Social Reunification Support Project, Updated Project Information Document (PID), Report No.: AB213.
- (iii) Annex 3: Emergency Economic and Social Reunification Support Project, Integrated Safeguards Data Sheet (ISDS), Report No.: AC43.
- (iv) Annex 4: Democratic Republic of Congo and the International Development Association, Development Financing Agreement, September 22, 2003.
- (v) Annex 5: Emergency Economic and Social Reunification Support Project, Preparation of a forest zoning plan, Draft terms of reference.

- (vi) Annex 6: Economic Recovery Credit, Report and Recommendation of the President of the International Development Association, Report No.: P7531, May 17, 2002.
- (vii) Annex 7: Democratic Republic of Congo, Sectoral follow-up mission, April 15-27, 2002.
- (viii) Annex 8: Democratic Republic of Congo, Sectoral follow-up mission, July 1-12, 2003.
- (ix) Annex 9: Operational Directive on Indigenous Peoples, September 1991.
- (x) Annex 10: World Bank Operational Manual, Operational Policies, OP 4.01, Environmental Assessment, January 1999.
- (xi) Annex 11: World Bank Operational Manual, Operational Policies, OP 4.36, Forests, November 2002.
- (xii) Annex 12: World Bank Operational Manual, Operational Policies, OP 4.10, Indigenous Peoples, July 2005.
- (xiii) Annex 13: Human Rights Commission, International Covenant on Civil and Political Rights, Review of the reports submitted by the States Parties on the application of Article 40 of the Agreement, Third Periodic Report, Democratic Republic of Congo, May 3, 2005, CCPR/C/COD/2005/3, May 3, 2005.
- (xiv) Annex 14: Security Council, Resolution 1457 (2003), 4691st Session, January 24, 2003.
- (xv) Annex 15: Permanent Forum on Indigenous Issues, Report of the Second Session, E/2003/43, E/C.19/2003/22, May 12-23, 2003.
- (xvi) Annex 16: President of the Democratic Republic of Congo, Law No. 011/2002 of August 29, 2002 on the Forest Code.
- (xvii) Annex 17: President of the Democratic Republic of Congo, Decree No. 05/116 of October 24, 2005, which establishes the methods for converting old forest titles into forest concession contracts and extends the moratorium on the granting of logging concessions.
- (xviii) Annex 18: Centre National d'Appui au Développement et à la Participation Populaire (CENADEP), [National Center for Development and Popular Participation], Conseil National des Organisations Non Gouvernementales de Développement du Congo (CNONGD), [National Council of Congolese Development Non-Governmental Organizations], *The future of forests in the Democratic Republic of Congo and the people living within these forests*, February 12, 2004.
- (xix) Annex 19: World Bank Resident Representative in Kinshasa, Onno Rühi, *Your letter dated February 12, 2004 on the future of the forests of the Democratic Republic of Congo and the peoples living in these forests*, March 11, 2004.
- (xx) Annex 20: Rainforest Foundation, Videoconference with Mr. Wolfensohn, President of the World Bank, Transcript of the discussions, July 8, 2004.
- (xxi) Annex 21: CENADEP, CNONGD, *Statement by Congolese Civil Society at the Forest and Nature Conservation Forum in the DRC on November 13, 2004 in Kinshasa*, November 13, 2004.

- (xxii) Annex 22: Organisations des autochtones Pygmées et accompagnant les Pygmées en RDC [Indigenous Pygmy and Pygmy support organizations in the DRC]. *World Bank negligence in activities involving the forests and Indigenous Peoples of the DRC*, February 18, 2005.
- (xxiii) Annex 23: World Bank Resident Representative in Kinshasa, Jean-Michel Happi, *World Bank Operations involving the forests and Indigenous Peoples of the DRC*, July 5, 2005.
- (xxiv) Annex 24: Jerome Lewis, Minority Rights Group International, *The Batwa Pygmies of the Great Lakes Region*, 2001.
- (xxv) Annex 25: ARD, *Conflict Timber: Dimensions of the Problem in Asia and Africa, Volume III, African Cases*, DR Congo Case study, USAID/ARD, Burlington, USA, May 2003.
- (xxvi) Annex 26: Norbert YambaYamba Shuku, National consultant, *Supplementary Report to the Economic Review of the forestry sector, Some observations on forest concessions and their impact on rural populations in the DRC*, November 2003.
- (xxvii) Annex 27: African Wildlife Foundation, CARE International. Conservation International, Fauna and Flora International, Greenpeace, Rainforest Foundation, Wildlife Conservation Society, World Wide Fund for Nature, *Joint Statement of international non-governmental organizations, working for the sustainable management of forest ecosystems in the DRC*, Forests Forum, Kinshasa, November 13, 2004.
- (xxviii) Annex 28: Rainforest Foundation, Global Witness, Forest Peoples Program, World Rainforest Movement, CDM Watch, SinksWatch, Environmental Defense, Down to Earth, Samata, *Broken Promises, How World Bank group policies fail to protect forests and forest peoples' rights*, 2005.
- (xxix) Annex 29: MONUC, *Administrative Map of the DRC*.
- (xxx) Annex 30: MONUC, *Village Map of the DRC*.
- (xxxi) Annex 31: CARPE, *Landscape 9 Maringa-Lopori-Wamba*.
- (xxxii) Annex 32: Central Africa Forest Satellite Observatory, *Landscape Data*.

No further materials were received by Management in support of the Request.

5. The Request contains claims that the Panel has indicated may constitute violations by the Bank of various provisions of its policies and procedures, including the following:

OP/BP 4.01	Environmental Assessment	January 1999
OD 4.15	Poverty Reduction	December 1991
OD 4.20	Indigenous Peoples	September 1991
OP/BP 4.36	Forestry	September 1993
OP/BP 8.50	Emergency Recovery Assistance	August 1995
OPN 11.03	Cultural Property	September 1986

OP/BP 13.05	Project Supervision	July 2001
BP 17.50	Disclosure of Information	September 1993

III. THE EMERGENCY ECONOMIC AND SOCIAL REUNIFICATION SUPPORT PROJECT AND TRANSITIONAL SUPPORT FOR ECONOMIC RECOVERY OPERATION

6. **The Projects.** The Request concerns two projects, the EESRSP (Credit No. 3824-DRC and Grant No. H064-DRC) and the TSERO (Report 33785-ZR). A third Credit, the Economic Recovery Credit (ERC) (Credit No.3660-DRC) is also mentioned in the Request, and will be addressed in paragraph 53 below.

7. **Relevance of the Projects to the Concerns Expressed in the Request.** The focus of the Request relates to Bank support to DRC in the forest sector. More specifically, the Request says that the Bank is using these Projects to promote a rapid expansion in industrial logging operations, creating risks for the well being of Indigenous Peoples and the environment. In fact, the Projects mentioned by the Requester are three of a series of instruments the Bank is using to support an important forest sector reform program prepared by the Government. These instruments do not include financing for any significant forest investments. Rather, they focus on analytical work, policy dialogue, pilot studies, socioeconomic surveys, consultations, workshops, and field assessments, with a view to inform decision-making and prepare for possible future capacity building and nature conservation IDA and GEF operations. Table 1 below sets out key events related to Bank forest work in DRC and issues raised in the Request (including events unrelated to the above operations and without Bank direct involvement). See Annex 2 for a list and status of forest sector Bank initiatives in DRC.

8. **Overview of Bank's Forest Work in DRC since 2002.** Before discussing the projects cited in the Request, it would be useful to provide an overview of the Bank's forest work in DRC since 2002. With about 86 millions 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 for the global environment.

Table 1. Key Events in Bank Forest Work in DRC

Date	Event	Comment
2 May and July 2000	Two national workshops organized with FAO/UNDP support on Forest Policy and Environmental Legislation	With support from FAO/UNDP
3 February 2002	First Bank mission in forest sector: 43 million hectares under logging concessions, new concessions in process through discretionary procedures. Mission recommends: establishment of a moratorium; verification of existing concessions; and raising forest area fee. Mission comments on the draft Forest Code.	Aide-memoire of February 2002
4 April 2002	Negotiations of the First Economic Recovery Credit (ERC1). Includes a forest tranche with one condition: submission of the Forest Code to the Assembly.	Aide-memoire of April 2002. Credit nr. 3660 DRC, budget support, no sector investment, forest tranche disbursed in November 2002
5 May 2002	Establishment of the moratorium on new concessions; and cancellation of 163 non-compliant concessions totaling 25 millions hectares.	Ministerial arrêté of May 14, 2002. List of cancelled concessions published in local media, October 15, 2002 Code promulgated on August 29, 2002
6 August 2002	Forest Code submitted to the Assembly, and approved.	Awareness materials available
7 November 2002	Minister of Environment moved to Ministry of Agriculture.	List of existing concessions published in local media, May 24, 2003
8 January to December 2003	Information and awareness campaign on the new Forest Code, including radio and TV supports, carried out by FAO under Bank financing. Followed by similar NGO initiatives.	Aide-memoire of August 2003
9 May 2003	Estimated 4 million hectares reportedly exchanged in breach of the moratorium and 2 million hectares allocated as new contracts.	Proceedings available
10 June 2003	Inclusion of a USD 3 million forest component in the EESRSP. Covers: independent observer for legal review of remaining concessions, and pilot forest zoning.	Draft National Forest Plan ready; Proceedings available
11 July 2003	New Government of Transition, new Minister of Environment. Understanding that all litigious transactions will be assessed in the context of the legal review.	Country Director communication to the team
12 June to November 2003	Economic review of forest sector with two national workshops in September and October 2003.	Co-authored by CIFOR, CIRAD, 3 networks of local NGOs (GTF, CNONGD, REPEC) and 4 international NGO (WWF, WCS, CARE, AWF)
13 September 2003	First National Workshop on Nature Conservation, and field missions in Virunga, Garamba, Maiko national parks.	Interministerial arrêté of March 17, 2004
14 September-December 2003	FAO and WWF consultancy for drafting TOR of the pilot zoning.	
15 September and November 2003	Two workshops on draft National Forest Plan in Boma and Mbandaka, organized by coordination team.	
16 October 2003	Internal decision not to include forest sector in second budget support operation (ERC2).	
17 December 2003	First letter from RFF to WB followed by an ultimatum to WB president, a meeting in Kinshasa in April 2003, and a VC with President Wolfensohn in July 2004.	
18 February-March 2004	Letter from 220 local NGOs (February 12). Response dated March 11. Three additional NGOs included in the FAO Steering Committee on implementation decrees.	
19 February-June 2004	Draft ESW: bilateral consultations with local NGOs, private sector, donors, government and international NGOs. Consultations with civil society animated by GTF. Includes discussions on pilot forest zoning which was eventually dropped from the EESRP in spring 2005.	
20 March 2004	Recommendations of the economic review approved. Includes the raising of the area fee over 2004-2007.	
21 April-May 2004	Second letter from local NGO, signed by CENADEP only. Response sent in May.	
22 May 2004	Coordination team dismissed by Minister of Environment. No further progress on draft Forest National Plan. Preparation of implementation decrees put on hold.	

Date	Event	Comment
23	June 2004	Ministerial arrêté of July 2, 2004
24	July 2004	Overall support to key measures of the reform agenda: moratorium, legal review
25	July 2004	Unanimous support to new Forest Code and to Government's reform agenda. Chairman's Closing Remarks approved by acclamation. Joint statements by local NGOs, international NGOs, and donors.
26	November 2004	Ministerial arrêté of November, 22, 2004
27	November 2004	New ministerial arrêté on legal review reversing the criteria and procedures established in July 2004.
28	January 2005	Letter from WB to RFF. Unanswered by RFF.
29	March & May, 2005	Joint donors letter to Ministry of Environment. November arrêté denounced by local NGOs. Joint letter from international NGOs to President Kabila.
30	June 2005	Beginning of DRC/Forest Poverty and Social Impact Assessment. Field work being carried out by local NGOs.
31	June 2005	Letter from Pygmy and Pygmy-Accompanying Associations to WB. Answered on July 5, 2005.
32	July 2005	Appraisal of TSERO (third budget support operation). Forest component with two conditions: launching of the legal review; and extension of the moratorium.
33	August 2005	Begin preparation of new bio-carbon afforestation project. First field visit in December 2005.
34	October 2005	Letter to President Wolfowitz by LYNAPICO, National League of Pygmy Associations. Answered in October 2005.
35	October 2005	Adoption of new criteria and procedures for legal review; recruitment of an independent observer; publication of the official list of concessions; extension of the moratorium. Deadline for submission of requests is January 24, 2005.
36	November 2005	Field trip to Kivu. Meetings with Pygmies in Mutsora and Ndoyi, and with Pygmy Assistance program (PAP) in Béni. Meeting with local development NGOs in Goma.
37	December 2005	European Commission, France and Belgium confirm their participation in the proposed Multi-donor Forest TF.
38	January 2006	Official deadline for submission of dossiers by concession holders as a start of government verifications.
39	February 2006	Second International Forest Forum, scheduled for February 14, 2006.

NB: Studies and workshops under items 8, 12, 13, 14, 15 were financed under Bank-administered Trust Funds, mainly TF051382.

9. 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, forest institutions had broken up into numerous organizations serving the various local provisional governments; and nature conservation institutions were even more fragmented, at times at the level of a protected area. Prior to and during the Congolese conflict, the majority of the country's productive forests had been allocated to rent seekers; by 2002, over 43 million hectares (twice the size of the United Kingdom) were already locked up for industrial logging. About 285 logging contracts had been allocated before and during the war with no transparency, no local consultation, no adequate compensation for local people and for the country, and no consideration for alternative forest uses. These concessions overlapped with villages, agricultural lands and biodiversity hotspots. There was no legal provision for meaningful participation in the use of forest lands. The establishment of new protected areas, community forests or other forest based activities was precluded.

10. The situation was clearly conducive to unsustainable logging, significant economic losses for local communities and for the state, and loss of biodiversity. Although the war and poor state of infrastructure had brought timber production to minimum levels, requests for new logging titles kept flowing until 2002 as rent seekers prepared for the restart of operations which peace and new infrastructure would make possible.

11. In line with the 2002 Bank Forest Policy and Strategy, and recognizing the fundamental nature of the challenges at hand, the Bank promoted a progressive approach to help the Government re-establish the sector's policy and regulatory framework, restore the rule of law on forests, set the stage for participatory governance, and strengthen institutional capacity. As for other Bank forest efforts, the ultimate goal was harnessing the potential of forests to reduce poverty, integrating forests in sustainable development and protecting vital local and global environmental values. In applying this strategy to the context of Congo, the Bank noted that major risks existed if logging were to expand in the absence of strong regulation and oversight.

12. The Bank's advice focused primarily on basic governance measures aimed at returning to the state forest concessions that had expired or were illegally held, at improving transparency and laying the ground for sustainable, equitable and participatory management of forests, and improving management of protected areas and establishing new areas. These measures included: the cancellation of invalid forest concessions totaling over 25 million hectares; the establishment of a moratorium on the award of new concessions; the increase of annual area taxes on concessions to curb forest land speculation; and the adoption of a new Forest Code in replacement of the 1949 colonial regulation. The new Code introduced innovations such as: legal protection of traditional users' right in all forests; the right for local people to manage community forests; mandatory sustainable management plans for production forests; revenue sharing with local governing bodies, social responsibility clauses attached to concession contracts (cahiers de charges), expanding the protected areas network; and promoting environmental services. The Code recognizes the rights of local people, which also includes indigenous people. As in the French legal system, the Code sets basic principles, leaving implementation modalities to be defined in regulations. The Bank supported this package of reforms through policy

dialogue, studies, consultations, analytical work and field assessments. On two occasions, through policy lending, the Bank helped strengthen reform elements in the DRC, through strong analytical work and policy dialogue. No sector investments took place.

EMERGENCY ECONOMIC AND SOCIAL REUNIFICATION SUPPORT PROJECT (EESRSP)

13. 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 December 2005, the entire Grant had been disbursed. A total of USD 43 million (25 percent) was disbursed out of the Credit.

14. **Project Objectives.** The overall project development objectives are to assist the Government in the process of economic and social reunification to contribute to the stabilization of DRC. Specifically, the project would:

- Help introduce or begin to restore sound economic governance systems throughout the country by providing expertise and financial resources needed to ensure a satisfactory reunification of key institutions and the implementation of key economic reforms throughout the country;
- Complement actions currently underway to address urgent need, alleviate the suffering of the Congolese people, and generate quick “peace dividends” which could contribute to the stabilization of the country, by financing rehabilitation activities in reunified provinces; and
- Prepare for the rapid extension of an Emergency Multi-Sector Rehabilitation and Reconstruction Program (EMRRP) to all parts of the country, in particular by activating implementation mechanisms designed to overcome existing capacity constraints and to deliver results with efficiency and transparency in areas administered by armed groups.

15. The project is intended to complement earlier support by IDA and interventions by other donors (including in the form of humanitarian assistance, contributions to UN Observer Mission in Congo, MONUC), and political support, to help ensure a successful process of economic and social reunification.

16. **Project Components.** The project consists of five components (PAD, pages 10-12):

- *Balance of Payments Support* (USD 50 million). The main purpose of this component is to help the Government face the fiscal shock associated with reunification, in order to allow for the ongoing economic stabilization and reform program to remain on track. Resources were provided within the context of the economic program supported by the Bank and Fund, with a view to financing critical imports necessary to meet the needs emerging from the reuni-

fication process. Specifically, funds are used to finance imports on a positive list.

- *Institutional Strengthening* (USD 15 million). This component aims to complement existing capacity enhancement programs (in particular, under the EMRRP) with a focus on several key issues associated with the process of economic and social reunification. These are: (a) restoring essential administrative capacity in reunified provinces; (b) supporting the preparation of a participatory Poverty Reduction Strategy Paper (PRSP); (c) assisting in restoring effective institutions in the forestry sector in reunified provinces; (d) helping to meet the twin challenges of institutional reunification and decentralization; and (e) carrying out engineering and other studies to prepare for an extension of the EMRRP. Element (c) included support for an independent observer in the legal review of logging contracts held by forest companies and private individuals and for the preparation of a pilot participatory forest zoning plan (PFZP) (this was subsequently dropped from the project for reasons explained in paragraph 27). The amount of this forest subcomponent was USD 3 million, or 2 percent of the project cost. Had it not been dropped, the pilot participatory forest zoning would have been the first Bank-supported forest activity on the ground.
- *Infrastructure Rehabilitation* (USD 90 million). This component aims to rehabilitate critical transport infrastructure for recovery in northern and eastern provinces. In consultation with key stakeholders, including the private sector, civil society, and administrative authorities, the following highways were selected: RN 4, between Kisangani and Béni, and RN 2, between Bukavu and Mbuji-Mayi. These roads—main links between the eastern and western provinces—were no longer usable, and the project works aim to restore them to an “all-season passable” standard. The project is also financing some works on RN 1, around Matandi, to complement activities funded under the Emergency Early Recovery Project (EERP), approved by the Board in July 2001.
- *Urban Rehabilitation* (USD 30 million). This component supports rehabilitation in urban areas located in the reunified provinces. It is expected to facilitate recovery and to consolidate social stability in key urban centers, i.e., Goma, Bukavu, Kindu, Kisangani, and smaller centers, i.e., Bumba, Butembo, Isiro, Kalima, Kalemie, Kasongo, Lusambo, and Uvira. Eligibility criteria for activities include: (a) wide distribution of the activity’s benefit; (b) commitment to operation and maintenance; and (c) relatively high expected labor content.
- *Community Empowerment* (USD 10 million). This component tests and activates a mechanism to support community development in six pilot areas: i.e., the regions of Lodja, Gemena, Isiro, Masisi, Buta, and Kibongo. The component finances a series of block grants (USD 2,000 to USD 5,000 per community) that are being allocated directly to isolated rural communities in prede-

terminated amounts and will be managed through broad participatory processes. Five pilot areas have been selected for the block grants.

Table 2 below explains the project costs, including percentages of the total:

Table 2. Project Costs

Component	Estimated cost (US\$ million)	Percent of total
1 Balance of payment support	50	23
2 Institutional strengthening	15	7
3 Infrastructure rehabilitation	90	42
4 Urban rehabilitation	30	14
5 Community empowerment	10	5
Implementation costs	5	2
Contingencies	14	7
Total	214	100

17. The project was classified as Category B for environmental assessment. This classification is fully consistent with Bank-wide practice for projects supporting infrastructure rehabilitation and community-level improvements in service delivery. Safeguards policies triggered were OP/BP 4.01, Environmental Assessment, OP/BP 4.12, Involuntary Resettlement, and OP 4.36, Forestry. OD 4.20 was not triggered because the team did not envision, at that time, that project activities will be implemented in forest and other areas inhabited and/or used by indigenous peoples including the Pygmies. The safeguards instruments to be prepared were an Environmental and Social Impact Assessment (EA) for Component 3, an Environmental and Social Management Framework (ESMF) for Components 4 and 5, and a Resettlement Policy Framework (RPF). EESRSP was prepared in accordance with OP 8.50 on Emergency Recovery Assistance, under which the required safeguards instruments may be prepared during appraisal or implementation. The agreed deadline for completion of the EA, ESMF and RPF was 12 months after effectiveness, or December 5, 2004. Due to delays in procurement, the Government received the safeguard documents in draft on December 23, 2005.

18. Management has not complied with OP 4.01, but anticipates being in full compliance by February 2006. In order to mitigate the consequences of the delay, the team requested the Borrower to instruct all actors involved in implementation to follow the guidelines and recommendations of an earlier EA, ESMF, and Resettlement Policy Framework (RPF) prepared for the Emergency Multi-Sector Rehabilitation and Reconstruction Program (EMRRP, a project that was financing similar types of activities). The Borrower complied with this request.

19. While the drafts of the safeguards instruments are still under review by the Borrower, Management is also reviewing them in parallel to minimize further delay in disclosure and in implementation of the recommendations they contain. The EA finding most relevant to this Request is the presence of a community of non-nomadic Pygmies in the vicinity of Mambasa, a village along a segment of RN4 (one of the two main roads to be rehabilitated) that has not yet been reached by the rehabilitation works. OD 4.20 is therefore being triggered for the Infrastructure Rehabilitation Component, and an Indige-

nous Peoples Plan will be prepared before road rehabilitation begins in that area. The ESMF describes the Project's environmental setting and its components and likely impacts and explains the procedures to screen out any proposed activity in the Urban Rehabilitation and Community Empowerment Components with possible Category A-type impacts. It assigns responsibility for the various aspects of ESMF implementation to specific agencies; identifies training and other capacity-building needed for those agencies to carry out their functions; and specifies a budget and schedule for the whole package, both the technical work and the related capacity-building.

20. **Project Organization.** The project is implemented by a Project Coordination Unit (PCU) in the Ministry of Planning. The PCU is being overseen by a High-Level Oversight Committee, which includes representatives of the Ministers of Finance, Budget, Planning, and Public Works and of the Economic Advisor to the President. The Committee reviews the PCU's activities to strengthen transparency and help ensure a fair distribution of activities throughout the country. The Central Bureau of Coordination (BCeCo) acts as the procurement agent for all contracts awarded directly by the Government under the project. The BCeCo is an independent institution which is also managing components of the EERP and EMRRP.

Project Background

21. The project arose from DRC's emergence from a decade of political instability and conflict. War and civil disturbance, compounded by a long period of mismanagement and corruption, have taken a heavy toll on the country. The conflict, which involved seven foreign countries at one point, has been among the world's bloodiest in decades. Physical damage is extensive, institutions are in shambles, and the economy literally collapsed. DRC is one of the poorest countries in the world, and social indicators are among the worst in Africa.

22. In 1999, DRC signed the Lusaka Agreement. The UN peacekeeping mission in DRC (MONUC) was deployed throughout the country in 2002, and foreign troops withdrew from the country by the end of the year. Political negotiations between the Government, armed groups, political opposition, and civil society culminated in a power-sharing agreement for a transition period. In June 2003, an all-inclusive Government of national unity was appointed. The transition Government has continued to implement a far-reaching program of reforms and to work towards political reconciliation. A constitutional referendum was successfully held on December 18, 2005, and preparations for local, legislative, and presidential elections from April to June 2006 are well underway. The new Government has also commenced efforts to create a sound environment for economic and social reunification. It focused, in particular, on repairing damaged infrastructure, establishing an economic reform plan, and restoring institutional capacity. The Government also placed a strong emphasis on reunifying institutions divided by the conflict, while at the same time allowing for the necessary decentralization.

23. In examining the international response to the crisis in DRC, the donors at the December 2002 Consultative Group adopted an agenda to support the Congolese strategy towards economic and social reunification: (a) to help restore sound economic govern-

ance; (b) to mitigate the fiscal cost of reunification; (c) to support rehabilitation of essential infrastructure and the restoration of social services in the eastern and northern areas; and (d) to assist in the demobilization and integration of former combatants.

24. ***Bank Response and Strategy.*** The Bank re-engaged in DRC through a Transitional Support Strategy that was discussed by the Executive Directors in 2001; the Board also approved the USD 50 million EESRSP Grant. Subsequently, following the clearance of DRC arrears in 2002, the Board approved the USD 450 million ERC in June 2002, the USD 454 million EMRR Project in August 2002, and the USD 120 million Private Sector Development and Competitiveness Project in July 2003. Other Bank operations approved between 2003 and 2005 included the Multi-Sector HIV/AIDS Project, Emergency Social Action Program, the Emergency Demobilization and Reintegration Project, the Post-Reunification Economic Recovery Credit, the Emergency Living Conditions Improvement Support Project, and the Health Project. The Bank manages a multi-donor Trust Fund that finances the Emergency Stabilization and Recovery Project (ESRP).

25. ***Analytical Work.*** The EESRSP was prepared during the period of January–August 2003, as a response to rapid and positive political developments, within the context of the implementation of the peace process. Project preparation drew extensively on the Bank’s experience and analytical work in post conflict countries. It focused on relatively simple investments, for which no detailed analytical work appeared to be required. In addition to investments, the project included studies and technical assistance (TA) such as those covered in the forest sub-component. These activities aimed at expanding the knowledge basis in view of possible future Bank operations. The forest component of the EESRSP was to be developed in parallel with a forest sector review the Bank started in late 2003 as a stand-alone ESW.

Project Implementation

26. ***EESRSP Project Supervision.*** Between project approval (September 2003) and October 2005, the Bank sent eight formal field supervision missions from headquarters, for a total 48 expert weeks on the ground, in addition to backstopping and supervision provided from staff located in DRC. Supervision covered primarily the areas of infrastructure and economics in addition to the key areas of Bank fiduciary responsibility, procurement and financial management. Table 3 below lists the chronology of critical project activities. The list of supervision missions is shown in Annex 3. Supervision in the areas related to forests is reported separately in the section below.

Table 3. Key Events related to EESRSP

Event	Date
Concept Review Meeting	January, 14, 2003
ISDS to Infoshop	April 24, 2003
Decision meeting	July 2, 2003
Updated ISDS received by Infoshop	August 12, 2003
Appraisal (start)	May, 11, 2003
Negotiations (start)	August 11, 2003
Board approval	September 11, 2003
Signing of the Agreement	September 22, 2003
Effectiveness	December 5, 2003

27. **Supervision Specific to the Area of Forests.** Bank support in the forest sector was additional to the supervision missions for EESRSP mentioned above. Four to five forest technical missions to DRC have taken place annually since 2002. Each mission has typically met representatives of government agencies, local and international NGOs, private sector and donors. Field trips were undertaken in February 2002 (Lubumbashi and Bateke), September 2003 (Lissala-Bumba), March 2004 (Kisangani) and November 2005 (Goma, Béni). Since there was no physical investment in forests, these missions focused on deepening the Bank's understanding of forest management in post conflict DRC to sharpen its policy dialogue. Dialogue with donors took place in the framework of the FAO and EC-led Forest Thematic Group. Dialogue with local NGOs became particularly active as of late 2003 in the context of the preparation of the ESW. In November 2004, the Bank helped organize the First Multi-stakeholder Forest Forum in DRC as a side event to the Consultative Group Meeting. The Bank team also engaged in dialogue with international partners not based in DRC, including meetings with Greenpeace, Global Witness and several British Members of Parliament, and interviews with international media, such as the BBC.

28. The policy dialogue was framed by the ERC (the first budget support operation) approved in 2002, by the drafting of the ESW in 2004 (the forest sector was not included in the second budget support operation in 2003), and by the TSERO (third budget support operation), commencing in April 2005. Bank expertise involved in this work includes: forest and biodiversity, legal, social, safeguards, economic, and communication issues. External expertise was mobilized from WWF, WCS and FAO. Bank supervision has focused on analytical work, policy dialogue, studies, workshops, and field assessments. Since November 2004, Bank supervision was strengthened by the presence of a well known Congolese professor in environmental economics as a full-time expert based in Kinshasa.

29. **Mid-Term Review.** A mid-term review for the project is planned for Spring 2006.

30. **Forestry.** While several important developments took place during the life of the project in the broader framework of the Bank-DRC forest policy dialogue, only two related to the EESRSP project as such. These were:

- *The decision to drop the PFZP.* The decision to drop the PFZP was made internally in May 2005 and formally agreed with the Government in July 2005. The PFZP was expected to absorb about 1 percent of EESRSP total cost and cover about 2.7 percent of DRC's total area and 4.6 percent of its forest area. At the time it was dropped, work on the PFZP had not yet commenced. The reasons for dropping the PFZP were: (a) the team realized that the supervision arrangements under the EESRSP were unsuitable to support a zoning operation that was going to require intensive follow-up by the Bank and consensus-building by stakeholders, and that this activity would better fit within a more comprehensive forest sector operation; (b) the initial procurement delays and additional delays and interruptions likely to occur due to the forthcoming extended election process would leave little time to undertake and complete the PFZP satisfactorily under the EESRSP; and (c) the Minister of Environment was showing reluctance to collaborate with NGOs operating in the PFZP region—despite the fact that this had been agreed upon when preparing the TORs—and its commitment to the Bank-supported forest reform package had weakened.
- *The recruitment of the independent expert and the beginning of the forest legal review.* The legal review of forest concessions risked being undermined by regulations issued by the Minister of the Environment that aimed at preserving vested interests. The Bank used its influence, as well as leverage afforded by the TSERO, to secure the integrity and transparency of the legal review. This review started only in November 2005 once President Kabila issued an act that reversed regulations previously issued by the Ministry of Environment.

31. While the PFZP was dropped from the project before being implemented, OD 4.20 was not triggered initially. In view of the likelihood that Pygmies would be present in whatever tract of forest in Equateur was selected for the pilot, OD 4.20 should have been triggered. The TORs for the PFZP of the EESRSP did provide for full consultation with the Pygmies in any case.

Challenges During Project Implementation

32. The Technical Annex to the PAD (Credit No. 3824-DRC and Grant No. H 064-DRC) identified key risks facing the project, including the possibility that the Bank would have to scale back, suspend programs, or shift focus elsewhere, taking into account the political situation, security threats, institutional capacity, and/or fiduciary risks.

33. The real challenge in the implementation of the forest component resided in linking the project's relatively modest technical assistance to the much broader sector reform agenda the Bank had agreed upon with Government at the time of its re-engagement in 2002. Also adopted by other major development partners, this reform agenda included measures aimed at protecting the resource base, disposing of the legacy of illicit forest appropriation and mismanagement, protecting forests from vested interests, strengthening the rights of the Congolese people, including forest dwellers, and requiring fiscal and environmental responsibility from the private sector.

34. However, after such an encouraging start, the Government's commitment to the reforms seemed to waiver under the tenure of the Minister of Environment who was appointed in June 2003 as part of the new Transitional Government of National Unity. In this new situation, the EESRSP was not the appropriate instrument to deal effectively with fundamental policy issues and, despite a number of useful initiatives by the Bank in the field of forests, none had sufficient weight to generate appropriate corrective action by the Government. Faced with this new reality, the Bank removed the PFZP from the EESRSP and agreed with the Government that forest reforms needed to be protected through high-level policy decisions. This agreement was included as a condition in the new TSERO operation. This conditionality helped re-state and strengthen the Government commitment to the moratorium on the allocation of new forest concessions and to a meaningful review of the legal value of those concessions that had not been cancelled in 2002.

TRANSITIONAL SUPPORT FOR ECONOMIC RECOVERY OPERATION (TSERO)

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.

36. **Project Objectives.** The Grant is intended to support selected strategic targets of the TSS, approved by the Board in February 2004. The objective of the TSS is to support the recovery and transition process, that is, to help consolidate the transition and restore the foundations for effective poverty alleviation efforts. The TSS supports four strategic elements: (a) social stability and security with a focus on demobilization and reintegration of former combatants; (b) 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; (c) 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 (d) social development with a focus on HIV/AIDS, key social sectors, urban living conditions, and social protection.

37. The TSERO contributes to elements (b), (c), and (d) of the TSS by supporting the Government's reform programs in public finance management, in governance of mining and forestry sectors, in resource transfers to education and health sectors, and in civil service retirement. The Grant also aims to assist the Government in maintaining the peace and macroeconomic stability, consolidating past policy achievements, and tackling the primary economic challenge it faces at this juncture. In particular, the Grant will support reforms designed to deepen, broaden, and sustain the reforms underway in the areas of public administration and fiscal management, pro-poor spending, and natural resources management. Improving transparency by sharing relevant information with stakeholders is also an important policy reform that the operation aims to support. The Grant will help the Government in mobilizing revenue in the medium term through better governance in the natural resources sectors.

38. To reach these objectives in the short to medium term, the Government requested financial support that is not linked to specific projects, but that can support its entire budget, including recurrent costs, as well as development projects that are viewed as priorities but not yet fully financed.

39. The Government's medium-term development strategy focuses on the following areas: (a) macroeconomic framework; (b) poverty reduction; (c) public expenditure management; (d) procurement reform; (e) civil service management reform; (f) rehabilitation and development of the financial sector; (g) private sector development; (h) public enterprise reform; (i) strengthening the education and health sectors; (j) promoting agricultural and rural development; (k) rehabilitating infrastructure (roads, electricity, and water); and (l) managing more effectively DRC's natural resources, in particular, mining and forestry. As the TSERO is a budget support activity, none of its funds are allocated for forest sector-specific physical investments.

40. ***TSERO Forest Conditions and Indicators.*** The TSERO included nine pre-negotiation conditions, two of which relate to forests. Seventeen progress indicators were identified in the TSERO, five of which are related to forests. Progress in these areas will be essential in order for IDA to move forward with subsequent balance of payments and budget support operations.

41. The two forest-related prior actions (met in November 2005, prior to negotiations) were:

- Launching of the legal review of forest concessions, i.e.: (a) publication in the Official Journal (*Journal Officiel*) of a presidential decree with clear criteria and transparent and non-discretionary procedures; (b) publication of the list of all existing concessions jointly by Ministries of Environment and Finance; (c) recruitment of the independent expert (legal advisor) to assist the inter-ministerial review committee; and
- Extension of the 2002 forest moratorium on new logging concessions by publication in the Official Journal (*Journal Officiel*) of a presidential decree (the same decree as the one mentioned in (d) above) stating that the moratorium will be maintained until three conditions are met: new auction procedures are adopted; legal review of existing concessions is completed; and a 3-year plan for future concessions is adopted based on a participatory process.

42. The five indicators of progress to be monitored under the TSERO are:

- Continued observance of the moratorium on new forestry concessions;
- Completion of a legal review of all existing concessions with the participation of an independent legal expert; including publication of the results of the legal review; and cancellation of forestry concessions judged illegal by the legal review;

- Recruitment of technical assistance as an independent observer associated with forest control operations to strengthen the Ministry of Environment in its effort to enforce forest laws on the ground and fight illegal logging;
- Adoption of key application decrees to implement the Forest Code; and
- Continued implementation of the March 2004 fiscal reforms, including the removal of the para-fiscal charges collected by the Public Enterprise for Transport (ONATRA), and the cancellation of concessions that did not comply with the area tax in 2004 after the published deadline.

43. The above forest sector measures are expected to help the Government implement its reform agenda with an emphasis on protection of natural ecosystems and biodiversity, prevention of illegal logging, and use of sustainable management plans in production forests. By supporting the maintenance of the moratorium, the TSERO Grant prevents large forest areas of the Congo Basin from being opened to industrial logging without adequate prior planning, consultation and community involvement. By supporting the legal review of existing contracts and the rescinding of non-compliant ones, it will lead to returning large areas of forest to the state for reassignment to various uses (conservation, production, community management) following participatory and transparent processes.

44. The TSERO is fully consistent with OP 8.60 on Development Policy Lending (paragraphs 9 and 10) which states:

“The Bank determines whether specific country policies supported by the operation are likely to have significant poverty and social consequences, especially on poor people and vulnerable groups. For country policies with likely significant effects, the Bank summarizes in the Program Document relevant analytic knowledge of these effects and of the borrower’s systems for reducing adverse effects and enhancing positive effects associated with the specific policies being supported. If there are significant gaps in the analysis or shortcomings in the borrower’s systems, the Bank describes in the Program Document how such gaps or shortcomings would be addressed before or during program implementation, as appropriate.

The Bank determines whether specific country policies supported by the operation are likely to cause significant effects on the country’s environment, forests, and other natural resources. For country policies with likely significant effects, the Bank assesses in the Program Document the borrower’s systems for reducing such adverse effects and enhancing positive effects, drawing on relevant country-level or sectoral environmental analysis. If there are significant gaps in the analysis or shortcomings in the borrower’s systems, the Bank describes in the Program Document how such gaps or shortcomings would be addressed before or during program implementation, as appropriate.”

45. The Bank's assessment of the environmental and social issues relevant to the forestry sector is based on analyses and consultations it conducted in the sector since 2002, most notably a forest policy AAA-ESW for which the final report is about to be issued (see paragraph 50). In conjunction with the ESW, a Multi-stakeholder Forest Forum was held in Kinshasa in November 2004 and chaired by the former Prime Minister of Senegal, Mr. Lamine Loum within the context of the preparation of the forest sector review, in which a number of key stakeholders have played important roles. Forum participants affirmed their support for the policy reform agenda being supported by the Bank. Reforms supported in the TSERO will not have adverse social or environmental effects; they were deliberately selected to improve environmental and social outcomes of forest management in DRC. Indeed, the moratorium and legal review make it possible for the Government to conduct participatory forest planning, taking into account the multiple-purpose dimensions of forest ecosystems. This participatory process is expected to lead progressively to: (a) the creation of new protected areas in the Congo Basin's unique tropical forests; (b) the development of community-based management areas, benefiting directly local communities and Indigenous Peoples; (c) alternative non-extractive uses of the Congo Basin forests; and (d) more sustainable, inclusive, and equitable approaches to production forestry. The TSERO also supports the Government's requirement that concession holders develop and implement sustainable forest management plans.

46. ***Project Organization.*** The Ministry of Finance is responsible for the overall implementation of the operation, and for reporting progress and coordinating actions among other concerned ministries and agencies.

Project Background

47. The Grant is the third balance of payments and budget support operation for the DRC, following the 2002 ERC and the 2004 Post-reunification Economic Recovery Credit (PRERC). While DRC has made major strides in the last few years in turning around its political institutions and strengthening its economic performance, challenges remain formidable. The transition period has been extended, and general elections are now planned in the first half of 2006. The new constitution was adopted by the Parliament in May 2005, and was put to a popular referendum in December 2005. The Government has launched several programs, including the Demobilization, Disarmament, and Reinsertion (DDR) program, and adopted various laws to promote good governance (civil servant conduct, anti-money laundering, anti-corruption, investment and labor codes, mining code, creation of commercial tribunals and a national arbitration center). Diagnostic work is being done in the judicial sector, and the legal and regulatory framework is being modernized and strengthened.

48. ***Bank Response and Strategy.*** The Bank's TSS is fully consistent with the Government's program of recovery and transition. The Grant complements previous IDA-financed projects focused on rehabilitation and reconstruction in the health, education, private sector development, and natural resources sectors.

49. ***Analytical Work.*** The operation draws on several assessments, including the Country Procurement Assessment (2004), Payroll Audit (2004), Education Sector Coun-

try Status Report (2004), Health Sector Country Status Report (2005), Country Financial Accountability Assessment (May 2005), Poverty Assessment (preliminary draft, June 2005), and the Institutional and Governance Review (first draft, June 2005).

50. A stand-alone forest policy AAA-ESW was undertaken by the Bank in collaboration with leading research centers (CIFOR, CIRAD), with networks of Congolese NGOs (CNONG-Conseil National des ONG du Congo; GTF-Groupe de Travail Forêts; REPEC-Réseau des Partenaires pour l'Environnement au Congo) and international environmental NGOs (WWF, WCS, AWF, CARE). This work also benefited from external reviews by other international NGOs. Its focus is on the adequacy of the Government's policy reform agenda and its implementation challenges. The final report now being finalized concludes that the Government agenda is adequate overall, but warns that it may not be implemented successfully in the absence of continued political support and external backing from development partners, especially the Bank, the International Monetary Fund, and the European Union.

Project Implementation

51. ***Project Supervision.*** The Ministry of Finance will implement the project. As a single tranche operation, the TSERO will not benefit from extensive supervision by the Bank. One notable exception is the support that the Bank will continue to offer in the field of forests. In this area, Bank experts will continue to monitor implementation of reforms in the framework of various initiatives in which the Bank is involved as well as in the preparation of a possible new forest sector operation. The chronology of the TSERO's key events is set out in Table 4 below.

Table 4. Key Events related to TSERO

Event	Date
Concept Review Meeting	March 30, 2005
PID to Infoshop	April 2005
Pre-appraisal mission	May 9-26, 2005
Decision Meeting	July 7, 2005
Updated PID received by Infoshop	July 2005
Appraisal Missions	July 11-19 and July 30-August 13, 2005
RVP sign-off (ROC to authorize to prepare for negotiations)	September 30, 2005
Negotiations	November 3, 2005
Board Approval	December 8, 2005
Signing of the Agreement	December 9, 2005
Effectiveness	December 27, 2005
Disbursement	December 29, 2005

Challenges During Project Implementation

52. The key risks for the operation are: (a) renewed conflict; (b) political risk; (c) a shortfall in external financing for 2005; and (d) the low implementation capacity of the Government. In addition to problems related to implementation capacity, the forest reforms supported by the project appear exposed to opposition by vested interests. In the absence of a specific public information and outreach effort both at the national and in-

ternational levels, the forest activities also appear to be exposed to a risk of misunderstanding, misinterpretation, and misrepresentation.

IV. OTHER ISSUES

53. The Request also refers to the first balance of payments and budget support operation, the three-tranche SDR 360.4 million (USD 450 million equivalent) ERC, which was approved by the Board on June 13, 2002. As a condition for the release of the USD 15 million floating tranche, the Government had to submit to the Parliament a Forest Code satisfactory to IDA in form and substance. The Government met this condition and the tranche was released in July 2003. The chronology of the ERC's key events is set out in Table 5 below.

**Table 5. Chronology of Events related to
ERC Operation – Credit 3660**

Step	Date
Concept review meeting:	January 31, 2002
Pre-appraisal missions	February-March 2002
PID prepared:	March 27, 2002
Regional Operations Committee:	April 8, 2002
RVP sign-off (ROC to authorize to prepare for negotiations):	April 8, 2002
Invitation to negotiate	April 25, 2002
Negotiations:	April 26-27 2002
Board approval:	June 13, 2002
Final PID to Infoshop	June 13, 2002
Signing of the Agreement:	June 28, 2002
Effectiveness:	July 3, 2002
Release of Forestry Tranche	February, 2003
Release of Mining sector Tranche	July, 2003
Supervision missions	Quarterly by sector/theme from July 2002 onwards

54. It should be noted that the environmental aspects of the ERC were governed by OD 8.60 on Adjustment Lending, under which structural adjustment operations are not subject to specific safeguards policies. The OD instead states:

“Analysis of adjustment programs also considers the implications for the environment, since sound environmental management is a key objective of the Bank's assistance to countries. To help prepare appropriate assistance programs, Bank staff should take into account the findings and recommendations of such reviews and identify linkages between the various reforms in the adjustment program and the environment.”

V. LESSONS LEARNED AND NEXT STEPS

55. *Importance of featuring natural resources prominently in the reform agenda at the time of re-engagement and using appropriate instruments to support implementa-*

tion. Management believes that placing natural resources management high in the Bank agenda at the time of re-engagement with DRC proved useful to avert misappropriation of forest resources during the period that followed reunification. This experience is in line with previous Bank experience which suggests that post conflict settings may offer a window of opportunity to address fundamental sector and governance reforms. By including forest issues in the ERC and EESRSP, Management gave a strong signal as to the extent of its engagement in natural resources especially as these relate to governance and poverty alleviation. The country team chose appropriately not to start with a self standing forest operation but rather to use other vehicles of support: policy lending to secure political backing for fundamental policy changes, and multipurpose lending and other initiatives to test the ground for further engagement.

56. ***Fragility of the reform process, institutional weakness and role of the Bank in strengthening the hand of reforms in post conflict countries.*** The reform process was slowed down, if not reversed, by the arrival of a new Minister, demonstrating the fragility of the change agenda. After initial support under ERC1 in 2002, the forest reform process was not featured in the following ERC2 operation. This hiatus made it possible for the opponents of reforms to challenge the new agenda, despite Presidential and broader government support. Only with TSERO/ERC3 in 2005 could this trend be reversed, and with the mobilization of the President and the entire Government in strengthening key reform measures such as the moratorium and the cancellation of non-compliant concessions. During this time, forest institutions remained weak and their capacity to ensure implementation of reforms on the ground limited. This begs the question of whether Management should have had a larger component in the EESRSP devoted to building the capacity of the Ministry of Environment rather than focusing on selected issues such as the zoning plan and the review of concessions.

57. ***Need for proactive information and outreach.*** Criticism from various groups outside the DRC demonstrates that the Bank needs to undertake more proactive efforts to inform interested Governments and NGOs. While Management saw the need to inform action through in-depth analytical work, it took a long time to disseminate the results of this work. Had Management implemented a more proactive communication strategy in-country and in on the international stage, including disseminating more aggressively the ESW after the November 2004 workshop, the confusion on Bank intentions, as demonstrated in the Request, perhaps could have been avoided.

58. ***Bank efforts to reach out to Indigenous Peoples.*** Management understood the importance of reaching out to Pygmy groups and taking their specific needs into account since the beginning of its engagement with DRC forest work. Given that the Bank had no forest sector projects on the ground, and that important forest areas were still inaccessible, this effort was necessarily restricted to policy dialogue and to contacts with stakeholders in Kinshasa. Beginning in 2003, the Bank stimulated the emergence of an open debate among all stakeholders on forest management. Along with other representatives of civil society, government and the private sector, Pygmy representatives participated in several meetings held in the country office, as well as in the videoconference with President Wolfensohn, and the Forest Forum in November 2004. The fact that Congolese Pygmies use the same language as Bantus and that their representatives speak French fa-

cilitated participation. A Pygmy representative was included in the newly created committee in charge of reviewing the draft forest implementation decrees, and the TORs for the Pilot Forest Zoning Plan placed a special emphasis on consultation with Pygmies and other forest dwellers. A more substantive dialogue on Pygmy issues started in 2004 with meetings and exchanges of correspondence between Bank staff stationed in Kinshasa and Pygmy representatives. More recently, in November 2005, the Bank team met with Pygmies directly in the field, in Béni and Mutsora. During these preliminary exchanges, Bank efforts were hampered by the difficulty in eliciting a unified response from the various interlocutors who claimed to represent the Pygmies. A more proactive outreach would have perhaps enabled the Bank to rely less on advocacy groups and, instead, establish more direct lines of communication with Pygmy leaders and communities. It is, however, unclear whether this would have actually been possible given the many competing demands on the Bank team and the difficulties of access which prevailed at the time of Bank re-engagement in DRC.

59. **Operations prepared under OP 8.50.** When projects are prepared under OP 8.50, safeguards preparation work deferred until project implementation should be rigorously supervised by the project team so that safeguards instruments are completed and disclosed in accordance with promised deadlines.

60. **Next Steps.** Bearing in mind the above lessons, Management will review the EA for Component 3, the RPF, and the ESMF for Components 4 and 5, provide comments to the Government and it is anticipated that the final draft document will be prepared and disclosed in country and in the InfoShop in February 2006. Management will follow up with a safeguards supervision mission to ensure that arrangements are in place to implement the EA, RPF and ESMF and will supervise their implementation at regular intervals.

61. Management in the Africa Region has already instituted a tracking system specifically for the safeguards of projects prepared under OP 8.50 to ensure that deadlines for completion are enforced.

62. Regarding forest sector work in DRC, Management plans to take the following steps:

- Consideration would be given to financing a multi-donor forest and environment sector operation that would strengthen institutions and provide the overall framework for other Bank-supported forest initiatives in DRC. At the same time, the dialogue on reforms will be continued with a view to enhancing the ownership of the reform agenda by Government and stakeholders. To this end, forest governance benchmarks would continue to be featured in future policy lending in order to strengthen the hand of the reformers and facilitate progress and continuity in the reform process.
- Establish a proactive forest information and outreach program at the country level and at the corporate level. This program would ensure that all relevant constituencies are consulted and kept informed and that issues such as those

raised by the Requesters can be addressed constructively within country level collaborative efforts.

- Establish more direct lines of communication with indigenous communities including Pygmies in the framework of ongoing and new relevant Bank operations.
- Ensure in particular that indigenous communities including Pygmies receive from future Bank operations social and economic benefits that are culturally appropriate, to the extent that they wish to do so, and that they are involved in monitoring indicators relevant to their development.
- Ensure that future Bank lending in the forest sector and other initiatives such as the zoning plan include measures that strengthen the legal and customary rights and preserve the cultural heritage of indigenous communities including the Pygmies. More specifically, these operations should help ensure that indigenous communities including Pygmies benefit from the innovations introduced by the new Forest Code with respect to community forests, sharing in forest revenues and social responsibility contracts to be agreed with private companies (*cahier de charges*).

VI. MANAGEMENT'S RESPONSE

63. Management believes that the Bank made every effort to apply its policies and procedures and to pursue concretely its mission statement in the context of the projects. Management recognizes that, with respect to the EESRSP, the Bank was not in full compliance with processing provisions of OP 4.01, and OD 4.20 should have been triggered during project preparation, even if the component in question, the PFZP, was subsequently dropped from the project before being started. Management has received the draft EA and is working with the Government to expedite review and disclosure. OD 4.20 is being triggered with respect to the Infrastructure Rehabilitation component of the EESRSP in light of the presence of a group of non-nomadic Pygmies identified in the draft EA. It should be noted that during the preparation of the projects cited in the Request, the Bank did anticipate social and environmental issues associated with the project, incorporated processes to address these issues, and supervised the project appropriately. Management believes that the Requesters' rights or interests have not been, nor will they be, directly and adversely affected by a failure of the Bank to implement its policies and procedures.

64. Management notes that, on substance, the same consensus that has been achieved with many local and international NGOs also exists with the Requesters, including on matters such as: the need to maintain the moratorium on new concessions; to conduct a truly participatory multi-purpose forest zoning; to regulate the restarting of industrial logging; and to simultaneously promote alternative models such as community management and the valorization of environmental services.

65. Management notes further that, on substance, the complaint focuses on an activity (pilot participatory forest zoning) that has not started in the field. The complaint is based on two hypothetical assumptions that prove to be unfounded (i.e., the Bank-supported zoning will not be participatory, and the Bank pushes for rapid allocation of new concessions). Indeed the TORs for the zoning activity emphasize local consultations, and the Bank's core advice to the Government since 2002 has been to set up and maintain a moratorium on new concessions. The Bank's forest work in DRC since 2002 proactively pursued the same objectives as those highlighted by the Requesters: protecting forest peoples' rights, enhancing public participation in forest management and opening the way to alternative uses of forests.

**ANNEX 1.
CLAIMS AND RESPONSES**

No.	Claim/Issue	Response
Environmental Assessment		
1.	<p>The EESRSP was classified as a Category B project.</p> <p>However, the type of management and, in the long term, the survival of the forests in the DRC, will depend on the forest zoning activity. Consequently, it may have a significant environmental and social impact, especially since a zoning plan is being prepared for all of the country's forests, the second largest tropical forest area in the world, inhabited primarily by indigenous Pygmy peoples who depend directly on these very forests for their survival.</p> <p>These two elements, that is, the announcement of a national zoning plan, and the existence of indigenous communities, are consistent with the criteria for environmental Category A outlined in Operational Policy 4.01 on Environmental Assessment, a policy implemented under the EESRSP. [...]</p> <p>The EESRSP therefore clearly falls under Category A.</p> <p>The case study published by the ARD in May 2003 supports the aforementioned view by highlighting the significant impacts that could be produced, from both an environmental and human perspective, of what the study refers to as the start of a logging boom.</p> <p>[D]ocuments prepared by the World Bank and the International Development Association (IDA) also raise the same alarm [...]. IDA stipulates, for example, that: "by March 31, 2008, the following economic management performance indicators should have been achieved: [...] at least ten new forest concessions should have been granted in accordance with the regulatory procedures set out in the Borrower's Forest Code of 2002."</p>	<p>Several interrelated issues are raised under Item 1.</p> <p>EA Classification</p> <p>The EESRSP was correctly classified as Category B at the time of concept review and at appraisal. An analysis of the five project components provides the background for Management's decision in this regard.</p> <p>(a) Component 1 - Balance of Payment Support - is a budget support type of activity and had it been a stand-alone project, would have been a budget support operation with no safeguards classification.</p> <p>(b) Component 2 - Institutional Strengthening - included the following sub-components: (a) support to the PSRP process, (b) support to forestry reforms, including preparation of a Pilot Forest Zoning Plan (PFZP) and groundwork for implementation of new law on forest concessions, (c) reunification and decentralization of public institutions; and (d) engineering and other studies leading to the extension of the Emergency Multi-Sector Rehabilitation and Reconstruction Project (EMRRP). Technical assistance operations for institutional strengthening are usually classified as Category C. Where such operations result in designs or plans that, when implemented, may have potential impacts, they may be given a classification higher than C, normally Category B. Category A would not have been appropriate for this component. While potentially sensitive according to OP 4.01, the PFZP was not expected to have widespread or adverse impacts because it was planned at a pilot scale (not on a national scale as indicated in the Request) and was part of a policy package aimed at halting illegal use of forests and promoting participatory conservation and sustainable management of forest resources involving all stakeholders, including the Pygmy communities. While an EA was not required, efforts were put into ensuring that the planning process would be sensitive to environmental and social impacts.</p> <p>(c) Components 3 - Infrastructure rehabilitation, 4 - Urban rehabilitation and 5 - Community empowerment - were all correctly classified as Category B. Their impacts would be expected to be site-specific; few if any of them were irreversible; and in most cases mitigatory measures could be designed more readily than for Category A projects (see OP 4.01 para 8(b)). The original design of these components called for no subprojects to be carried out in areas inhabited by Indigenous Peoples (see ISDS dated 4/22/2003 or 8/5/2003).</p> <p>Since the component with the highest classification determines the classification for the entire investment operation, EESRSP was placed in Category B. This classification is fully consistent with Bank-wide practice for projects supporting infrastructure rehabilitation and community-level improvements in service delivery. The preparation of a forest zoning plan and/or the presence of Indigenous Peoples in a portion of the territory to be covered by the zoning plan are not per se criteria that place a project in Category A automatically. A full EA was therefore not required; however, in view of the geographical extent of Component 3, the project team decided to have one prepared for that component to ensure that any environmental or social impacts not envisioned during project preparation would be identified and mitigated. An Environmental and Social Impact Management Framework (ESMF) was to be prepared for Components 4 and 5.</p>

No.	Claim/Issue	Response
		<p>Indigenous Peoples</p> <p>OP 4.01 does require the EA to address both the natural and social environment, and paragraph 3 specifically alludes to Indigenous Peoples and cultural property, with references to the respective operational policies that concern them. However, classification as Category A does not depend on the presence of Indigenous Peoples alone but on the potential for and nature of adverse impacts.</p> <p>Forest Zoning Plan</p> <p>Originally part of Component 2, the PFZP was dropped from EESRSP in July 2005. The PFZP was expected to absorb about one percent of EESRSP's total cost and cover about 2.7 percent of DRC and 4.6 percent of its forest area, but, in the end, no EESRSP funds were spent to support its preparation and implementation.</p> <p>Although the PFZP was dropped from the EESRSP, IDA did provide support for the preparation of the TORs for the PFZP through its collaborative program with FAO and trust fund resources. The PFZP is an important element of a Bank-supported Government strategy intended to: (a) identify and withdraw illegally held forest logging concessions (the majority of logging concessions); (b) institute a moratorium on the award of new concessions; (c) conduct a participatory multi-purpose forest zoning exercise to identify areas where environmental, demographic and socio-economic features make them more suitable for agriculture, various community-based uses, sustainable timber production, biodiversity conservation, or other non-extractive forest uses; (d) establish three year rolling plans so as to avoid a situation where excessively large forest areas are opened too quickly and without appropriate accompanying measures; and (e) propose new areas for biodiversity conservation or other forest non consumptive uses. The PFZP is fully described in the TORs, dated December 2004, that are attached to the present response (Annex 4). The following paragraphs summarize the key features of the effort as originally proposed.</p> <p>The focus area for the PFZP is the Lopori-Maringa-Wamba region. It was chosen because it covers areas with a large array of socio-economic conditions and potential forest uses. This area has also been chosen as a focus landscape under the Congo Basin Partnership, in which the African Wildlife Foundation (AWF) coordinates the efforts of other development partners and NGOs. The existence of a functional collaboration framework between the Government and NGOs and the perspective of expanding this collaboration, were important considerations at the time of choosing the focus area for the PFZP. The focus area is not normally reported as a core Pygmy area. While maps published by Bahuchet (1999) do not show Pygmies living in the Lopori-Maringa-Wamba, Jeff Dupain (AWF), Kjell Kuhne (Rainforest Foundation), and Kapupu Diwa Mutimanwa (National League of Pygmy Associations – LINAPYCO) confirm, without information as to their numbers, that Pygmies do live in this area. The socio-economic studies embedded in the pilot zoning activity are meant to answer that and other questions regarding the life and well-being of the Pygmies in the focus area.</p> <p>The PFZP is intended to pilot a participatory zoning exercise, and produce two main outputs: (a) a map of the focus area showing current land use and proposals on possible uses of forest lands in the focus area, as discussed with local stakeholders, authorities and communities; and (b) a simpler map showing only the current use of all DRC forests. In the focus area, the end result of the exercise would be an indicative zoning plan to be validated by a Steering Committee. Once validated by this Committee, the plan would propose indicative boundaries for three main types of forests: (a) biodiversity conservation forests; (b) production for-</p>

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		<p>ests; and (c) rural forests that would be reserved entirely for community uses or converted to non forest uses based on needs and preferences of rural communities. Prior to proposing the indicative plan to the Steering Committee, the consultant working on the PFZP would ascertain and report on claims and disagreements expressed by stakeholders and elicit feedback from central and local administrations, international and national NGOs, local communities, private sector, academic sector, and other actors.</p> <p>The boundaries proposed by the PFZP for biodiversity conservation forests and production forests would <i>not</i> be final. They would be examined, questioned, and confirmed or modified as and when the Government initiated action to create a protected area or a forest concession is a specific location. In line with Article 15 and 89 of the new Forest Code, an intensive local consultation process would take place at that time. These two articles state clearly that local people <i>must</i> be consulted prior to any allocation of production forests. All indicative proposals generated by the PFZP, as well as any other forest related initiative (logging, forest management etc) would have to demonstrate that due consultation with the Pygmies had taken place. The draft regulations on gazetting protected areas provide a good example of the participatory process that is envisaged.</p> <p>The TORs of the PFZP stress consultation as a means to systematically identify and help preserve the customary rights that local communities including Indigenous Peoples' groups (notably the Pygmies) enjoy over forests. As the TORs indicate, the PFZP was intended to stimulate an interactive process involving local populations, Congolese civil society, as well as International Development Partners, and it was to pay special attention to consultations with Pygmy groups, given their nomadic and semi-nomadic livelihoods as well as other unique social and cultural characteristics. The PFZP was also to help acquire a deep understanding of land tenure issues and local agricultural dynamics on the use of forests by various ethnic groups, including the Pygmies, customs/traditions regarding access to land, land law, and traditional users' rights.</p> <p>The reasons for dropping the PFZP were: (a) the team realized that the supervision arrangements under the EESRSP were unsuitable to support a zoning operation that was going to require intensive follow-up by the Bank and consensus-building by stakeholders, and that this activity would better fit within a more comprehensive forest sector operation; (b) the initial procurement delays and additional delays and interruptions likely to occur due to the forthcoming extended election process would leave little time to undertake and complete the PFZP satisfactorily under the EESRSP; and (c) the Minister of Environment was showing reluctance to collaborate with NGOs operating in the PFZP region—despite the fact that this had been agreed upon when preparing the TORs—and his commitment to the Bank-supported forest reform package was weakening.</p> <p>ARD Report</p> <p>See response under Item 8.</p> <p>Performance Indicators and Forest Concessions</p> <p>See response under item 5.</p>
2.	The World Bank has decided that OP 8.50 on Emergency Recovery Assistance should be applied to the EESRSP, indicating that all the other safeguard policies would apply only 12 months after the ef-	OP 4.01, normally applies to emergency recovery projects processed under OP 8.50, <i>Emergency Recovery Assistance</i> . However, paragraph 13 of OP 4.01 states that when compliance with any requirement of this policy would prevent the effective and timely achievement of the objectives of an emergency recovery project, the Bank may exempt the project

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	<p>fective date of the project, that is, in December 2004.</p> <p>OP 4.01 on Environmental Assessment, as well as OP 4.36 on Forests which was also implemented by the Bank and provides for the preparation of an environmental assessment, are therefore directly affected by this delay in implementation.</p> <p>However, almost two years to the day after the project was approved, the environmental assessment is still not available, despite the importance of this assessment to determine "the potential impact of the project on forests and/or the rights and welfare of local communities."</p>	<p>from such a requirement. The justification for any such exemption is recorded in the loan documents. In all cases, however, the Bank requires at a minimum that: (a) the extent to which the emergency was precipitated or exacerbated by inappropriate environmental practices be determined as part of the preparation of such projects; and (b) any necessary corrective measures be built into either the emergency project or a future lending operation.</p> <p>OP 4.01 thus provides some latitude for completion and disclosure of the safeguards instruments required for a project prepared under OP 8.50 and has been interpreted in this case to allow for EA preparation during its implementation. This is typically a period of between 6 and 12 months after project effectiveness. According to the legal agreement the EA and ESMF were to be completed 12 months after the date of effectiveness. Completion was delayed because of procurement issues. In this respect, Management has not complied with OP 4.01 but anticipates being in compliance by February 2006, when the EA and the ESMF, as well as a Resettlement Policy Framework required in accordance with OP 4.12, will have been completed and disseminated. The consultant submitted drafts of these three documents to the Government of DRC on December 23, 2005.</p> <p>In the meantime, and before the EA is completed, the Bank Task Team advised the Borrower to instruct the actors involved in the implementation of the EESRSP to implement the recommendations set forth in the EA issued previously under the EMRR, as these recommendations were designed for activities quite similar to the ones to be implemented under the EESRSP. EMRR EA documentation was transmitted to the implementation agency which confirmed, on March 16, 2005 that instructions were issued to:</p> <ul style="list-style-type: none"> • Include measures to prevent, mitigate, and offset any potential adverse impacts from Components 3, 4 and 5 in civil works contracts and require all relevant contractors to use safeguards instruments designed under an earlier project financing similar investments in comparable ecosystems -- the Emergency Multi-Sector Rehabilitation and Reconstruction Project (EMRRP); and • Request that the consultants monitoring and supervising the implementation of the civil works contracts (TecSult and Transtec) add environmental specialists to their teams. <p>OP 4.36 (Forests) is addressed in Item 9 of this Response.</p>
3.	<p>As far as we are concerned, the failure to implement OD 4.20, the classification of the EESRSP as a Category B project, and the failure to prepare the environmental assessment more than two years after the project was approved, do not appear to lay a solid foundation for zoning, an operation that is essential for the introduction of sustainable forest management that respects and benefits the local populations, including the indigenous Pygmy peoples.</p> <p>If zoning of these forests were to be carried out, as the Bank's current actions and failings appear to indicate, <i>without</i> consulting the indigenous peoples, <i>without</i> taking their interests into account, and <i>after</i> the</p>	<p>Regarding risks, the argument of the Requesters is based on the assumption that: (a) zoning would be carried out without consultation and without taking the needs of the Pygmies into account; and (b) after new concessions are allocated. These two assumptions are incorrect. As explained in Item 1 above, the PFZP was conceived as a participatory exercise that pays particular attention to the needs of the Pygmies. The moratorium on allocation of new concessions was established precisely to avoid hasty and improper allocation of new concessions.</p>

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	<p>new forest concessions have been allocated, this operation would result in:</p> <ol style="list-style-type: none"> 1. The violation of their right to occupy their ancestral lands; 2. The violation of the integrity of their traditional lands; 3. The violation of their right of access to their traditional lands and the resources found thereon; 4. The violation of the right to manage their forests and the resources located therein, in keeping with their traditional knowledge and practices; 5. The violation of their cultural and spiritual values. <p>These violations of interdependent rights, and the damage which is equally interdependent, would therefore lead to:</p> <ol style="list-style-type: none"> 1. The destruction and/or loss of their natural living environment; 2. The elimination of their means of subsistence; 3. An imposed, even forced, change to their lifestyle; 4. Serious social conflicts. <p>These negative impacts would further impoverish the poorest and most marginalized segments of the Congolese population, thereby jeopardizing all prospects for sustainable development.</p>	
Poverty Reduction		
4.	<p>We believe that this initial decision not to implement safeguard policies and procedures has had a significant negative impact on the principles and condition for developing the Forest Code, which currently constitutes the very foundation of the future management of Congolese forests. This decision has also affected government policy and World Bank activities, to the detriment of the Congolese people, and even more so, the indigenous Pygmy peoples.</p> <p>By failing to implement any safeguards, the World Bank, without any input from civil society or involvement of the indigenous communities, opted to hastily adopt a Congolese Forest Code that was based on the Forest Law it had developed in Cameroon in 1994. The adoption of a Cameroonian law for the indigenous peoples in the DRC is synonymous with a denial of their traditional rights, and the boundaries of their traditional territories. This failure to consider the interests of the local communities and indigenous peoples</p>	<p>Safeguards</p> <p>There was no decision not to implement safeguard policies. OD 8.60 under which the ERC was processed did not require implementation of safeguard policies. Forest use and conservation were the most important environmental issues addressed under the ERC.</p> <p>Forest Issues</p> <p>Items four and five address a number of intertwined issues concerning Bank-supported forest policies and reforms in DRC.</p> <p>For purposes of clarity, Management's response to Item 4 will address issues related to the Forest Code and the application to DRC of forest policies and legislation designed for Cameroon. Item 5 will address the issue of Bank support to DRC -- the concession policies, the role and scale of industrial logging, alternatives to logging, and the number of concessions awarded as an Indicator for EESRSP performance.</p> <p>Forest Code</p> <p>The preparation of the Code preceded the Bank's re-engagement in DRC in 2002. Initiated in 1988, the preparation of the Code was interrupted several times, before gaining momentum in the final 1998-2002 period. Preparation of the Code also benefited from support by FAO. Prior to parliamentary approval, the Code was discussed with various stakeholders in national workshops held in May and July 2000. The Bank commented upon a draft version of the Code in 2002. Its involvement</p>

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	<p>from the early stages of development of a new policy, and a new forestry legislation, resulted in numerous social conflicts in Cameroon that persist to this day.</p> <p>The current framework for the future management of the Congolese forests is based on a legislative text that clearly establishes an industrial logging system, thereby marginalizing local communities, and in no way recognizing the indigenous peoples or their specific needs.</p> <p>This approach is reflected in the World Bank's current forestry activities in the DRC, which have been implemented within the framework of various projects with a "forest" component, and are developed, using a foundation which, in the eyes of the people, lacks legitimacy and fails to address the concerns of the indigenous peoples and the issues related to the sustainable management of the Congolese forests, and to the development of their inhabitants. This is the case of the EESRSP, which is based on the fallacious principles of the Forest Code, and provides for the preparation of a forest zoning plan without safeguards, or without taking into account the interests of the indigenous peoples, either in theory or in principle.</p>	<p>helped strengthen the Code's provisions regarding transparency, protection of local people's rights, and alternative forest uses. The draft Code was submitted to the Parliament in August 2002 for consideration as part of the overall policy package supported by the first Economic Recovery Credit (ERC). The Forest Code was promulgated in August 2002 and widely publicized.</p> <p>Civil society, national and international NGOs, and Pygmy representatives participated in a Forest Forum held in November 2004. On this occasion, they agreed that the Code represents an important achievement towards improved forest management and sharing benefits with forest people, and that the biggest challenge now was to issue the necessary supporting regulations and to implement the Code's innovations on the ground. Reflecting the consensus surrounding the Code, several national and international NGOs sponsored its translation in local languages and helped disseminate the Code throughout the country.</p> <p>The Forest Code introduces dramatic positive innovations. The following, in particular, are worth noting:</p> <ul style="list-style-type: none"> ▪ Implementation of sustainable management plans including the protection of biodiversity, is mandatory in all production forests (Art. 71, 99, 100); ▪ Traditional users' rights, including those of Indigenous Peoples, are preserved in all production forests (Art. 44); ▪ Forty percent of forest area fees are to be transferred to decentralized administrative entities ("<i>Provinces</i>" and "<i>Territoires</i>", Art. 122); ▪ Forest companies have to agree with local communities on in-kind contributions to rural development ("<i>Cahiers des Charges</i>", Art. 89); ▪ Local communities are given the right to directly manage their own forests ("<i>concessions des communautés locales</i>", Art. 22); ▪ Forest consultative councils are to be set up at national and provincial levels; various types of protected areas should total 15 percent of the national territory (Art. 14); ▪ Future logging rights should be allocated through a transparent process following consultations with local communities (Art. 83, 15, 84); ▪ Provisions are made for new non-extractive uses of forests valorization of environmental services (Art. 72, 87, 96, 119). <p>Management believes the Forest Code is a good foundation for improving forest management, but that it needs to be complemented by an equally important Law on Nature Conservation covering protected areas, the drafting of which is well advanced. This Law is now being prepared with GEF-Bank support. The Bank's concerns regarding the Forest Code are focused on the Government's capacity develop, enact, and enforce the necessary implementation regulations, many of which are still lacking. The thrust of Bank advice in this respect is on the following main areas: (a) regulating strictly commercial and industrial use of forests; (b) clarifying the roles and mandates of central and local government and communities in forest management and allocation; (c) restricting the discretionary right of government to allocate forest estates while ensuring that forest rights allocation be done under transparent and fair processes and that no allocation take place unless preceded by consultation of local communities and forest dwelling populations; (d) clarifying revenue and benefit-sharing mechanisms among government and communities; (e) harmonizing the legal and regulatory framework, notably by reviewing existing laws and regulations that directly or indirectly have a bearing and impact on forestry activities, such as the existing laws on nature conservation, land tenure, and taxes, among others; and (f) recognizing explicitly customary rights of communities and forest dwelling populations.</p>

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		<p>Cameroon Forest Code and Applicability to DRC</p> <p>Management notes that Cameroon's and DRC's development challenges are profoundly different, including in the forest sector and that no attempt has been made to replicate policy from one country to the other.</p>
5.	<p>Our concerns about the World Bank's failings and negligence are heightened by the fact that its forestry sector operations in the DRC are a clear embodiment of the notion that development will come from industrial logging. [...] This rationale is also evident in the performance indicators of the "Forests" component of the EESRSP which refer only to the "number of new concessions attributed in a transparent manner." Therefore, an assessment of the success of the implementation of forestry reforms will apparently be based on these indicators only, without considering possibilities or risks such as the failure to consult indigenous peoples or a premature lifting of the moratorium, which will prevent the measured implementation of the various steps envisaged in the zoning plan.</p> <p>Moreover, the World Bank points out that the Congolese Forest Code is paving the way for revival of a sector that is key to economic growth and increased export revenues. According to the Bank, implementing forestry reforms throughout the country is aimed at creating "an environment for private sector-led growth."</p> <p>This objective is further articulated in the memoranda on forestry sector follow-up missions conducted by World Bank staff in the DRC, where it is clearly stated that "this new path [taken by the Forest Code] can be summarized as the reestablishment of a framework for promoting private investment and creating industrial value-added." The Bank's forestry specialists therefore predict a sixty or even hundred-fold increase in annual timber production, thereby attaining a production level of six to ten million m³ of timber per year. This production level, they predict, could be achieved from 60 million hectares of "permanent production forests." Please bear in mind that the DRC has a total of 80 million hectares of rainforest.</p> <p>Nevertheless, the limitations of this vision of development driven by industrial logging have been demonstrated in several countries, such as Cameroon, where this activity has caused numerous social conflicts and further impoverished the poorest</p>	<p>Bank Support to DRC in the Forest Sector</p> <p>Various statements in Items 1, 3, 4, 5, 7, 8 and 13 suggest that Bank support was driven by the desire to promote a rapid expansion in industrial logging operations, that the zoning plan was part of this strategy and that this has jeopardized or was going to jeopardize the interest of the Pygmies and the environment.</p> <p>This is not the case. Bank support to the DRC forestry sector is based on the Government's 2002 Forest Reform agenda. Presented in the form of a policy matrix and adopted by all major development partners as the foundation of their support to the forestry sector, the agenda lists measures aimed at protecting the resource base, disposing of the legacy of illicit forest appropriation and mismanagement, protecting forests from vested interests, strengthening the rights of the Congolese people, including forest dwellers, and requiring fiscal and environmental responsibility from the private sector. Bank support to this agenda is channeled through various Bank instruments including, but not limited to, the EESRSP. The Reform matrix and the list of Bank interventions in the sector are presented in tabular form in Annexes 5 and 2, respectively.</p> <p>Bank Supported Forest Concession Policies</p> <p>At the beginning of the Reform agenda efforts, the majority of Congolese forests were under logging contracts that had been awarded without consultation with local communities and without consideration for other possible forests uses, such as community forests and biodiversity conservation. Local communities had practically lost all their rights without any consultation or prior knowledge.</p> <p>The core of the Bank's advice to DRC since 2002 has been not to expand industrial forestry hastily and not to allocate new concessions. This has resulted in a decrease of areas under concessions (the scale of this decrease is unprecedented in Africa and worldwide); a review of the legal validity of the remaining concessions, and the establishment of a ban on issuing new concessions (moratorium) until good transparency and governance conditions are established (See Item 1).</p> <p>In 2002, the Government cancelled 163 concessions – bringing the total area under concessions from 45 million hectares to 20 million hectares – and it established a ban on new concession allocations. A review of the legality of the remaining concessions and others possibly awarded or exchanged illegally between 2002 and 2005 is now being conducted with a view to rescinding those not in compliance with prevailing legislation. Those found compliant will be transformed into long-term logging concessions, provided that the holders will develop management plans and meet other obligations involving consultation with local people on issues pertaining to concession boundaries, traditional uses and companies' social obligations.</p> <p>President Kabila signed an act in October 2005 which clarifies that: (a) the moratorium will remain in effect until a 3-year strategy on concession allocations is established in consultation with all concerned; (b) the legal review is completed; and (c) new transparent competitive procedures are established to award new concessions. Fourteen local NGOs have expressed support for these measures through a press release issued in the Congolese media, and the international NGO Greenpeace</p>

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	<p>segments of the population.</p> <p>Even if the World Bank has conceded that alternatives to industrial logging should be considered, we see no tangible evidence of this in its forestry sector operations in the DRC.</p>	<p>has specifically praised these measures on its website.</p> <p>Industrial Logging</p> <p>It is true that the Bank's work in DRC has been dominated by policy issues and interventions that focus on and deal forcefully with logging and with industry. This is not because the Bank is promoting its expansion; rather, it is trying to introduce good governance in a system that has suffered from corruption, and where the majority of the production forests were under some form of logging contract. Although there are some reputable companies involved, the majority of the contracts with the Government were with speculators. Tackling the issue of illegitimate claims on forest lands was a necessary step towards setting the stage for alternative and participatory uses of forests.</p> <p>The Bank recognizes the important environmental and economic roles of forests and promotes both biodiversity conservation and sustainable use. If carried out according to management plans and possibly monitored through certification schemes, forest industry can make significant contributions to the economy. Due to the low cost of job creation typical of the forest sector, forest industry can expand employment in rural areas, while maintaining some of the important environmental functions of the forests. In the case of DRC, however, many conditions must be met before forest industry can deliver adequate and sustainable benefits. To this end, the Bank is supporting reforms to improve transparency, participation and accountability in management of forest and forest-based revenues; in order to end speculation; promote socially, fiscally and environmentally responsible practices; and share forest revenues with local communities and the State.</p> <p>Management believes that over the next five years any growth of the forest sector in DRC will be more in terms of quality than scale. During this time DRC is not expected to exceed volumes that were produced or exported in the past (which are very modest, given the size and sustained production potential of the country). If properly managed, the actions engaged with Bank support should in the medium and long term help create a level playing field that should encourage investments, but only by companies that respect appropriate social, environmental and economic rules.</p> <p>Scale of Industrial Logging Operations</p> <p>The estimates of 60 million hectares of potentially productive forests and of 6-10 million m3 of potential production, quoted by the Requesters, are attributed to the Bank erroneously. These are Government estimates. According to Government reports, "the potential annual timber cut is estimated around 10 million m3 (and) is based on the forest inventory reports published in 1977." The Bank's estimates and recommendations to DRC can be found in a widely circulated draft ESW (see Item 9) which predicts: "with great caution, around 1-2 million m3 by the next 5-10 years, depending on a series of factors that are difficult to predict."</p> <p>Current production levels suggest that only between 100, 000 and 150,000 hectares are subject to industrial logging (light selective felling) every year in DRC. DRC has 145 million hectares of which 86 million hectares is rainforest. The existing concession contracts, totaling approximately 20 million hectares, are currently undergoing a legal review, after which only a portion of them will remain valid. The moratorium and the establishment of three year forest planning will further contribute to ensuring that forest concessions are not awarded in a hasty or unregulated manner.</p> <p>Based on policy discussions with the country and the Bank's ex-</p>

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		<p>changes with research institutions, international environmental NGOs, and other relevant policy analysts, it is only realistic to assume that market forces will lead to an increase of logging in at least some of its immense forest resources. Bank support is primarily intended to ensure that if and when logging were to expand it would do so observing a process that is compatible with environmental concerns and is socially and economically sustainable, transparent, and sensitive to forest communities and Indigenous Peoples' issues.</p> <p>Alternatives to Logging</p> <p>Bank support has assisted the Government in withdrawing a large number of forest logging concessions, and in creating a legal framework that facilitates alternative uses of the forests. The new Forest Code promotes community forestry, nature conservation, environmental services such as biological prospecting, conservation concessions and carbon storage. The Bank is also seeking to: promote non-consumptive uses of forest resources; collaborate with NGOs on conservation concessions; help establish the first biocarbon project in Central Africa; and prepare a joint WB/UNDP proposal for a new GEF regional project on an innovative/sustainable financing mechanism in the Congo Basin. Limited availability of market demand and of other financial resources to reward these non-consumptive uses is however a constraint to a significant scale-up of these efforts.</p> <p>Number of Concessions Awarded as an Indicator for EESRSP Performance</p> <p>As shown in the documentation of the more recent TSERO operation, the strict application of the moratorium on all concessions, rather than awarding of new ones, is one of the key indicators the Bank is using to measure forest sector performance in DRC.</p> <p>"The number of new concessions attributed in a transparent manner" quoted by the Requesters as a performance indicator for EESRSP does appear in the project documentation but it is not a good indicator of performance and does not reflect the full extent of Bank advice. In fact this indicator is not relevant to the EESRSP forest subcomponent activities (recruitment of an independent observer to assist in the legal review of old concessions; and pilot participatory forest zoning). Management will use the opportunity afforded by the Mid-term Review of the project in March 2006 to suggest to the Government that this indicator should be replaced with a more appropriate one.</p>
Indigenous Peoples		
6.	<p>The World Bank decided that Operational Directive 4.20 on Indigenous Peoples would not apply to EESRSP activities, by specifying that "the Project is not supposed to include activities for areas inhabited by indigenous peoples."</p> <p>The Bank's rationale is inconsistent with the prevailing situation.</p> <p>The Pygmies, who are the first inhabitants of the region, have for centuries, and even millennia, inhabited and moved around in the forests in the Equateur and Orientale provinces.</p> <p>These indigenous Pygmy peoples are the "people of the forest." Their existence,</p>	<p>OD 4.20 was not triggered because the design of the project as reviewed at concept stage did not reveal the existence of Pygmy communities in project-affected areas. OD 4.20 should have been triggered when the PFZP was added to the project later in the preparation process. The TORs for the forest zoning pilot of the EESRSP did provide for full consultation with the Pygmies in any case. The PFZP was dropped from the project before being implemented.</p> <p>Component 4 is limited to urban centers where Pygmies are unlikely to be found. None of the locations selected for Component 5 is in a Pygmy area.</p> <p>As Map IBRD 34464 shows, one of the roads to be rehabilitated in Component 3, RN4, traverses a region inhabited by Pygmies. Reports obtained by the project team during preparation suggested that the Pygmies lived in the forest remote from the road. Congolese authorities, including the Minister of Public Works and the Office of Routes, informed the team that there were no Pygmy-related issues along RN4. The areas</p>

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	<p>survival, cultural identity, and traditional knowledge are intimately linked to the forest, their element and life source which they revere.</p> <p>The World Bank has formulated some terms of reference (draft) in preparation for forest zoning in the DRC, provided for in the EESRSP in the Maringa-Lopori-Wamba corridor, which has been selected as the pilot region. Covering about 82,278km², this area surrounds the river basins of the Lopori and Maringa rivers, and extends to the Tshuapa river in the south, and the Ikela-Opala road in the east.</p> <p>The presence of indigenous Pygmy communities in these forests, which is acknowledged by the World Bank in the aforementioned terms of references, called for the application of O.D. 4.20, in order to put in place all the measures required for ensuring respect for rights, and consideration of the interests of the indigenous peoples, and avoid preparing a zoning plan that will have negative impacts on these populations.</p>	<p>were not accessible to Bank staff at the time – security conditions were dangerous and local administration was non-existent – and the team therefore could not verify in the field the presence or absence of Pygmies. That task was left for the EA. The draft of the EA for Component 3 that was received on December 23, 2005, reveals the presence of a community of sedentary Pygmies along the route at Mambasa and documents consultations held with them. (The draft EA also reports the presence of a camp of nomadic, forest-dwelling Pygmies in the vicinity, but points out that they are some distance away from RN4 and will not be affected by the rehabilitation work.) OD 4.20 is thus being triggered in response to this new information. Before road rehabilitation progresses as far as Mambasa, an Indigenous Peoples' Plan will be prepared that will contain an array of measures including free, prior, and informed consultation, to ensure that the Pygmies' interests are protected and that they receive social and economic benefits from the EESRSP that are culturally appropriate, to the extent that they wish to do so. The ISDS for the EESRSP will be updated at the time of EA disclosure to reflect this finding of the EA, the triggering of OD 4.20, and the planned delivery date of the Indigenous Peoples' Plan.</p>
7.	<p>We believe that this initial decision not to implement safeguard policies and procedures has had a significant negative impact on the principles and condition for developing the Forest Code, which currently constitutes the very foundation of the future management of Congolese forests. This decision has also affected government policy and World Bank activities, to the detriment of the Congolese people, and even more so, the indigenous Pygmy peoples.</p> <p>By failing to implement any safeguards, the World Bank, without any input from civil society or involvement of the indigenous communities, opted to hastily adopt a Congolese Forest Code that was based on the Forest Law it had developed in Cameroon in 1994. The adoption of a Cameroonian law for the indigenous peoples in the DRC is synonymous with a denial of their traditional rights, and the boundaries of their traditional territories. This failure to consider the interests of the local communities and indigenous peoples from the early stages of development of a new policy, and a new forestry legislation, resulted in numerous social conflicts in Cameroon that persist to this day.</p> <p>The current framework for the future management of the Congolese forests is</p>	<p>No decision was ever made not to implement safeguard policies. Moreover, the Code was prepared prior to Bank-DRC re-engagement and approved by Parliament in August 2002, while the EESRSP was approved by the Board only in September 2003.</p> <p>Regarding other issues, responses are provided under Items 1 and 4.</p>

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	<p>based on a legislative text that clearly establishes an industrial logging system, thereby marginalizing local communities, and in no way recognizing the indigenous peoples or their specific needs.</p> <p>This approach is reflected in the World Bank's current forestry activities in the DRC, which have been implemented within the framework of various projects with a "forest" component, and are developed, using a foundation which, in the eyes of the people, lacks legitimacy and fails to address the concerns of the indigenous peoples and the issues related to the sustainable management of the Congolese forests, and to the development of their inhabitants. This is the case of the EESRSP, which is based on the fallacious principles of the Forest Code, and provides for the preparation of a forest zoning plan without safeguards, or without taking into account the interests of the indigenous peoples, either in theory or in principle.</p>	
Forestry		
8.	<p>Our concerns about the World Bank's failings and negligence are heightened by the fact that its forestry sector operations in the DRC are a clear embodiment of the notion that development will come from industrial logging. The Bank supports the implementation of this idea, even though no regulations concerning the rights or interests of local communities, or even the protection of the environment, have been adopted.</p> <p>Within the framework of the EESRSP, the World Bank also makes provisions for laying the groundwork for the implementation of the new forest concession system. The implementation pace of this new system was recently accelerated, owing to the adoption of Presidential Decree No.05/116 of October 24, 2005, which establishes the methods for converting old forest titles into forest concession contracts, and extends the moratorium for the granting of logging concessions.</p> <p>We fear, therefore, that the moratorium will be lifted once this conversion operation has been completed, and result, in the short term, in the granting of new forest concessions, even though the zoning plan would not yet have been prepared. This theory is proving to be well-founded, as</p>	<p>Issues regarding the Bank's approach to forest management in DRC, the cancellation of old concessions, maintaining the moratorium, the potential contribution of timber industry to local development, risks related to a revival of the timber industry, and the promotion of non-industrial uses of forests, are addressed in Item 5.</p> <p style="text-align: center;">Compliance with UN Resolution 1457</p> <p>Security Council Resolution 1457 encourages "... international financial institutions... to assist in efforts to create appropriate national structures and institutions to control resources exploitation." Bank work supports the provision of this Resolution. Along with other international donors, the Bank has followed upon the UN Security Council 1457 and provided assistance to help the Government of DRC to establish appropriate national structures and institutions to control resources exploitation by improving the forest sector legal and regulatory framework and strengthen national institutions, particularly the forest administration and the NINC, as well as civil society organizations involved in the use and monitoring of forest sector. The Bank is also supporting The Bank is also supporting actions to protect forests from illegal exploitation, including setting up a third-party forest monitoring system. These actions are supportive of the recommendations of the Report of the Panel of Experts on the illegal exploitation of natural resources of DRC.</p> <p>ARD Report</p> <p>The 2003 ARD report cited in the Request warns that a return to peace could increase the scale of logging in Congo with adverse effects on the environment and Indigenous Peoples. Management agrees with this statement. The same warning was mentioned in several Bank findings as shown in mission reports, web-posted information and the draft ESW on forests. The ARD report does not include any criticism of the</p>

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	<p>the pilot zoning activity has not yet begun in the Equateur province. Should this theory be borne out, the rights and interests of the indigenous Pygmy peoples would be seriously undermined, and they would not have been consulted, and, therefore, not have been able to defend their rights to their traditional lands, which quite often cover wide areas, and are essential to their traditional nomadic practices and activities (itinerant).</p> <p>This threat is even more disturbing, owing to the Congolese government's current inability to control the situation on the ground. The dangers associated with a revival of the logging industry, without the assurance of the existence of functioning structures and mechanisms to monitor this sector in a transparent and effective way, were highlighted by the United Nations Security Council in resolution 1457, as well as in an ARD report that was widely disseminated before the EESRSP was approved by the Bank's Board of Executive Directors, and which states that:</p> <p><i>"Given governance weaknesses, sustained peace could unleash a period of intense logging in many parts of the Congo, wreaking havoc on the environment, reducing or destroying biodiversity and materially damaging life chances of human groups most dependent on forests for their survival, e.g., the Congo Pygmies."</i></p> <p>In light of this situation, we believe that the World Bank's failure to implement OD 4.20, despite the obvious presence of several Pygmy communities in the forests of the Equateur and Orientale provinces, could lead to material damage, seriously undermining the rights and interests of these peoples, particularly their rights to their traditional lands, the fundamental basis of their lifestyle which is generally nomadic, and of their means of subsistence.</p>	<p>Bank's work in this sector and makes no reference to safeguards.</p>
9.	<p>A new Forest Code was adopted in the DRC in August 2002. This new legislative instrument establishes the framework for governmental policy regarding forestry management in the DRC. The adoption of this text was the condition for the World Bank to release a US\$15 million tranche credit allocated to the "forestry sector" from a structural adjustment credit [Economic Recovery Credit] approved in May 2002.</p>	<p>The DRC Economic Recovery Credit (ERC) was designated a structural adjustment loan and was therefore prepared under OD 8.60, Adjustment Lending. OD 8.60 exempts structural adjustment operations from compliance with specific safeguards policies, instead requiring staff to "review the environmental policies and practices in the country." The design of adjustment programs should take into account the findings and recommendations of such reviews and identify linkages between the various reforms in the adjustment programs and the environment. The requisite environmental due diligence was carried out in the preparation of the ERC, and resulted among other things in the selection of forestry as a key sector for urgent emphasis in policy and governance reform.</p>

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	<p>The World Bank's decision to finance the drafting and adoption of the Forest Code within the framework of a structural adjustment credit involved, in accordance with the regulations for this type of credit, the failure to implement the Bank's safeguard policies and procedures regarding the environment, forests, and indigenous peoples.</p>	<p>As explained in Item 1, the preparation of the Forest Code preceded the Bank's re-engagement with the DRC. Following re-engagement, the Bank found the Code to be satisfactory overall and suggested improvements in the framework of its discussion of the forest sector reform agenda. Hence, the condition for releasing the floating tranche for the ERC, referred to the new Forest Code as follows: "[t]he Borrower has submitted to its Parliament the draft Forestry Code, in form and substance satisfactory to the Association." The Economic Recovery Credit (3660 DRC) was signed on June 28, 2002.</p> <p>The environmental due diligence for the ERC was not a one-time activity. The DRC Forest Reform agenda and its implications have been analyzed in further detail from an environmental, social, governance, and economic perspective in an analytical work prepared by the Bank in collaboration with local and international NGOs, private sector, donors and government. The draft ESW was extensively discussed in country and widely circulated through local NGO networks. It was distributed at the first international Forest Forum held in Kinshasa in November 2004. Leading research centers (CIFOR, CIRAD), three networks of local NGOs (CNONG-Conseil National des ONG du Congo; GTF-Groupe de Travail Forêts; REPEC-Réseau des Partenaires pour l'Environnement au Congo) and international environmental NGOs (WWF, WCS, AWF, CARE) have collaborated with the Bank in preparing and/or reviewing the report and expressed interest in co-authoring the ESW.</p>
Cultural Property		
10.	<p>If zoning of these forests were to be carried out, as the Bank's current actions and failings appear to indicate, without consulting the indigenous peoples, without taking their interests into account, and after the new forest concessions have been allocated, this operation would result in [...] the violation of their cultural and spiritual values.</p>	<p>The pilot zoning plan does not threaten physical cultural property. As noted above in Items 1 and 6, indigenous and other forest dwelling peoples would have been consulted had the zoning proceeded.</p>
Project Supervision		
11.	<p>Our concerns about the World Bank's failings and negligence are heightened by the fact that its forestry sector operations in the DRC are a clear embodiment of the notion that development will come from industrial logging. [...] This rationale is also evident in the performance indicators of the "Forests" component of the EESRSP which refer only to the "number of new concessions attributed in a transparent manner." Therefore, an assessment of the success of the implementation of forestry reforms will apparently be based on these indicators only, without considering possibilities or risks such as the failure to consult indigenous peoples or a premature lifting of the moratorium, which will prevent the measured implementation of the various steps envisaged in the zoning plan.</p>	<p>The Inspection Panel's Notice of Registration indicates that OP 13.05 may be among the policies with which the Bank has not complied. Management has not been able to determine from the Request any specific allegation concerning supervision, other than the concerns cited about the Bank's work in the forestry sector.</p> <p>Supervision of EESRSP</p> <p>Eight supervision missions were carried out between December 2003 and October 2005. The total time spent by Bank staff or consultants in the supervision of the operation was 48 expert weeks. Supervision covered primarily the areas of infrastructure and economics in addition to the key area of Bank fiduciary responsibility, procurement and financial management. The list of missions is provided in Annex 3.</p> <p>Supervision of Forest policy and other initiatives</p> <p>Given that a specific forest sector lending instrument has not yet been established, multipurpose operations such as the ERC, EESRSP, and TSERO operations have been used as vehicles for Bank interventions. These interventions have focused on analytical work, policy dialogue, studies, workshops, and field assessments. These activities have been followed up by frequent technical missions from headquarters, plus the financing of a full-time Kinshasa-based forest expert since November 2004. Bank expertise involved in this work includes: forest and biodiver-</p>

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		<p>sity, legal, social, safeguards, economist and communication. External expertise was mobilized from WWF, WCS and FAO. Four to five forest technical missions to DRC have taken place annually since 2002. Each mission typically has met Government agencies, local and international NGOs, the private sector, and donors. Field trips were undertaken in February 2002 (Lubumbashi and Bateke), September 2003 (Lissala-Bumba), March 2004 (Kisangani) and November 2005 (Goma, Béni). Since there was no investment in the field, these missions focused on deepening the Bank's understanding of forest management in post-conflict DRC to sharpen its policy dialogue and consider possible future investments. Dialogue with donors took place in the framework of the FAO and EC-led Forest Thematic Group. Dialogue with local NGOs became particularly active after late 2003 in the context of the preparation of the ESW. In November 2004, the Bank took the initiative to organize the first multi-stakeholders Forest Forum in DRC. The Bank team also engaged in dialogue with international partners not based in DRC, including meetings with Greenpeace, Global Witness and several British Members of Parliament, and interviews with international media, such as the BBC. The policy dialogue was framed by the ERC in 2002, by the drafting of the ESW in 2004 (the forest sector was not included in the second budget support operation in 2003), and by the TSERO (third budget support operation), starting April 2005.</p> <p>This "supervision work" has been instrumental in sustaining the Government's commitment to the moratorium and the legal review of old concessions during the particularly difficult transitional context from 2002-2006. It has helped renew presidential commitment to clean up all logging concessions that were awarded before and during the war without consulting local people and without considering other possible uses of the forests. This work also succeeded in forging consensus and partnerships with local and international NGOs, and the donor community, as exemplified by: (a) collaboration and interest in co-authoring the forest sector review ESW with leading local and international NGOs; (b) the unanimous support for the reform agenda expressed at the Forest Forum in November 2004; (c) the issuance of a joint donors letter to Government on the moratorium and the legal review in March 2005; (d) the preparation of a multi-donor forest trust fund by the European Commission, France and Belgium, administration of which will be entrusted to the Bank; (e) agreement with the US forest service to assist the Bank in supervising the pilot zoning (until this activity was dropped from the EESRSP); and (f) the involvement of three networks of local NGOs that are now leading the field work for the forest Poverty and Social Impact Assessment.</p>
Disclosure of Information		
12.	<p>Almost two years to the day after the project was approved, the environmental assessment is still not available, despite the importance of this assessment to determine "the potential impact of the project on forests and/or the rights and welfare of local communities."</p>	<p>Please see response under Item 2 regarding the delay in submitting the Environmental Assessment.</p>
13.	<p>We have learned of the submission, in the near future, to the World Bank's Board of Executive Directors of a new project entitled, "Transitional Support for Economic Recovery Credit", which should include a "forestry governance" component.</p> <p>To date, while we have not had access to the details of this component, we would</p>	<p>The TSERO Grant addresses poverty reduction in two important ways by: (a) contributing to the maintenance of a stable macro-economic framework conducive to economic growth through the implementation of the Government's program defined in the Interim PRSP (I-PSRP); and (b) supporting reforms in key sectors, of which forests is one, to reduce poverty.</p> <p>The TSERO is a development policy operation and, as such, is processed under OP 8.60, Development Policy Lending. OP 8.60 requires</p>

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	<p>like to take this opportunity to highlight in this request the risks and issues associated with this project, and with any other forest-related projects that may soon be submitted to the Board of Executive Directors.</p> <p>If such a project were to once again be approved as a credit that fails to implement the Bank's safeguard policies and procedures, and if this credit were to be disbursed without prior consideration of the interests of the indigenous peoples, without assessing the impact that it could have on both the environment and the inhabitants of the forests in the DRC, the World Bank would run the risk of further marginalizing the indigenous peoples, thereby compounding errors committed in the past, as was the case in Cameroon, reinforcing the industrial approach outlined in the Forest Code, and consequently, exacerbating the threats that the Congolese legislative framework poses to the rights and survival of the indigenous peoples.</p>	<p>staff to review environmental, social, and poverty implications of such operations prior to approval, to identify issues, and to explain how these issues are being managed. The ongoing forestry ESW described in Item 9 above, along with relevant inputs from stakeholders, is meant to serve this purpose, providing advice to the Government and the Bank on further developing DRC forest policies and institutions, notably by taking into account customary rights of local communities, including Indigenous Peoples.</p> <p>The team sent the TSERO Project Information Document (PID) to the Bank's InfoShop as required at the time of the project concept review meeting (March 2005), updated it at the time of the decision meeting (July 2005) and after the negotiations (November 2005). Management has verified that the PID is indeed available on the external website.</p> <p>The Program Document for the TSERO has been made public and is fully accessible at the Bank's InfoShop through the following link:http://web.worldbank.org/external/default/main?pagePK=64027221&piPK=64027220&theSitePK=349466&menuPK=349500&Projectid=P091990. The TSERO was approved by the Board on December 8, 2005. A corrigendum was issued prior to Board submission to correct an inaccuracy regarding the steps taken by the project team to ensure compliance with the environmental and social provision of OP 8.60.</p>
Other Issues – Correspondence		
14.	<p>On numerous occasions, we, the indigenous Pygmy organizations and Pygmy support organizations in the DRC, have tried unsuccessfully to obtain clarification of the Bank's true motives, as well as the above-mentioned failings. The Bank's DRC Country Office has remained unresponsive and uncooperative to remarks, observations, and recommendations humbly made by civil society organizations in an attempt to make the Bank fulfill its responsibilities by modifying its "local policy" on Congolese forests. This would involve considering the forests' economic, social, and cultural aspects and the rights of communities inhabiting them.</p> <p>Appeals of this nature are often launched to the World Bank, be they during formal or informal meetings between Congolese NGOs and certain members of staff of the World Bank in the DRC, or through the media, publications, letters, memoranda, etc.</p> <p>By way of illustration, we cite the following examples:</p>	<p>The events and correspondence listed in the Request illustrate the continued and substantive dialogue between the Bank and civil society. In this context, Management wishes to emphasize several specific elements of its outreach effort in the sector: (a) the preparation of the forest sector ESW (see Item 9) being finalized in close coordination with numerous partners including local NGOs; and (b) the organization of the one-day Forest Forum (also mentioned by the Requesters), which brought together over 100 participants. This workshop, chaired by Mr. Lamine Loum, former Prime Minister of Senegal and Chairman of the International Advisory Group for the Chad Cameroon Pipeline, concluded with a statement of support to the Bank-supported Government agenda in the sector (See Annex 6 – Concluding Remarks); and (c) a Poverty and Social Impact Assessment (PSIA) of forest reforms. The Bank is now conducting a PSIA on the impact of forest reforms on poverty alleviation (forest revenue shares to local entities, cahiers des charges, community forests). All fieldwork, including surveys and local consultation are being carried out in partnerships with local NGOs.</p> <p>First raised by the Rainforest Foundation, the concerns expressed by the Requesters have been taken extremely seriously by the Bank. They were discussed in a videoconference (VC) with the Bank's President, Mr. Wolfensohn in 2004 (see below) and have been closely followed by Management and staff. There has been a series of letters and meetings with local NGOs since early 2004, in particular at the occasion of every technical mission from headquarters. Almost every one of these (about 4-5 missions a year) met with local NGOs and civil society representatives in Kinshasa. Bank field missions met with local civil society groups in Kisangani (2004) and in Goma and Béni (2005). The December 2005 mission to Béni met with Pygmies in Mutsora and Béni, as well as with PAP (Programme d'Appui aux Pygmées).</p> <p>Dialogue was particularly active in 2004 during the preparation of the forest ESW. Drafts were made available to NGOs. This analytical work</p>

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		<p>highlighted a strong convergence of views between the Bank and most of the NGOs; indeed, three NGOs expressed interest in co-authoring the ESW (among which is the CNONG, Conseil National des ONG). This analytical work also resulted in the consensus that materialized at the Forest Forum in November 2004, when the Chairman's concluding remarks on priority reforms, the Forest Code, forest zoning, impact on poverty alleviation, and nature conservation were approved by all participants.</p>
	<p>1. Letter of February 12, 2004 and Meeting of February 23, 2004</p> <p>In their letter of February 12, 2004 more than 220 civil society organizations demanded that a number of organizations, including the World Bank, effectively and systematically consider the traditional and customary rights and practices of local communities in the process of drafting the implementation measures and in the development of the forest zoning plan.</p> <p>This appeal went unheeded by the World Bank which, failing to respond to any of the concerns in the letter signed by the organizations, chose to send them to the Ministry of the Environment, Waters and Forests, and to reaffirm, in the "arguments" advanced, its commitment to the pursuit of socio-economic development sustained by the logging industry.</p> <p>This focus on measures geared towards a swift revival of industrial logging confirmed to civil society that what was viewed by the then Resident Representative as "the deep convergence [...] between the concerns raised in [the civil society letter] and the objectives of the reforms advocated by [the Bank]" does not exist at all.</p> <p>Instead of emphasizing measures beginning with local communities, including indigenous peoples, and of promoting community-driven development for their benefit, the Bank has done its utmost to promote a plan which is doomed to failure. The Resident Representative himself demonstrates this failure in presenting as "specific measures" four steps which, in retrospect, had no tangible impact and were not observed. Evidence of this is seen today in the need to issue a presidential decree to put a stalled review of old forest land titles back on the front burner, and to ensure the enforcement of a moratorium which has never been observed.</p> <p>After sending their letter of February 12, civil society organizations held a national workshop in Kinshasa on February 23,</p>	<p>The Bank responded to the concerns listed in the February 12th letter on March 11, 2004. This response was well received by the recipients, with the exception of CENADEP, which sent a second letter on April 12, 2004. The Bank answered this letter in May 2004. The Government also followed up on the concerns raised by the NGO in their February letter, by including three more civil society representatives (including one Pygmy representative) in the Steering Committee in charge of reviewing the implementation decrees. (See Annex 11, Bibliography). In the meantime, the Bank team engaged in active dialogue on the ground with several civil society groups, including CENADEP. Meetings took place in Kinshasa during technical missions throughout 2004 and 2005. Discussions focused on the Bank's draft ESW. About 100 copies were made available to civil society groups including CNONG, GTF, REPEC and CENADEP to share with their members in the provinces and provide feedback.</p> <p>Local NGOs and representatives of the Pygmy populations also participated in the videoconference chaired by then Bank President James D. Wolfensohn in July 2004. This dialogue deepened NGO understanding of key measures of the forest agenda. Important NGO federations and NGOs such as CNONG, GTF and REPEC, expressed the will to collaborate with the Bank, co-author the ESW and undertake a PSIA of forest reforms. All four groups, including CENADEP, expressed support for the Government's reform agenda at the November 2004 Forest Forum; and 14 NGOs signed a statement in favor of the presidential decree in November 2005 (this decree was a condition for the Bank-supported TSERO).</p> <p>The analytical work conducted as part of the ESW highlighted a strong convergence of views between the Bank and most NGOs. The NGOs have acknowledged that current reforms are not "geared towards swift revival of the logging industry", that this revival is driven by peace and infrastructure, and that reforms aim to regulate logging, shelter forests from speculation, and materialize benefits for the poor.</p> <p>This consensus also was affirmed at the Forest Forum in November 2004.</p>

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	<p>2004 on the Forest Code and its implementing measures.</p> <p>The first day of the workshop was interrupted to allow several participants to attend a meeting convened by the World Bank Country Office. No notice was given. This unexpected interruption made it very difficult for work to proceed and for participants to use the short time available to successfully complete this crucial workshop. It was designed to inform civil society members and to define civil society objectives in the implementation of the Forest Code, which has disregarded civil society interests, as well as those of local communities and indigenous peoples.</p> <p>The civil society organizations were hoping that the World Bank's eagerness and insistence on having this February 23 meeting were a sign of impending, meaningful responses to their February 12 letter. This was not to be. Eventually, the participants returned to the workshop disappointed, after a meeting with the Bank's Resident Representative who was at pains to assure them that there was a convergence between civil society concerns and those of the Bank, without however responding to said concerns.</p>	
	<p>2. Videoconference of July 8, 2004</p> <p>During a videoconference held on July 8, 2004 at the request of the Rainforest Foundation, representatives of the indigenous Pygmy peoples reminded the President of the World Bank, Mr. James Wolfensohn, of the existence of forest-dependent and forest-inhabiting Pygmy communities in the Equateur province, and their fears that the social, cultural, and economic interests of these populations were not being considered in the preparation of the zoning plan.</p> <p>In his response, the World Bank President promised to personally follow up the matter and declared: "...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 bet-</p>	<p>This VC brought together RFF (Rainforest Foundation), WWF (World Wide Fund for Nature), WCS (Wildlife Conservation Society), AWF (African Wildlife Foundation), Greenpeace, CIFOR (International Center for Forest Research), and a number of local NGOs. The transcript of the VC is available. Most participants recognized that the Bank is playing a positive role in the DRC forest sector. Some of the participating NGOs expressed concern that the Bank would not go all the way in achieving certain objectives, such as sustaining the Government commitment for the moratorium or combating illegal logging. At the end of the VC, the Country Director offered to organize the multi-stakeholders Forest Forum in Kinshasa. (See Annex 11, Bibliography)</p> <p>A specific recommendation made during this VC focused on exploring community-based forest management as an alternative to industrial logging. This suggestion fits well with both the new Forest Code and the Bank's work outlined under item 5.</p>

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	<p>ter path in the DRC.”</p> <p>The videoconference was primarily held in English and, in the absence of interpreters, the DRC participants were not able to fully understand the discussions.</p> <p>In spite of it all, the declarations of the President of the World Bank at this videoconference briefly raised hopes that there would be a change in the Bank’s “local policy”. After all, Mr. Wolfensohn had shown his commitment to broad-based consultations with local populations and had undertaken to personally follow up matters relating to the forestry sector in the DRC.</p> <p>However, we heard nothing further from Mr. Wolfensohn after the videoconference and subsequent interaction with the Country Office in Kinshasa has shown no sign of openness, and provided no information or substantive response to our concerns.</p>	
	<p>3. October 2004 Meeting of indigenous Pygmy organizations of the DRC</p> <p>In October 2004, the indigenous Pygmy organizations of the DRC, in collaboration with their partner, Minority Rights Group International (MRG International), invited the World Bank to a meeting that they had organized at the Memling hotel in Kinshasa. Not only did the Bank not deign to send a representative to this meeting, but it held another meeting in the same hotel, in a room less than five meters away from the room where the meeting organized by the indigenous Pygmy organizations and to which the Bank had been invited, was being held.</p> <p>Since the World Bank had not furnished any explanation for its absence, or tendered an apology for its failure to respond to the invitation to the meeting, the aforementioned organizations concluded that the representatives of the World Bank in the DRC had no regard for them.</p>	<p>The Bank would have liked to participate in this meeting. However the Country Manager could not attend because he had committed to participate in another meeting held the same day at the same time in the same hotel. At that time, the Kinshasa Office was not yet staffed with an expert in the field of forests.</p> <p>On June 6, 2005 the Bank Country Office received a letter from Pygmy representatives, dated February 18, 2005. In its response dated July 5, 2005, the Bank Country Manager addressed the points raised about this issue (see Annex 7). He explained that, although the Bank was not able to attend this particular workshop, it is open to dialogue with the Pymies and Pymies’ representatives.</p>
	<p>4. Informal Meeting with Mr. Debroux</p> <p>After the Hotel Memling meeting, delegates of the indigenous Pygmy organizations had informal discussions with Mr. Debroux, the Bank’s Forestry Specialist, clearly explaining to him their concerns about the zoning plan and the taking into account of the rights and interests of indigenous Pygmy communities in this op-</p>	<p>During this meeting, Bank staff and Pygmy representatives identified a series of shared views, including the need to: maintain the moratorium set in 2002; review the legality of old concessions and rescind all invalid ones; launch participatory forest zoning; prepare the Forest Code’s implementation decrees; and start implementing the innovations of the new Forest Code in the field. This convergence of views is shared with many other local non-Pygmy NGOs. (See Annex 8, Local NGOs’ declaration in November 2005 in support of the presidential decree).</p>

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	<p>eration.</p> <p>Mr. Debroux reaffirmed that there was convergence between the concerns of the World Bank and those of the local Congolese forestry communities, still without precisely saying what this convergence was.</p> <p>This meeting had not been requested by Mr. Debroux, but Mr. Bobbia of CENADEP (National Center for Development and Popular Participation) who had asked that representatives of indigenous Pygmy organizations be allowed to accompany him to the meeting.</p>	<p>Also during the meeting, Bank staff confirmed that the TORs for the pilot zoning emphasized local consultations. The Bank team has met with CENADEP at every technical mission since early 2004. The last meeting with Mr. Bobbia, Coordinator of CENADEP, took place in Kinshasa in November 2005, where Mr. Bobbia acknowledged the soundness of the (Bank-supported) presidential decree of October 2005 on the moratorium and the legal review.</p>
	<p>5. Forest Forum of November 13, 2004</p> <p>In November 2004, a Forest Forum was held in Kinshasa. This was actually the only outcome of the "exchange" with the World Bank President.</p> <p>However, from the beginning this Forum only brought together civil society organizations from Kinshasa. We had to exert considerable pressure on the World Bank, with the support of the Ministry of the Environment, Waters and Forests, to allow NGOs from the provinces to participate at the last minute.</p> <p>On this occasion, local and international NGOs called for strict observance of the moratorium on the allocation of new logging concessions, until certain stringent conditions had been met. The international NGOs also conveyed our concerns by calling for the involvement of local communities "in the development of the zoning plan," in the spirit of free and informed prior consent.</p> <p>The sole indigenous peoples' representative invited to this meeting was able to raise only one question, pertaining to the compensation of Pygmies evicted from the Kahuzi Biega National Park. The question was left unanswered.</p> <p>Finally, no report was produced at the end of the Forum. As far as we are concerned, this is evidence of the World Bank's lack of interest in the rights of local communities and indigenous Pygmy peoples in the DRC, and the role they play in sustainable forest management.</p>	<p>During the Forest Forum, consensus emerged among all participants on key elements of the reform program (see Annex 11, Bibliography).</p> <p>The organization of the Forest Forum combined representation of various groups of actors and had a certain number of logistical constraints. The principle was that civil society was allocated a number of seats in the room, and would co-opt their representatives. No distinction was made based on geographic origin of NGOs.</p> <p>Local and international NGOs called for a strict respect of the moratorium, as the Bank has done since 2002. The centrality of the moratorium in the Bank's dialogue with the Government is reflected in the TSERO conditions, the Bank's main instrument for all sectors policy dialogue in DRC.</p> <p>The Forum brought together more than 100 participants and everyone was allowed to speak during the Forum, the only constraint being time. The question on Kahuzi-Biega was not directed to the Bank, which has no activity in this area (Kahuzi-Biega is a national park that has been supported by German cooperation agencies for at least the last decade, and, therefore, does not fall among the Bank's proposed GEF projects).</p> <p>The Forum's Report is the Chairman's concluding remarks, which were approved by acclamation by all participants at the end of the Forum. This is a public document.</p>
	<p>6. Meeting of February 8, 2005</p> <p>Madame MULEY, Mr. KAPUPU, and Mr.</p>	<p>Kandi Shungu, the Forestry Program Assistant, and Louise Engulu,</p>

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	<p>BONKONO, representatives of the indigenous peoples, as well as Ms. KANDI SHUNGU, Forest Program Assistant, and Ms. ENGULU, Communications Officer, both of the World Bank Office in Kinshasa, attended the February 8, 2005 meeting.</p> <p>As with other meetings convened by the World Bank, this one came up at the last minute - the day before a workshop for indigenous Pygmy organizations in Goma. There was no agenda, nor did the meeting yield any information or a specific commitment on the part of the Bank to take the interests of the indigenous peoples of the DRC into account.</p>	<p>Communications Officer, attended the meeting. The purpose of the meeting was to prepare for a meeting between representatives of the Pygmies and the Country Manager in the framework of an outreach initiative called "Dialogue Banque." The theme that dominated the meeting was which group could legitimately represent the Pygmies. Accusations by various representatives were exchanged at this meeting. The meeting ended with the Bank encouraging the Pygmy representatives to work more closely together in the interest of Pygmies' communities. The planned meeting with the Country Manager could not be held at that time.</p>
<p>7. Meeting of July 21, 2005</p>	<p>This meeting was held at the World Bank Country Office in Kinshasa. It specifically addressed the EESRSP and was chaired by Mr. Devictor, Task Team Leader. The indigenous Pygmy organizations were not invited, despite the impact this project could have on indigenous populations in the DRC.</p> <p>Nevertheless, civil society organizations tried to air our concerns, particularly those related to the zoning activities. However, the representatives were met with the refusal of Mr. Devictor to respond to any questions related to the "Forests" component of the EESRSP, this being, according to him, too "sensitive" a subject in the DRC. However, he was asked one question with regard to considering the interests of indigenous peoples in the Equateur province, where the Bank-financed pilot zoning plan is to be carried out. Mr. Devictor then proceeded to ask the questioner why he was worried about Pygmies, when thousands of children were starving to death in the Equateur province!</p> <p>All of these steps failed to elicit a meaningful response to the concerns raised and recommendations put forward by indigenous Pygmy organizations or by civil society in general.</p>	<p>The meeting was not about the EESRSP, but about a newly proposed Bank operation entitled "Emergency Living Conditions Improvement Support Project", which is not expected to be carried out in Pygmy-inhabited areas. One of the participants, Mr. Bobbia, CENADEP, asked about the zoning plan and the Bank's senior country officer, Mr. Devictor, answered that this had been dropped from the project for which he was responsible. Mr. Bobbia further asked more questions related to the welfare of Pygmies in relation to the EESRSP and the new project. In his response, Mr. Devictor indicated that the Bank was very concerned with the welfare of the Pygmies and extremely careful to ensure that Indigenous Peoples' interests are not undermined directly or indirectly by Bank-supported projects. At the same time, he emphasized that not only the Pygmies, but the vast majority of the Congolese population were poor and living in abject conditions, and that the Bank needed to take into account the needs of all people in the DRC. Mr. Bobbia subsequently left the meeting. Feedback to the Bank by the meeting participants about the discussions was very positive.</p>
	<p>Because of this and as a last resort, we sent a letter to the World Bank dated February 18, 2005.</p> <p>Response of the World Bank Country Office to our last request</p> <p>The World Bank's response dated July 5, 2005, received on September 21, 2005, when a representative of an indigenous</p>	<p>The letter dated February 18, 2005 was received at the Bank Country Office on June 6, 2005. The Bank's response was sent on July 5, 2005. As stated above, and in keeping with the spirit of the February 8 meeting, the Country Manager reiterated his willingness to maintain a dialogue</p>

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	<p>Pygmy organization participated in events associated with the World Bank's annual meetings in Washington, has unfortunately not addressed the concerns of the indigenous Pygmy peoples.</p> <p>The Resident Representative sent us back to the Ministry of Planning to obtain more information on the precise nature of the World Bank's projects, did not provide us with any information on our recommendations, and put a new spin on the situation by pointing out the difficulties he had in communicating with the indigenous Pygmy organizations in the provinces, apparently suggesting that the Pygmy organizations should travel if they wanted to be heard.</p>	<p>with widely-recognized Pygmy representatives. He also clarified that no Bank-supported pilot zoning had ever started in the field, and that any possible dissatisfaction from the Pygmies could not be attributed to the Bank's program. He emphasized the innovations of the new Forest Code in terms of protection of forest dwellers' traditional rights and the Bank's willingness to help implement these innovations in the field.</p> <p>Regarding Pygmy representation, World Bank President Paul Wolfowitz received a letter from the National League of Pygmy Associations (LINAPYCO) dated September 2005, whereby LINAPYCO (see Annex 9) illustrated the complex issue of legitimacy of various groups speaking on behalf of the Pygmies and indicated that various initiatives taken by the Rainforest Foundation did not represent the views of and were contrary to the interest of the pygmies.</p> <p>In line with its letter of July 5, 2005, the Bank undertook a field trip and met with Pygmy groups in Mutsora and Ndoyi in November 2005, as well as with Pygmy Support Program (PAP) in Béni. Pygmy groups emphasized their willingness to cooperate with the Bank, they raised no criticism and thanked the Bank for the infrastructure rehabilitation it is supporting. The Bank confirmed that any Bank-supported forest or biodiversity project in this area will entail components specifically aimed at improving the Pygmies' living conditions and securing their traditional rights. In Béni, discussion with the PAP coordinator and his team was along the same lines. No criticism was raised, and PAP emphasized its willingness to cooperate.</p>

**ANNEX 2
BANK SUPPORT OF FOREST AND NATURE CONSERVATION IN DRC**

Support	Status
ERC1 - Forest tranche of \$15 million. One condition: submission of the draft code to the assembly. No sector investment.	Status: Budget support disbursed in November 2002. No sector investment
ESSD trust fund (TF051382) - \$300,000. Studies and workshops. No physical investment.	Status: Activities completed and resources disbursed. Trust Fund closed. No investment.
Fonds d'Urgence multibailleurs – approx. \$500,000 in support of preparation of a national forest and conservation program, dissemination of the forest code, and field assessments.	Status: Initial set of activities completed satisfactorily; and resources disbursed. Process interrupted in 2004 when new Minister of Environment dismissed the Program coordination team. No physical investment.
PMURR – \$350,000 provision for a forest sector institutional review.	Status: Study not started yet.
EESRSP – Component 2 of the project contained a forest subcomponent of \$3 million, of which approx \$0.8 million for independent expert in legal review (underway); and \$2.2 million for pilot zoning (dropped). No physical investment.	Status: \$0.8 million committed for independent observer to legal review (underway). Discussion underway with Government on the use of the \$2.2 million that were freed by the dropping of the PFZP – will be subject to socio-environmental impact assessment in any case.
GEF – \$10 million full project under preparation for national parks. \$280,000 preparation funds (PDFB) mobilized in September 2004. Studies, consultations and field assessments.	Status: Preparatory studies and consultations underway by ICCN. Social and environmental impact assessment scheduled first half 2006. No physical investments underway.
Bio-Carbon – The Bank's Bio-Carbon Fund would purchase Emission Reduction Credits generated by a 3,000 hectare afforestation project on the Bateke highlands.	Status: In preparation. Socio-environmental impact assessment scheduled in first quarter 2006. No physical investment underway.
Multi-donor Forest Trust Fund (TF070431) - approx. \$4 million in preparation. Technical assistance to improve forest governance. Will be subject to a socio-environmental impact assessment before any activity starts.	Status: In preparation with EC, Belgium and France. Social and environmental impact assessment scheduled early 2006. No physical investment underway.
ESW – The Forest Sector Review was prepared in 2004 in collaboration with CIFOR, CIRAD, WWF, WCS, CARE, AWF, GTF, CNONG and REPEC (who expressed interest to co-author). Draft distributed at the 2004 Forest Forum	Status: Final draft available in French. Translation underway. Formal publication scheduled first semester 2006.
TSERO – Third budget support operation. Single-tranche development policy operation. Contains two forest related conditions; and five indicators of progress. No sector investment.	Status: The two forest-related conditions were met in November 2005. Other sectors' conditions met as well. Disbursed. No sector investment.
PSIA – Forest Poverty and Social Impact Assessment to measure the impact of forest reforms on poverty. Field work is entrusted to three local NGOs (GTF, CNONG, REPEC) with support by the Belgian Poverty Reduction Trust Fund (BPRP) in an amount of \$100,000.	Status: Field work underway (local consultations, data collection) by local NGOs.
AFLEG Trust Fund - \$100,000 mobilized to pilot a third-party monitor to assist the forest department in detecting illegal logging and disseminating information on forest controls and penalties. No physical investments.	Status: TOR under discussion with Ministry of Environment. Assignment likely to be entrusted to an experienced international NGO

ANNEX 3
EESRSP SUPERVISION MISSIONS

Date	Team
<p>December 2003: First mission. Held in Paris during donor conference. Launching of the project with PIU staff</p>	<p>Bank Team: team leader, transport specialist, implementation specialist</p>
<p>April 2004: General supervision. 2 weeks seminar with the "Office des Routes" to prepare RN2 and RN4 survey</p>	<p>Bank Team: team leader, transport specialists (2), financial specialist, procurement specialist</p>
<p>May 2004: Site visit (Goma, Bukavu, Kisangani, Kindu) to set up activities under the urban rehabilitation component</p>	<p>Bank consultant</p>
<p>August 2004: General supervision. Launch workshop with implementation agency (urban rehabilitation); review of EA ToRs; review of BCECO activities</p>	<p>Bank Team: team leader, transport specialist, financial specialist, implementation specialist, procurement specialist, economist</p>
<p>November 2004: General supervision</p>	<p>Bank Team: team leader, transport specialist, financial specialist, procurement specialist, economist</p>
<p>February 2005: Mission held in WDC with PIU and BCECO staff following PUAACV negotiation. General supervision</p>	<p>Bank Team: team leader, transport specialists, procurement specialist</p>
<p>June 2005: Audit of activities financed under component 4 urban rehabilitation. Site visit of Bukavu, Goma, Kisangani and Kindu</p>	<p>Bank consultant</p>
<p>July 2005: General review of project. Meeting with all ministries involved in institutional building. Field visit Goma, Kisangani, Mbuji-Mayi. Seminars with implementation agencies. Seminar with BCECO (procurement matters and review of the report of the consultant -see June 2005 mission above)</p>	<p>Bank Team: team leader, transport specialists (2), financial specialist, procurement specialist, economist</p>
<p>October 2005: Site visit Kisangani RN4, Goma, Bmuji-Mayi RN2, Matadi RN1</p>	<p>Bank Team: team leader, transport specialist, financial specialist</p>

ANNEX 5
MATRIX OF THE FOREST REFORM AGENDA*
PRIORITY AGENDA FOR THE RELAUNCH OF THE FOREST SECTOR – MEDIUM TERM

CONTENT OF MEASURES	PROGRESS REALIZED / NEXT STEPS / SCHEDULE / RESPONSIBILITY	REMARKS, PRECISIONS, POTENTIAL FUNDING
BUILDING A LEGAL AND REGULATORY FRAMEWORK		
<p>Adoption of the new forest law. Contains innovations to promote a clear framework for access to resources, for sustainable forest management, for the participation of rural communities and for the improved efficiency of public institutions.</p>	<p>OK. Law voted by Parliament and promulgated by the President of the Republic on August 29, 2002. The Law has been published in the Official Journal.</p>	<p>Vulgarization of the law ongoing. Unique vulgarization materials are being prepared by MINENV with the assistance of FAO and NGO's. Vulgarization will be carried out in parallel with the workshops on the National Forest and Conservation Program (PNFoCo) and with the consultations on the application decrees.</p>
<p>Preparation of application decrees. The implementation of the forest law requires the adoption, in consultation with all parties, of application texts of which the most important concern: conversion of ancient concession contracts, new regulation on sale by auction, gazettelement/classification procedures, community forestry, management standards, the amount and the recovery of forestry taxes, etc.</p>	<p>MINENV - Work in progress. Decree on conversion signed on July 2nd, 2004.</p> <ul style="list-style-type: none"> • Submission to the Steering Committee of the other decrees under preparation – September 2004. • Carrying out provincial consultations on the decrees simultaneously with the vulgarization of the new law. • Revise if needed the adopted decrees before the setting up of the Steering Committee. 	<p>Support by the TCP project for the consultations, the elaboration and revision of the principal decrees. The Steering Committee has been enlarged with three additional NGOs in September 2003. Decrees on contract types, contract specification standards, and on exploitation already discussed in workshops.</p>
<p>Reexamination of the legislation on nature conservation and hunting. As with the forest code, this old legislation needs to be updated to integrate modern principles of participatory management, of biodiversity conservation outside of protected areas, of valorization of environmental services, and international conventions.</p>	<p>MINENV-ICCN-DFC. Analysis of existing legislation in progress.</p>	
NATIONAL FOREST SECTOR DEVELOPMENT AND INSTITUTIONAL STRENGTHENING PROGRAM		
<p>Preparation of a National Forest and Nature Conservation Program. This program will be a coherent framework for all interventions in the sector and over the entire country. It will be the instrument for the implementation of the forest law, and will be executed as much as possible through the perennial structures of the administration and through civil society structures. Cut into annual phases, it will be divided in a work program per province. The program is spun around 5 components: (a) institutional strengthening; (b) land/territorial management; (c) sustainable management and trade; (d) community forestry; (e) nature conservation.</p>	<p>MINENV – Draft document PNFoCo available and consultation in the provinces initiated in September 2003.</p> <ul style="list-style-type: none"> • Redefine the work program for the PNFoCo cell for 2004-2005 – September 2004. • Workshop on the draft document of the PNFoCo program – October 2004. 	<p>Re-launching consultations with development partners and civil society. Build multi-actor thematic groups for each component of the PNFoCo.</p>
<p>Institutional Review – Design of a capacity building program. This review will examine all of the institutions in the forest and environment sector in</p>	<p>Recruitment of consultant in progress.</p>	<p>Financing jointly by WB, EU and SCAC. The review will take 6-8 months. This re-</p>

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<p>order to clarify their mandate and to prepare their strengthening, and by focusing them on the essential roles of the public services. A national institutional strengthening program will be proposed so as to provide these institutions with the capacity to apply in the field the national policies as expressed in the new law. This study will be carried out with a participatory approach.</p>		<p>view will build the foundation for a complete capacity building program, that could be supported by all donors.</p>
<p>PROGRESSIVE SET-UP OF A NATIONAL ZONING PLAN</p> <p>Establishment of an indicative national land use plan. This land use plan should propose 'as an indication' a division of the forests into three broad categories corresponding to the following priority objectives: (a) rural development; (b) sustainable management; and (c) nature conservation. This plan will project on a map the judicial categories. It will be prepared on the basis of a participatory process and supported by local consultations.</p>	<p>MINENV/JCCN</p> <ul style="list-style-type: none"> • MINENV/BECECO/UCOP – Recruitment of the technical assistant. • Re-activation of the inter-ministerial committee on territorial management - October 2004. • Conclusion of an MOU between MINENV –AWF– CARE – October 2004. 	<p>The pilot zone corresponds to the Lopotri-Maringa landscape of CBFP. An MOU is in preparation between MINENV and AWF and CARE to ensure synergy of activities on the ground.</p>
<p>Progressive definition of the exact limits of the permanent forest domain. On the basis of the indicative land use plan, the Government will organize public consultations with local communities so as to define the exact limits of the sustainable forest management domain and the classified conservation domain. The final limits of each concession will be defined in classification decrees that will transform, piece by piece, the indicative land use plan in a exactly defined land use plan.</p>	<p>MINENV, other Ministries.</p> <ul style="list-style-type: none"> • Decrees on classification procedures – December 2004 • Conduct local consultations to define the limits of concessions that might be put up for auction. 	<p>Prioritize local consultations as the central part of the procedure. Locate the concessions eligible for conversion and those to be put up for auction.</p>
<p>CONVERSION AND AUCTIONING OF LOGGING CONCESSIONS</p> <p>Conversion and evacuation of the old contracts. The old 'guarantees of supply' and 'letters of intention' will be converted in concessions as per the new Law, after verification of the respect of former engagements, the legality of the concession, and the location with regard to inhabited zones. The conversion process will allow to pursue the evacuation of ancient contracts started since April 2002, and in conformity with the recommendation of the Inter-Ministerial Commission on Wood of April 5th, 1999 to cancel all conventions and attribution contracts for non-inventoried forests, abandoned forest and/or non-exploited forests.</p>	<p>MINENV/DGF-DC-SPIAF. Decree 050 defining the eligibility for conversion, signed on July 2, 2004.</p> <ul style="list-style-type: none"> • MINENV/UCOP/BECECO-Finalize the recruitment of the expert – independent observer. • Setting up an inter-ministerial commission on conversion. • Publication in the press of the list of valid contracts eligible for conversion. 	<p>Support from PUSPRES. The conversion process will take approximately 1 year. Conversion documents to submit by concession holders (deadline to determine) Process ongoing</p>
<p>Adoption of new regulation on auction – Schedule. The preparation of a first sale by auction requires the careful definition of technical and financial criteria, of the operation of the evaluation commission, of transparency procedures, of criteria linked to preference for nationals, and of other measures reflecting the political orientations and specificities of the DRC. The Ministry needs beforehand to identify the concessions (number, size, location) that it wants to put up for auction as a first test and needs to carry out the local consultations to define the limits.</p>	<p>MINENV/DGF and MINIFIN/DGRAD.</p> <ul style="list-style-type: none"> • Draft decree determining the criteria and procedures for auction. Adoption of the decree – December 2004. • Note identifying the concessions put for auction – test. This note will be accompanied by consultations in the field – December 2004. 	<p>Draft text to discuss in the Steering Committee and with all the partners.</p>
<p>Continued application of the moratorium on new allocation of concessions. Conscious to avoid speculation on the countries forest estate and to avoid damage to the nation's interests, the Government has set up a moratorium on all new allocations by mutual agreement until the adop-</p>	<p>MINENV-EF-DGF. Already accomplished:</p> <ul style="list-style-type: none"> • Return of 25 million ha to the public domain after the abrogation of 163 contracts considered null and void. • Decree on the moratorium on new allocation of conces- 	<p>However, an area totaling 9 million ha might have been allocated by mutual agreement during the period between the instauration of the moratorium (April 2002)</p>

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<p>tion/implementation of the procedures for sale by auction. Continued application of these measures is needed to avoid that privileges – that have been accorded in the circumstances of the past and that will be harmful to national interests – are being converted automatically and consolidated in 25 year contracts.</p> <p>Recovery of the new area tax 2003. The tax has been set to 16.25 cents / ha during 2002. The articles 8 and 12 of the guarantees of supply and the letters of intention stipulate that the non-payment of the area tax will lead to the automatic canceling of the concession.</p>	<p>sions in Mai 2002;</p> <ul style="list-style-type: none"> Publication in the press of the list of the remaining concessions in Mai 2003. <p>MINENV-MINFI. To accomplish:</p> <ul style="list-style-type: none"> Recovery balance to transmit by MINFIN to MINENV – July 2004. Decreets that cancel concessions in payment default in conformity with the clauses – August 2004. Publication in the press of cancelled contracts, of voluntary retro-cessions, and of the contracts submitted for conversion. 	<p>and the publication of the remaining concessions in the press (Mai 2003). No new allocations since July 2003. There has been change of location for some concessions.</p> <p>The 2003 schedule failed.</p> <p>The DGRAD has made an assessment showing that 4,3 million ha have failed to pay.</p> <p>Several companies have ceded back concessions in a voluntary way.</p>
<p>FORESTRY TAXATION – CONTRIBUTION TO THE ECONOMIC REVIVAL AND POVERTY ALLEVIATION.</p> <p>Implementation of fiscal reforms initiated by the 2003 economic review. These reforms consist in diminishing costs charged for non-delivered services, in simplifying tax recovery procedures, and in the setting up of a unique tax window, in providing incentives to responsible operators, and in protecting the forests against speculation. They intent, among others, to reduce the half-transit fee of ONATRA from 16\$/m³ in 2003, to 10\$/m³ in 2004 and 5\$/m³ in 2005, as well as raising the area tax from 6.25 cents/ha in 2003, to 10 cents in 2004, 20 cents in 2005, 30 cents in 2006</p> <p>Setting up a joint program MINENV-MINFI to secure tax revenue. This is an important recommendation of the institutional review and intends to increase tax revenue without increasing fiscal pressure, and to make sure that all operators undergo the same fiscal pressure (to avoid unfair competition). This program will also be in charge for the redistribution of the 40 percent of the area tax to the area of origin as indicated in the forest law. It also needs to monitor other recommendations from the economic review. The program will be the unique interface with the private sector for tax questions.</p> <p>Retro-cession of 40 percent of area taxes to the decentralized local entities. For 2003, DGRAD has raised 400,000 USD in area tax revenue, meaning that 160,000 USD need to be transferred to Provinces and territories of origin.</p> <p>Participation of the forest sector in the preparation of the Poverty Reduction Strategic Paper (PRSP). The opportunities for the forest sector to contribute to poverty alleviation need to be clarified: (a) Revenues for Government and decentralized local entities; (b) Employment generation through industrialization and induced sectors such as transport and services; (c) community managed concessions; and (d) ceding back 40 percent of area taxes to decentralized entities</p>	<p>MINENV/MINFI. Economic review finalized. Inter-Ministerial decree of March 17, 2004 (Transport, Industry, Commerce, Finance, Environment).</p> <ul style="list-style-type: none"> Ministry of Transport needs to ensure the application of the reduced 2003 ONATRA fee – Immediately. <ul style="list-style-type: none"> Setting up collaboration program MINENV-MINFI in conformity with the economic review MOU to be signed between MINENV – MINFI – June 2004. The 7 services (DGF, FRCF, OCC, OFIDA, BC, DGRAD, and DGC) concerned by the revenue recovery must be well coordinated. MINENV – Establish the repartition key per province and per territory in relation with concessions in there – September 2004. Ministry of Budget – Retrocede the sums due to the provinces and the territories. MINENV note to the attention of the PRSP committee presenting the opportunities in the forest sector. MINENV participation in the PRSP consultations from October 2004 onwards. Preparatory meeting with the PRSP Committee of the Ministry of Planning. 	<p>2004 tax perception notes have been send to those liable for the tax payable at latest in October 2004.</p> <p>Complementary support needed for the calculus of the FOB reference bases and Ex-works.</p> <p>The final organization of the structure in charge of securing the revenue will be determined by the institutional review during 2004. The 7 services (DGF, FRCF, OCC, OFIDA, BC, DGRAD, and DGC) concerned by the revenue recovery must be well coordinated.</p> <p>Article 122 of the Forest Law.</p> <p>Cede-back mechanism in progress.</p> <p>A MINENV representative has been included in the PRSP Committee. Multi-actor workshops will be organized to define the contribution of the Forest and Environment sector to poverty alleviation.</p>

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<p align="center">FOREST RESOURCE MANAGEMENT AND NATURE CONSERVATION</p> <p>MINENV.</p> <ul style="list-style-type: none"> Revision of certain – already signed -texts given the results of the TCP project and the recommendations of the Steering Committee and the provincial concertations: rules for forest management, exploitation and forest inspections- December 2004. Prepare the TDR for support to forest inspections in the field - December 2004. 	<p>Support from FAO/TCP for the improvement and finalization of texts. The revised texts will be discussed with the logging industry and other concerned partners. Potential funding from PUSPRES for support to forest inspections in the field.</p>	<p>The protected areas network is forecasted to cover at least 15 percent of the country. The institutional review will define the ICCN capacity building program. Support secured or being prepared by USAID, EU, UNDP, WB and Germany.</p>
<p>Definition of sustainable forest management standards and criteria. The new law foresees sustainable production forest management. However needs to be defined: the minimum standards for forest management plans and their implementation, for the control on geographical limits on annual cutting authorizations, for the monitoring of contentious matters as well as sanctions including contract canceling. Wildlife conservation measures in concessions and particular measures for concessions in the periphery of protected areas also need to be defined.</p> <p>National Program for the rehabilitation of a protected area system. The 'nature conservation' program constitutes the most advanced component of the National Forest Sector Development Program that is being prepared by the Ministry. This program should ensure the rehabilitation of the principal protected area's of the country, under the leadership of ICCN and with support from all partners.</p> <p>Environmental impact related to infrastructure and mining development. MINENV needs to convene a working group uniting the ministries of Mining, Transport, Public Works, Planning and Finance. This group will try to-assess and improve the coherence between infrastructure and mining projects with the national network of protected areas and critical conservation sites. This way of working in a concerted way should prevent conflicts rather than solving them once they occur. Also, the standards on environmental impact studies still need to be set-up.</p>	<p>MINENV/ICCN: National workshop CoCoCongo held in September 2003.</p> <ul style="list-style-type: none"> Strategy for the rehabilitation of protected areas and indications for complementary support from development partners – December 2004. Next CoCoCongo workshop in November 2004. <p>MINENV.</p> <ul style="list-style-type: none"> Creation of the working group Environment/Infrastructure/Mining – August 2004. Transmission of the maps of protected areas for incorporation in the mining cadastre- December 2004. Listing of the principal infrastructure and mining projects and location on map - October 2004. 	<p>The project proposal to submit to PCF and/or Bio-Carbon Fund – December 2004. Accelerate the ratification of the Kyoto Protocol.</p>
<p align="center">ASSERTION OF DRC'S ROLE AS A GLOBAL ENVIRONMENTAL SERVICE PROVIDER</p> <p>Participation in initiatives for "payment for environmental services". DRC with its vast forests should try to benefit from new mechanisms that allow to be paid for certain international environmental services (e.g. carbon sequestration, bio-prospecting).</p>	<p>Project proposal to submit to PCF and/or Bio-Carbon Fund – December 2004. Accelerate the ratification of the Kyoto Protocol.</p>	<p>COMIFAC is thinking about how to prop up Central Africa's contribution to carbon sequestration.</p>
<p align="center">INTEGRATION OF THE FOREST SECTOR IN THE FIGHT AGAINST AIDS</p> <p>Creation of a forest contact group in the fight against AIDS. This working group should include representatives from MINENV, the Federation of Congolese Enterprises (FEC) and the National Committee for the fight against AIDS. The group will establish a joint work program that will be communicated to development partners for information, advise and potential financial support. Private companies in the forest sector should be supported to carry out awareness building sessions in the logging camps, in the industrial sites and within the transport sector. The forest sector could represent the sector with largest number of employees, after the public sector.</p>	<p>MINENV/DDDD. Constitution of a working group with CNLS and FEC – July 2004.</p>	<p>The concertation between CNLS- MINENV-FEC should lead to concrete proposals susceptible to be taken into account by the MAP – August 2004.</p>

ANNEX 6
CONCLUDING REMARKS OF THE CHAIRMAN, FOREST FORUM, NOVEMBER 2004*

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 the 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

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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 misappropriation. 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 CBFPP-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 NGOs and international NGOs; and
- 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 Co-coongo, 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 percent 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 Excellency, the Minister of the Environment.

ANNEX 7
EXCHANGE OF CORRESPONDENCE BETWEEN THE BANK AND
RAPY, A PYGMY ORGANIZATION, IN 2005

Goma, 18 February 2005

**The World Bank Resident Representative
Kinshasa / Gombe**

CC:

- The President of the World Bank in Washington, USA;
- The Central Africa Regional Office of the World Bank;
- The Presidency of the Democratic Republic of Congo;
- The Speaker of the National Assembly of the DRC;
- The Speaker of the Senate of the DRC;
- The Embassy of the United States in the DRC;
- The French Embassy in the DRC;
- The Embassy of Great Britain in the DRC;
- The Embassy of the Netherlands in the DRC;
- The Embassy of Belgium in the DRC;
- The European Union Delegation in the DRC.

World Bank lapses concerning forests and indigenous peoples in the DRC

We, organizations of native Pygmies and those working with Pygmies in the Democratic Republic of Congo;

Echoing the opinions of native Pygmy communities and other grassroots communities that we represent and /or assist;

Hereby address issues directly bearing on the rights and interests of native communities;

Specifically target activities carried out and/or facilitated by the World Bank through its Office in the DRC, within the framework of implementation of the Forestry Code, a process that enjoys significant World Bank technical and financial assistance;

Once more wish to demonstrate our willingness to participate actively in determining and monitoring the rules governing the management of forests in the DRC and consequently to contribute to the implementation of World Bank projects which mainstream and uphold the interests and rights of indigenous communities in keeping with international conventions;

Once more take due note, this day, of the attitude of indifference adopted by the World Bank and its Office in the DRC towards us when we try to make appeals, which the Civil Society and the community of international NGOs¹ have echoed on several occasions;

¹ African Wildlife Foundation, CARE, Conservation International, Fauna and Flora International, Greenpeace, Rainforest Foundation, Wildlife Conservation Society, World Wide Fund for Nature, Joint Declaration by International Non Governmental Organisations working to promote sustainable management of forest ecosystems in the DRC, Forum on Forests, Kinshasa, 13 November 2004.

Consequently, we once more wish to express our concerns and worries which are today compounded by exasperation not only because of persistent indifference but also and above all because of the lapses of the World Bank in planning and implementing its projects. Such lapses threaten our very forests and the survival of forest peoples, particularly the Pygmies who are dependent on forests products that do not boil down to just timber!

Specifically and most vigorously denounce the fact that the World Bank deliberately omitted to apply the Operational Directive (OD 4.20) on indigenous peoples in the projects funded in the DRC, particularly the **Emergency Support Project for Economic and Social Reunification (PSURES)**, and which, by the very nature of its activities, necessarily has/will have a significant impact on the lives of these indigenous peoples.

Indigenous peoples in the DRC

The World Bank seems to have decided that its OD 4.20 will not be applied to its projects in the DRC having a "forest"² component, whereas such interventions clearly challenge the traditional rights and practices of indigenous communities. Since we find it difficult to understand such an aberration, it seems necessary to remind the World Bank that **indigenous communities actually and effectively inhabit forests in the DRC** and their survival is directly linked to their natural environment, and projects like the PSURES clearly challenge the fundamental rights of these communities.

Permit us to define indigenous peoples in the DRC

1. As the first inhabitants of the DRC, pygmies constitute the only ethnic group in the country that best corresponds to internationally accepted definitions and descriptions of *native or indigenous peoples/populations*.

For the World Bank, "*the terms "indigenous peoples," "indigenous ethnic minorities," "tribal groups," and "scheduled tribes" describe social groups with a social and cultural identity distinct from the dominant society that makes them vulnerable to being disadvantaged in the development process. For the purposes of this directive, "indigenous peoples" is the term that will be used to refer to these groups.*" - OD 4.20 (3).

Also, "*...Indigenous people are commonly among the poorest segments of a population. They engage in economic activities that range from shifting agriculture in or near forests to wage labor or even small-scale market-oriented activities. Indigenous peoples can be identified in particular geographical areas by the presence in varying degrees of the following characteristics:*

- (a) *a close attachment to ancestral territories and to the natural resources in these areas;*
- (b) *self-identification and identification by others as members of a distinct cultural group;*
- (c) *an indigenous language, often different from the national language;*
- (d) *presence of customary social and political institutions; and*
- (e) *primarily subsistence-oriented production.*" – OD 4.20 (5).

In its Convention 169 concerning indigenous and tribal peoples (article 1), the International Labor Organization defines such groups as:

- (a) "*...Tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national commu-*

² World Bank, Democratic Republic of Congo, Structural Adjustment Credit (2002) ; Multi-sector Emergency, Rehabilitation and Reconstruction Programme (2002); Emergency Support Project for Economic and Social Reunification (2003).

nity, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations" and;

- (b) " ...Peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present State boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions. "

2. In comparison to the others, the pygmies are the true forest peoples because they have lived in the forest for centuries and even millennia and depend almost entirely on it. Their life, survival, cultural identity and traditional knowledge are intricately linked to the forest which is their lifeblood and breadbasket and which they venerate.

Based on all of these descriptions, we can identify the pygmies as the indigenous people in the DRC.

It is important to note that the DRC's 2004 national report at the United Nations Forum on Forests – 4th Session (FNUF-4) describes the vision of the Congolese people about Congolese forest on page 9 as follows: "...Traditionally, indigenous peoples (top among whom are the Pygmies – author's note) think that forests belong to them. They are a heritage handed down by their ancestors. Forests are a source of life for these populations. They find therein what they need for their survival. The disappearance of forests represents an immeasurable disaster for these populations..."

It is extremely important that the Government of the DRC recognizes such undeniable and fundamental reality at this level. Sadly, such recognition is not matched with action. Now, what can we hope for if international partners of the Congo themselves ignore indigenous communities and indeed deny the existence of such groups in the Congo?

Our worries and concerns

Among other things, we are very worried and concerned about the following:

1. The role of the World Bank in the DRC

We wish to underscore that by virtue of its position as main financial donor, assistance provider, facilitator and adviser of the Congolese Government, the World Bank which is undoubtedly a key stakeholder, influences or can influence in a decisive manner – positively or negatively, actively or passively – the definition, orientation and conduct of the DRC's policy, including the DRC's current forestry policy as far as the issue of indigenous peoples is concerned. It is clearly stated in paragraph 12 of OD 4.20, that "*Technical assistance to develop the borrower's abilities to address issues on indigenous peoples can be provided by the Bank...*"

With regard to the forestry policy, we express our legitimate worries – which are also the worries of the communities we represent and/or assist – regarding the future of forests in the DRC and the fate of the numerous forest peoples who are dependent on the country's forests, and most especially indigenous pygmy populations. Their traditional rights, that is, the right to their ancestral forests to which they are attached, their secular right to harness the resources of the forest for their survival, their legitimate right to preserve their culture and their spirituality, in short, the right to set their destiny, are literally ignored in the current process of implementation of the Forestry Code. The Bank's share of responsibility here is great!

2. Adoption of the Forestry Code

It is needless recalling our understanding of the Forestry Code. The Civil Society has striven to denounce this instrument drafted without its participation and obviously without involving any indigenous communities, and largely inspired from the Cameroon Forestry Code. For the indigenous peoples of the country, this is tantamount to a negation of their traditional rights and has fuelled many social conflicts, which have arisen specifically because traditional land boundaries are not taken into account.

How did we get to such a situation? The explanation perhaps lies in the World Bank's decision that the drafting and adoption of the Forestry Code would be financed within the framework of a structural Adjustment Credit, thus impeding the application of Bank internal conservation policies and procedures relating to the environment, forests and indigenous peoples (OP 4.01, OP 4.36 and OD 4.20).

By this decision, the World Bank thus laid the basis and specified the safeguards for its activities in the forest sector in the DRC – which no doubt has some consequences for indigenous communities. In our opinion, this decision constitutes a monumental error by the institution that is supposed to assure the wellbeing of the Congolese people.

We would like to know why the adoption of the Forestry Code had to be included in a structural adjustment credit³. We would also like to be provided clarifications regarding the US\$ 15 million installment of the credit for the “forest sector” meant for the adoption of the instrument that was hastily drafted and enacted within a non-democratic, non-transparent context and without consultation of the Civil Society and indigenous communities, and moreover heralding a repetition of the same errors committed by the Bank in Cameroon a few years earlier.

3. Non-respect for international law

In spite of everything, the World Bank assures us in its official Website that the Forestry Code is at least consistent with the Convention on Biological diversity (CDB).

The DRC signed the Convention on Biological Diversity in 1992 and ratified it in 1994, thus committing to uphold all its provisions including articles 8(j) and 10(c) which essentially stipulate that:

“Each contracting party, subject to the provisions of its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles...” and “shall protect and encourage the customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements”.

Concerning those factors that led to the reform of the forestry system, the preamble of the Forestry Code specifies in Sub-point 1.2 (2) as follows:

“The Democratic Republic of Congo is aware of the key role of its forest ecosystem in maintaining the equilibrium of the biosphere at international, continental and national and even local levels, and is ready to assume attendant responsibilities. This explains why it has ratified many of these conventions (including the CDB – author's note) and agreements and consequently commits to harmonize its laws to be consistent with the relevant provisions of these international instruments”.

However, the Forestry Code is not “consistent” with the provisions of the CDB. Indigenous communities are encompassed in the “local community” concept of the Forestry Code. In this

³ World Bank, Democratic Republic of Congo, Economy Recovery Credit, 17 May 2002.

regard, the Forestry Code does not recognize any specific right for such communities, as is the case in Articles 8 and 10 of the CDB.

In our opinion, partners of the DRC should help this country uphold its international commitments and adapt its laws (including its forestry legislation) to international instruments to which it is a party. To achieve this, Congo and its partners must ensure that indigenous and local communities remain within their natural environment, namely the forest for the Pygmies and many other forest peoples in the DRC.

For our part, while hoping that the Forestry Code will one day be amended, we recognize it as the instrument in force at present. We are thus trying, thanks to the efforts of some Civil Society organizations, to contribute as best as we can to the preparation of the implementing instruments of the Forestry Code, even if that is no guarantee that our concerns will be effectively taken into account in the final document that will be signed by the authorities.

4. Zoning of forests in the DRC

One of the crucial stages of implementation of the Forestry Code in the DRC is the zoning of forests.

We are very worried in this regard for a number of reasons: (a) the operation is carried out in a non-participatory manner and using non-reassuring methods, and (b) we understand that World Bank experts who carried out zoning operations in Cameroon may also be called to work in the DRC. Without wishing to displease the Bank, its experts and even the Cameroon Government, the outcome of the zoning operations in Cameroon is disastrous for the Baka indigenous pygmy populations. We have been able to observe for ourselves that the zoning of forests in Cameroon was a negative experience, and even a nightmare. Now, the stage is set for a reproduction of the same experience in the DRC. The same methods by the Bank, the same disregard for customary rights, and perhaps the same experts...for inevitably the same disastrous results for the indigenous communities, like in Cameroon. It is usually said that the same causes produce the same effects.

Planning of forest zoning in the DRC and the start of its execution, given that it is non-participatory and flouts the rights of communities that depend thereon, constitutes a bad omen for us and for all the communities we represent and/or assist. Indeed, not even the pilot zoning in the Businga-Lisala-Bumba and Maringa-Lopori-Wamba regions will defeat the rationale of our worries and apprehensions.

a) The pilot zoning plan for the Businga-Lisala-Bumba region

The pilot zoning conducted last year by the FAO with the assistance of the World Bank in the Businga-Lisala-Bumba region of the Equateur Province was done by means of satellite images, while consultations on the field were limited to an insignificant number of villages situated along major roads and therefore did not involve indigenous communities living in the forests.

Discussions and consultations between the World Bank and the FAO concerning the implementation of such pilot experience did not correct the error. Yet, it would have been useful for the Bank to encourage the FAO to base its actions on the provisions of paragraphs 8 and 15c of OD 4.20 according to which indigenous communities have to be given the opportunity to defend their customary rights and to indicate areas that are reserved for traditional survival activities as well as sacred sites used for spiritual and cultural activities.

We therefore denounce this kind of zoning based on satellite imaging because it does not make it possible to locate Pygmy villages and camps that are hidden in the shade of forest

trees as well as vital sites for other traditional communities. Moreover, this type of zoning does not identify the boundaries of customary and traditional lands belonging to the various communities and cannot therefore allow for accurate determination of the uses of the forests – use by local communities / conservation / logging. Instead, it may generate serious conflicts between communities and other stakeholders intervening in the forest sector and who do not respect these boundaries, as it happened in Cameroon. This kind of zoning attaches no importance to community rights.

In their letter dated 12 February 2004 and addressed to the Minister of the Environment and Forestry of the DRC, the Resident Representative of the World Bank in Kinshasa and the Resident Representative of the FAO in Kinshasa, over 265 Congolese NGOs sounded their warning and made the following recommendations:

“The effective and systematic mainstreaming of the rights and traditional and customary practices of local communities in the setting of implementing standards, as well as in the development of a National Forestry Plan and especially the zoning plan.”

“The zoning methodology and criteria should be prepared with special care, taking into account the recommendations collected during broad-based consultation of the civil society”.

“The pilot zoning plan must be accompanied by effective local consultations including appropriate participatory techniques, e.g. for the delineation of community territories and determine land use”.

“The FAO should ensure respect for its commitment to guarantee the participation of all relevant actors in its interventions in the DRC, particularly in matters relating to the rights of forest communities”

The zoning carried out by the FAO precisely ignored all the relevant recommendations, and we think that their results should simply be invalidated.

b) World Bank zoning project on the Mringa-Lopori-Wamba area

The other pilot zoning project designed by the World Bank for the site of the Mringa-Lopori-Wamba region, still in the Province of Equateur, does not convince us either. Strangely enough, the project is being executed hastily, in a non-participatory manner and without any transparency. As a matter of fact, our investigations show that in the pilot region, instead of real consultation, the teams of investigators sent to the field limited their activities to visiting a few villages, asking a few strange questions to a few inhabitants who were ill-informed of their visit, taking a few photographs and returning to town to draft their reports.

Whether such interventions are the effective activities of PSURES or not (information we have tried to obtain at several occasions), in fact, such an approach is a mere window dressing! It does not give any assurance as to the implementation of the overall zoning plan in the entire country.

Given that in the DRC the issue of ancestral land – the *“heritage received from ancestors”* – has always been sensitive and often a source of tension, we fear that at the pace at which things are moving, the zoning plan might miss its development aim and instead bring forth frustrations, dissatisfaction, and even resistance which is likely to destabilize the social peace in the DRC. Such a scenario would be neither desirable for a country which is barely coming out of war, nor profitable to the World Bank.

5. Poor collaboration and intransigency on the part of World Bank staff in the DRC

We are worried and concerned about the fact that the World Bank Representation in the DRC is hardly receptive, uncooperative and insensitive to all the remarks, observations and recommendations of the Civil Society, humbly calling for respect for Bank internal policies and directives to protect the rights of indigenous communities, and to show proof of responsibility by revising its “local policy” concerning Congolese forests, taking into consideration their socio-cultural aspects and the rights of communities living in and on such forests.

Many appeals have been made frequently, either during formal or informal meetings between Congolese organizations and World Bank staff in the DRC, or through the media, publications, letters, memos, etc.

All our recommendations and those of the Civil Society have, up to now, remained a dead letter, on the shelves of the World Bank Representation in the DRC.

In October 2004, native Pygmy organizations in the DRC, in collaboration with their partner, Minority Rights Group International (MGI), invited the World Bank to a meeting organized at Memling Hotel in Kinshasa. Not only did the Bank dare not send a delegate to the meeting, but it held another meeting at the same Memling Hotel, in a hall less than five meters away from the hall in which the meeting of the native Pygmy organizations was holding, and to which it had been invited. Since the World Bank did not give any excuse for its failure to respond to the invitation to the meeting – the first of its kind - the afore-mentioned organizations arrived at the conclusion that they had been despised by the World Bank Representation in the DRC.

They found this serious enough in the sense that World Bank policies and guidelines encourage its staff in the borrower country to sincerely collaborate with organizations of native peoples. Paragraph 15(d) of OD 4.2 stipulates, among others, that:

“Many of the larger groups of indigenous people have their own representative organizations that provide effective channels for communicating local preferences. Traditional leaders occupy pivotal positions for mobilizing people and should be brought into the planning process, with due concern for ensuring genuine representation of the indigenous population...”

And paragraph 15(h) adds that:

“...Monitoring by representatives of indigenous peoples' own organizations can be an efficient way for the project management to absorb the perspectives of indigenous beneficiaries and is encouraged by the Bank ...”

As we mentioned above, the World Bank did not deem the implementation of this guideline timely within the context of its projects comprising activities in the forest sector in the DRC. Its Representation in Kinshasa did not bother to listen to us.

One may also wonder if the World Bank Representation in the DRC does not want to, or can not deal with native Pygmy organizations which are active in the country and known both at the national and international levels as representatives of Pygmies in the DRC, and if it does not deal with the Civil Society, whom will it deal with?

The video-conference of 8 July 2004 with the World Bank President – mostly in English and not translated for participants based in Kinshasa – raised hopes for some time that there might be a change in the Bank’s “local policy”. President Wolfensohn expressed his attachment to a broad-based consultation of local populations and took the commitment to personally monitor

issues relating to the forest sector in the DRC. The only measure that bore fruit from the “dialogue” is the organization of a forestry forum in Kinshasa which, from the onset, brought together only Kinshasa-based organizations. The forest and forest people are generally not found in the capital!

Whatever the case, maybe the World Bank believes that our concern with regard to the participation of native communities was fully addressed by the mere organization of such a non-issue. To us, nothing has changed. We are not listened to any better and native communities in the field, in the forest, still see their traditional rights and their specific needs totally ignored, their forests disappearing, no matter what the World Bank is saying on its Website, for instance, which provides only well selected items to misinform the public on the activities of the Bank in the DRC.

6. World Bank shortcomings with regard to the implementation of its internal policies and guidelines

From the preceding, which we hope, will be addressed in detail, transparency, sincerely and in a constructive manner on a point-by-point basis by the World Bank, we wish to bring out two items which held our attention and invite us to seek clear and precise explanations from the World Bank.

We do not want hollow answers that present World Bank interventions in the forest sector in the DRC during its hay days. We have been very patient and understanding, and we think it is our right today to obtain clear and true information on the nature and conditions under which World Bank activities in the DRC are executed.

First, we understand that within the context of PSURES, a forestry component provides for the preparation of a zoning plan for DRC forests. As we pointed out earlier, zoning operations have obvious consequences on the traditional rights of native communities. If World Bank activities in the execution of the zoning plan concern the pilot zoning plan of the Mringa-Lopori-Wamba region, how could the World Bank, knowing that this region is inhabited by many indigenous communities and that their presence in such forests therefore called for their consultation and the consideration of the boundaries of their traditional territories, have arrived at the conclusion that OD 4.20 on indigenous peoples would not apply to this project, further basing its decision on the supposed inexistence of natives in Equateur and Orientale Provinces: *“Is the Project not expected to include activities in the areas inhabited by indigenous peoples”?*

How could the World Bank expect to succeed in its project if the latter is not subjected to OD 4.20 and if the Bank does not take the following into account during project implementation:

- Indigenous communities’ customary land rights and their rights to resources (OD 4.20, paragraphs 2, 15a, 15c and 17);
- Indigenous communities’ participation (OD 4.20, paragraphs 8, 9, 14a, 15d, 15e and 15h).

According to World Bank appreciation, the same project requires the application of OP 4.36 relating to forests. Meanwhile, the Bank at the same time believes that OP 8.50 regarding emergency assistance should be applied to the project, meaning that all other conservation policies can be applied only 12 months after the date of effective start of the project. The environmental and social impact assessments have still not been carried out. What then can be said of the effectiveness of the project?

Similarly, given that the zoning project will condition the type of management and, in the long run, the very existence of DRC forests, how can the World Bank, by classifying PSURES as a category B environmental project, dismiss the implementation of essential conservation policies attached to the implementation of category A environmental projects? We are very worried and await explanations about the classification operated by the Bank, which is contrary to sustainability requirements.

We are worried by the fact that the Bank systematically excludes the implementation of its conservation policies within the framework of its projects affecting DRC forests and inhabitants of the latter, particularly indigenous peoples. As a matter of fact, it also decided on the non-application of OP 7.60 regarding projects in conflict areas, whereas the forest estate of the DRC is clearly the subject of conflicts, both between rival factions of the country and at the local level. The World Bank however recognizes this situation through OP 8.50. How can the Bank justify such anomaly?

Our recommendations

Considering the situation as described in this document, we are asking the World Bank Representation in the DRC, as well as other World Bank structures, to follow the recommendations below:

1. Suspend PSURES until OD 4.20 on indigenous peoples, as well as OP 7.60 on projects in conflict zones, be totally applied and in a transparent manner;
2. Classify PSURES as a category A environmental project and apply the additional conservation policies pertaining to this category;
3. Explain why OD 4.20 and OP 7.60 are not applied to PSURES;
4. Explain why OP 8.50 was resorted to within the context of PSURES;
5. State clearly if PSURES has become effective;
6. Specify the criteria that enabled the Bank to objectively appreciate the date at which the project will become effective;
7. Carry out a participatory assessment of the implementation of the provisions of Operational Policy 4.36 (OP 4.36) relating to PSURES;
8. Recognize and respect all customary land uses as well as the rights of natives and workers/farmers to use their lands, in accordance with the provisions of OP 4.36, paragraph 10(b);
9. Answer all the issues we raised in this report;
10. Even if our past actions failed, maintain real "open" and "trustworthy" dialogue that should be followed by concrete acts aimed at protecting the traditional rights and specific needs of indigenous communities.

While hoping that you will react to our worries, we wish to inform you that we intend to refer to the World Bank Inspection Panel as soon as possible, in case this last approach does not give rise to the communication of useful information and the effective and verifiable mainstreaming of our recommendations.

We shall be grateful if any person reading a copy of this letter could acknowledge receipt and remain at your disposal for any further information.

Done at Goma, on 18 February 2005

Organizations

1. Réseau des associations autochtones pygmées (RAPY), Bukavu, South-Kivu/DRC
Adrien SINAFASI MAKELO, Chairman
2. Centre d'accompagnement des autochtones pygmées et minoritaires vulnérables
« CAMU », South Kivu/DRC
Pacifique MUKUMBA ISUMBISHO / Executive Director
3. Union pour l'émancipation de la femmes autochtone
Adolphine MULEY, Coordinator
4. Ligue nationale des associations autochtones pygmées du Congo, Kinshasa/DRC
KAPUVU DIWA WVTIMANWA, National chairman
5. Groupe pour l'intégration des minorités Equateur (GIME)
6. Coopérative des pêcheurs pygmées d'OKENGO
7. Union des associations des pygmées de MOMAKA
8. Association des pygmées ressortissants d'YNGENDE
9. Motema – Mpembe
10. Association des jeunes pygmées de Bogondjo
11. Association des pygmées de Mbandaka
12. Association des femmes pygmées de Mbandaka
13. Association des femmes minoritaires de Mbandaka
14. Association des pygmées territoire de BIKORO
15. Association des pygmées paysans de Lokolama
16. Association des pygmées / Nkoli-koli
17. Association des pygmées / Basanga
18. Association des pygmées / Basenga
19. Association des pygmées / Ozole
20. O.N.G.D.H.U.D.E.M.E Equateur
21. Association communautaire de fidèles pygmées de Bofombo (MEPA)
22. Institut technique
23. Union Bongonde

LIST OF INDIGENOUS ORGANIZATIONS IN SOUTH-KIVU

No	Associations	Name and function of signatory	Signature
01	Réseau des associations autochtones pygmées en République Démocratique du Congo	Mukumba Pacifique Vice-President	
02	Union pour l'émancipation de la femme autochtone « UEFA »	Esperance Binyuk Vice-President	
03	Centre d'accompagnement des autochtones pygmées et minoritaires vulnérables « CAMV »	Secretary	
04	Action d'appui pour la protection des droits des minorités en Afrique Centrale « AAPDMAC »	Babuya Désiré Accountant	
05	Solidarité pour l'innovation des peuples autochtones « SIPA »	Coordinator	
06	Action pour le regroupement et l'auto-promotion « ARAP »	Coordinator	
07	Collectif pour le peuple autochtone du Kivu « CPAKI »	Executive secretary	
08	Centrale coopérative autochtone des produits miniers et forestiers « CECOMIFCO »		
09	Programme d'intégration et de développement des peuples pygmées « PIDEP »	Coordinator	

LIST OF NORTH-KIVU PYGMY ASSOCIATIONS

No	Associations	Contacts of associations	Signature
01	UEFA asbl (Pierrot Kierre)	Tel: 97762255 98623642 Email: uefafr@yahoo.fr	
02	PIDP (Joseph Itongwa)	Tel: 97714967 Email: pidpnordkivu@yahoo.fr	
03	ECHO ACTION		
04	ACFD (Salama Joëlle)	Tel: 08575904	
05	RADIO SAÛTI YA INJILI Ezra Kabereka -Directeur	rsigoma@yahoo.fr P.O. Box: 3413 Goma Tel: 0813134109	
06	EFM (Jeanne Bahati – Coordinator)		
07	A.O.I.D.E: Edouard Sengi – Head of the community department	Tel: 08882526	

CRONGD/BANDUNDU
P.O. Box: 5741 Kinshasa
KIKWIT
RRN Focal Point

**LIST OF ORGANISATIONS REPRESENTING INDIGENOUS PEOPLES IN THE
BANDUNDU PROVINCE / MAÏ – NDOMBE DISTRICT**

No	Organizations	Area (Territory)	Manager	Signature
01	Association de développement intégré pour la promotion rurale (ADIPR)	KIRI	Sister Anne-Marie MBOLAKALA	
02	Inongo Kulangela (Inonkal)	Inongo	Freddy ENGO Bola Wanga	
03	Projet de relance rizicole d'Irongo/ Maï-Ndombe (PRIMA)	Inongo	Justin NTANGAWANGA BOONGO	

Kikwi, 6 May 2005

For CRONGD Badundu

Denis IMPITI KAYAMBA
Executive Secretary

ORIENTALE PROVINCE

No	Organization	Area	Manager	Signature
1	Organisation pour la sédentarisation, l'alphabétisation et la promotion des pygmées (OSAPY)	KISANGANI	Willy LOYOMBO	
2	Association des journalistes pour la promotion des peuples autochtones (AJPA)	KISANGANI	André SAFARI	

World Bank*

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT
INTERNATIONAL DEVELOPMENT
ASSOCIATION

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Kinshasa, 5 July 2005

Mr. Adrien Sinafasi Makelo
President of the Network of Pygmy Associations
Bukavu, South-Kivu
Kinshasa

Sir,

World Bank operations concerning the forests and natives of the DRC

I am writing in reaction to your letter dated 18 February 2005 on the above subject. We gave the letter great consideration and thank you for it. We received it last June 6th.

We paid keen attention to your analyses and recommendations on modalities for the implementation of Bank operational directives and policies on Indigenous populations (OP/BP 4.20). You particularly requested clarifications regarding the Emergency Support Project to the Economic and Social Reunification Process (PUSPRES). As you are aware, the Ministry of Planning is executing the project. We would advise that you contact the Project Coordination Unit (UCOP) that is responsible for its implementation to consider your questions in detail. We also wish to make the following observations:

The Bank is effectively playing its role, as you recalled in page 3 of your letter. Under no circumstances can the Bank replace the Government to which it provides advice and support. Thus, with regard to the budget support credit, which you call structural adjustment credit, its use falls within the ambit of Government that is the beneficiary. We therefore advise that you address your request to Government. Contrary to widespread belief, the World Bank does not manage the credits it grants to Governments. Its role consists in monitoring how the credits are used and in making recommendations to Government based on monitoring reports, so that funds may be used to finance projects selected as part of the reforms necessary to revive the economy.

We also want to clear some widespread confusion in public opinion that consists in mixing up the Central Coordination Bureau (BCECO) with the World Bank. The BCECO is a Government body set up to manage funds from various donors of the Congolese Government including the World Bank, the European Union and the African Development Bank. Like the other donors, the World Bank does not carry out any direct activity in the forest sector nor in any other area where it provides assistance. The Bank grants financial support to Government to enable it carry out actions

* This document has been translated from the French for the present Management Response. It is unofficial and has not been reviewed by technical specialists.

adopted to revive the national economy and alleviate poverty. It is thus neither a project manager nor a government implementation agency.

With regard to the Forestry Code and your remarks concerning the identification of native communities, we think that the Code's definition of a local community is all-embracing. The definition undoubtedly encompasses indigenous pygmy communities. Indeed, the Code defines a local community as "a people who are traditionally organized on the basis of a custom and are united by clan or kinship links which underpin its internal cohesion. In addition, it is characterized by attachment to a given territory". With this definition, we think it is not necessary to discriminate indigenous pygmy communities.

Because it is a law governing all the forests in the Democratic Republic of Congo, the Forestry Code is directly binding on all the people concerned with exploitation of such forests without any discrimination. This explains why several articles of the law recognize the indispensable role that such populations have to play. Article 5, for instance, enshrines the involvement of all relevant stakeholders, both public and private, in the drafting of the national Forestry Law. Article 6 specifies that in order to adapt the national forestry law to the peculiarities of each province, the Governor of each relevant province shall formulate a provincial forestry plan after consultation with the provincial advisory council. The latter, whose responsibilities are described in Article 31, is an enabling framework that allows all forest peoples to exercise their rights. Article 24 (3) is similar in that it reiterates the involvement of NGOs.

Similarly, the prerequisite for the classification of a forest (Article 15) and for the grant of any concession (Article 84), as well as the right for associations representing local communities and national NGOs, amply demonstrate the concern of the Forestry Code to safeguard the interests of forest peoples, given that the forest is their life-blood. In addition, Part III of the Code (comprising three chapters: Articles 36 to 44) is devoted to the user rights of people living within or around the forest.

With regard to the forest sector, we wish to draw your attention on forest-sector priorities contained in the draft Poverty Reduction Strategy Paper (PRSP) being prepared in the Ministry of Planning. You will realize that this sector is one of those considered as catalysts of growth for the country's economic revival. In this respect, it is understood that the World Bank, which intends to monitor the qualitative aspects of reforms decided by Government to revive the national economy, should include this important sector in the budget support credit. Against this backdrop, the Forestry Code constitutes an important milestone as concerns reforms in the forest and biodiversity conservation sector. This, in other words, is what the excerpt of the Forestry Code preamble you cited in page 5 of your letter means. It should be recalled that the Forestry Code does not deal with land issues, which fall within the province of land law.

We would like to underscore that your participation in the drafting of the forestry policy both at national and provincial levels and the role assigned to NGOs working with indigenous populations are assets that you should take advantage of to ensure the mainstreaming of the legitimate concerns of indigenous pygmy communities. We advise that you establish regular and sustained contacts with the Ministry of the Environment to be abreast with the different forest-related activities.

With regard to zoning, we are surprised to learn that the "operation is non-participatory and carried out using non-reassuring methods", and that teams of investigators have been sent to the field. Do not mix up the "test" zoning done by the FAO

in the Businga-Bumba-Lisala area and the zoning that the World Bank may finance in the Maringa-Lopori-Wamba area. Test zoning aims to develop an appropriate methodology for the participatory zoning process and criteria for mapping out forest areas. The Maringa-Lopori-Wamba zoning project has not started yet. When the time comes, it shall be carried out with technical assistance mobilized with the support of BCECO.

You brand the lack of cooperation and intransigence of World Bank staff in the DRC. We would like to inform you that our office in Kinshasa has spared no effort to maintain fruitful dialogue with the various development stakeholders in the sector as well as in other sectors of activity. Since November 2004, we recruited a specialist on forest issues, who has had several contacts with NGOs representing indigenous pygmy communities. Similarly, several missions dispatched from our headquarters in Washington had held several meetings with your “representatives” during their stay in the DRC.

One real difficulty the Bank faces is that NGOs working with pygmies in the hinterlands challenge those based in Kinshasa. With which of these organizations should the Bank dialogue? This is a problem that you have to resolve among yourselves and develop mechanisms that permit your delegates living in the provinces to represent you physically when a meeting concerning forest peoples is planned. In any case, we can assure you that the Bank remains open to dialogue. Some of your organizations such as UEFA/RAPY, LINAPYCO and CIDB can bear us witness.

With regard to your invitation sent to the Bank to participate in the meeting you organized in October 2004, we were unable to attend.

In conclusion, I would like to assure you of our readiness to continue to work in collaboration with all relevant stakeholders to achieve harmonious, participatory and sustainable development of the forest sector in the Congo.

Yours sincerely,

Jean-Michel Happi

Resident Representative

CC:

Mr. Anselme Enerunga, Minister of the Environment

Mr. Carlo de Filippi, Representative of the European Union

Mr. Dobobol Kitmut, UCOP Coordinator

Mr. Adrianus Sijkers, FAO Representative

**ANNEX 8
LOCAL NGOS' DECLARATION FROM NOVEMBER 2005 IN
SUPPORT OF THE PRESIDENTIAL DECREE**

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 CNONGD/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.

ANNEX 9
EXCHANGE OF CORRESPONDENCE BETWEEN THE BANK AND LINAPYCO, A
PYGMY ORGANIZATION, TO THE BANK, 2005 *

Concerns: Opposition to the Responsible Delegates of Indigenous Peoples and
DRC Pygmies and the Rainforest Foundation for the consultation
with the World Bank in Washington

Dear President,

We, the indigenous pygmy associations and the non-represented base communities, united in a national platform designated by **LINAPYCO**, have the honor to manifest our uneasiness related to the organization Rainforest Foundation International, sections Great Britain and Norway, as these pretend to accompany the indigenous peoples from the DRC on sustainable forest management and to inform us and vulgarize the World Bank's policy on indigenous people. We think this is a way (for Rainforest Foundation) to impose its policy on forest management through the native people. So they created a network of native people who are there allies so as to attain their intended objectives. These natives do not represent the indigenous peoples of the DRC as they did not receive a mandate of the indigenous peoples. There has been no consultation or preliminary meeting and so no specific clauses have been elaborated by the indigenous people to present their demands or claims to the World Bank.

The Rainforest Foundations avoids all contact with the real indigenous leaders of the country because these leaders do not understand and do not accept the policy to create opposition between indigenous people and the World Bank. For example, Rainforest Foundation never supported a project of an organization created by and for the indigenous people of the DRC, neither has it funded travel by an indigenous representative to national or international meetings. The Rainforest Foundation only finances and supports those indigenous associations that it has put in place itself.

Besides that, the Rainforest Foundation has a bad development policy to accompany certain associations that do not have field impact while utilizing the principle: **divide to reign**.

In 2003, the Rainforest Foundation presented a woman to the World Bank, saying she was the representative of indigenous people in DRC. She was going to present the claims/requests of the indigenous Batwa/Bambutu of the DRC. While the indigenous communities and their leaders were under informed and did not know that there was consultation between indigenous people and the World Bank on forest exploitation. Profiting from the ignorance and amorphous behavior of the indigenous people, as well as exploiting the fears of certain leaders to be seen as being not sufficiently extremist or to avoid being hurt by loss of funding, nobody dared to lift his voice or denounce the dividing and paternalistic behavioral pattern of Rainforest Foundation and their allies (individuals and associations).

In March 2005, Rainforest Foundation initiates and organizes a meeting of indigenous people in Goma, in Northern Kivu in the East of the DRC, with $\frac{3}{4}$ of the participants not being indigenous. But the workshop was called 'national seminar of indigenous associations'.

During this meeting, Rainforest Foundation made it known that the World Bank's policy on indigenous people never had been a success on the planet earth. This leads us to the famous memorandum addressed to the President of the World Bank.

* This document has been translated from the French for the present Management Response. It is unofficial and has not been reviewed by technical specialists.

Since July 2005, there has been exchange of correspondence between the World Bank and Rainforest Foundation (UK and Norway) without informing the signatory associations of the cited memorandum neither the indigenous people and the Batwa/Bambutu communities of the DRC.

Through this correspondence, the indigenous associations members of LINAPYCO have learned that there will be held a consultation meeting between the indigenous people and the World Bank in September and that the indigenous people will be represented by Mr. Adrien SINASAFI MAKELO and Madame Adolphine Byayawa and Mr. Roger MUCUBA all members of RAPHY Bukavu-UK.

All this information has been gathered on September 17, 2005 by individuals members of LINAPYCO, personal friends of Rainforest Foundation and RAPHY BUKAVU-UK. After enquiry and study of the behavior of those indigenous (people) that are progressive, awake and responsible, Rainforest Foundation has, in a smart move, chosen the Equator province in the north-west of the country as the pilot province to lead its activities as the indigenous people in this province are not structured and are not informed on the international organizations and the international judicial texts concerning indigenous questions.

Besides that, civil society in this province has been manipulated by Kinshasa networks as almost all of the indigenous leaders from this province are based in Kinshasa. This way Rainforest Foundation has appropriated the cited province while manipulating a certain Pierre BOKONO (indigenous man who is living in Kinshasa) as a guide for their trip to the Equator Province. Since Rainforest Foundation is in DRC, it has never funded any organization created by and for the indigenous Batwa/Bambutu. There is no visibility of their actions in the field even in the Equator province where the World Bank funds a landscape project in collaboration with FAO on zoning.

- In accordance to a press release, the World Bank will review its indigenous people policy during the 4th session of its permanent 'instance' 20/05/2005
- Given the spirit, behavior and politics of the Rainforest Foundation and its allies, who want to swallow up the indigenous people of the DRC and use them to lure funds on the back of the Bambutu/Batwa (pygmies)
- Refusing the paternalism, and the foreign dominance and interference in indigenous affairs, and as Congolese citizens who chose entirely for auto determination. And know-how,
- Considering the maturity of indigenous leaders on sustainable management of forest ecosystems and their traditional knowledge, it is impossible and inadmissible that the indigenous peoples from DRC (of whom 90 percent are member of LINAPYCO) are being represented by third persons, in accordance with the fourth objective of its (Linapyco's) statutes: **Representing the member organizations and the non-represented base communities towards third parties and the public authorities.**

We are opposed to:

- The delegation (*of our representation*) to Rainforest Foundation and its allies as they have not received our mandate
- All declarations and decisions taken and they should become null and void and do engage only their authors.

We commit:

- To take actively part in pleading and in the reforms of World Bank policies at all levels so as to recognize and respect entirely the self-determination rights of the indige-

nous people of the DRC and for social, ecological and environmental justice and peace.

- To interrupt all collaboration with Rainforest Foundation UK and Norway in all fields until it reviews its policy on indigenous people in the DRC.
- We ask Rainforest Foundation to stop speaking in name of the indigenous people of the DRC on natural resource issues and forestry in particular.

We are convinced that all who will read us in copy will provide us with their moral support and we are conscious that this rupture with Rainforest Foundation will lead to harmful effects on the member associations of LINAPYCO and on the person of the President of LINAPYCO.

We will be happy by an acknowledgement of receipt of the present letter.

Yours faithfully,

In Kinshasa, September 24, 2005

**For the member associations
and the non-represented base communities
of LINAPYCO**

Kapupu Diwa Mutimanwa

National President

Annex: Judicial status

Democratic Republic of Congo

THE WORLD BANK
INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT
INTERNATIONAL DEVELOPMENT ASSOCIATION

4847 Avenue Wagenia
Kinshasa - Gombe
Democratic Republic of Congo

(243)9949015 phone
(243) 99 75 019 fax

Kinshasa, 17 October 2005

M. Kapupu Diwa Mutimanwa
National Chairman
Ligue Nationale des Associations
Autochtones Pygmées du Congo
LINAPYCO
Kinshasa

Dear Sir,

Your letter of 27 September 2005 on delegations of indigenous peoples and Rainforest Foundation representatives to the World Bank

I hereby acknowledge receipt of the above letter. I gave it great consideration and wish to thank you for it. I would be honored to meet you at your best convenience to discuss with you on current issues relating to Congolese forests management, the development of indigenous pygmy populations, the role of associations forming LINAPYCO, and their representation in international forums.

As you know, the World Bank is resolutely committed in the Democratic Republic of Congo to improve the living conditions of the people, especially vulnerable groups and indigenous peoples, lay the basis for sustainable and equitable development and ensure better management of natural resources and the environment.

I will be glad to meet you at such date as you find most convenient.

Best regards,

Jean-Michel Happi
Resident Representative

ANNEX 10
DRC FOREST QUESTION AND ANSWERS POSTED IN MARCH 2004 ON THE BANK WEBSITE

13 QUESTIONS AND ANSWERS

World Bank Involvement in Sustainable Management of Forests in the Democratic Republic of Congo (DRC)

This website will be improved and regularly updated.

1. What is the World Bank doing to ensure that economic recovery will not result in widespread deforestation in DRC?

Along with the deepening of peace and reconciliation in the country, environmental sustainability, economic growth and poverty alleviation are among DRC's priorities. Rehabilitation of infrastructure will lead to new investments in many fields, including in forestry activities. Experience from other post conflict countries indicates that the question is not *whether* increased forest harvesting and related activities will occur but rather *how* this will happen. Thus, the challenge is to ensure that forestry activities are done in a sustainable manner, with due regard to protection of the environment, and with participation by all stakeholders, especially the poor and the adjoining communities. The Government of the DRC is aware that in the absence of clear and enforceable rules these activities would lead to unsustainable and destructive logging. The Government therefore requested over two years ago the assistance and advice of the World Bank and other development partners to re-visit the rules that govern access, sustainable use and protection of DRC's forest resources, and to put in place mechanisms to enforce these rules.

2. What is the rationale for the World Bank's involvement in the Democratic Republic of Congo (DRC)?

The rationale for the Bank's involvement is outlined in two key documents: the Transitional Support Strategy dated July 92001 (Report No. 22499) and the Transitional Support Strategy dated January 26, 2004 (Report No. 27751) [*web links to the two documents*]. Bank assistance is part of an international development community effort to help DRC as it emerges from a terrible conflict. Specific objectives of the 2004 Transitional Support Strategy are: (i) promoting social stability and security; (ii) fostering high and shared economic growth; (iii) supporting governance and capacity building; and (iv) stimulating social development.

3. What is the Bank's role in the forest sector?

Together with other development partners and NGOs, the Bank is working with the Government on a number of issues: to address the legacy of past mismanagement of public goods, remove policy distortions and prevent large-scale speculation that would deprive the Congolese people of future socio-economic benefits from the forest. Through this work, the Bank is also helping set the stage for the conservation and sustainable use of DRC's biodiversity and forests, and for sustainable benefits for local communities and for the entire Congolese people. A key objective being worked towards is to strengthen the government's capacity to enforce the new policies in the field through institutional capacity building and independent monitoring. Since 2002, the Government has canceled 163 timber concessions totaling 25 million hectares (almost the size of the United Kingdom) and has declared a moratorium on allocation of logging contracts pending the adoption of transparent procedures. The lists of cancelled and remaining concessions have been published by the media in April 2002 and May 2003. Areas returned to the public domain will now go through the participatory land use planning and sustainable management processes set forth by the new Forest Code. Can-

cellation of such a large area of non-compliant forest concessions is unprecedented in the whole world. It will unequivocally slow down expansion of logging, especially of unregulated, unsustainable and illegitimate logging. It will also give the Government the possibility to reallocate these forest resources under a transparent system, make monitoring and sanctions easier, and secure significant tax revenues, of which 40 percent will be redistributed to decentralized local collectivities for local social infrastructure works, according to the new code. These actions are part of the Government's Priority Reform Agenda presented by the Ministry of Environment at the Congo Basin Forest Partnership (CBFP) Meeting in Paris, January 2003 [[web link](#)], and at the Ministerial Africa Forest Law Enforcement and Governance Conference (AFLEG) in Yaounde, October 2003 [[web link](#)].

Background. The Democratic Republic of Congo's rainforest ecosystems cover an estimated 85-100 millions hectares, i.e. more than half of Africa's rainforest. In 2001, almost 45 millions hectares of these rainforests were held under long-term logging contracts. These concessions had been allocated through discretionary procedures and without land use planning nor consultation with local communities. The price of holding a 200,000 hectares concession was US\$ 286 per year, which created a strong incentive for large-scale acquisitions based on speculative rent-seeking behavior. Although actual timber production was temporarily at a standstill due to war and poor infrastructure, numerous requests for more concessions kept flowing to the Ministry. This distortion was setting the stage for large-scale unsustainable logging, with little socio-economic benefits to the Congolese people.

4. Will commercial logging in the DRC necessarily bring social and economic benefits to the Congolese people?

No. Important additional steps need to be taken for this to happen. This is why the Bank is supporting a series of reforms aiming to: improve transparency, participation and accountability in forest resources management; end speculative behaviors; attract socially, fiscally and environmentally responsible investors; and set up transparent mechanisms for sharing forest revenues between private investors, local communities and the State. The new Forest Code establishes that 40 percent of the tax revenues from legal logging will go directly to local authorities so that the benefits of forestry activities will be shared by the local population. In addition, forest communities are expected to obtain additional benefits through formal contracts with the central government and forest companies. Benefits will include investments such as dispensaries, schools and feeder roads.

5. Are Bank-supported policies and activities in DRC designed to attract national and international companies interested in logging operations?

Bank-supported policies and activities in DRC are designed to attract all private sector investors who are willing to play by the new social, environmental and economic rules. The Bank is working with DRC in a comprehensive program to improve the investment climate while securing natural resources for conservation and sustainable use. The intention of the new Forest Code, and of Bank involvement in the forestry sector in DRC, is to ensure that all actors in the sector will play by the same rules (level playing field). The actions by the Government to rescind 25 million hectares concession areas and impose a moratorium on new concessions demonstrates strong commitment to address this issue. The new Forest Code formalizes a company's obligation to implement management plans for all production forests and to contribute to local community development; and it provides for the preservation of customary user rights in all production forests. The Bank is encouraging the private sector to follow this path and commit in practice to environmental and social responsibility as part of their bottom line. Transparency and information disclosure are part of the same approach. The introduction of these principles is expected to encourage companies to pursue independent certification of

their forest operations to assure shareholders and the public alike that they are responsible stewards of the forest.

6. Does the Bank comply with the UN Security Council Resolution 1457 which encouraged "... international financial institutions... to assist in efforts to create appropriate national structures and institutions to control resources exploitation"?

Yes. The Bank, together with other donors, is helping bridge the gap between good policies and weak institutions. A major pillar of the Bank's new TSS cited under question 2 places emphasis on strengthening the capacity of national institutions. This includes those institutions whose role is to enforce new laws on the ground and curb illegal activities (e.g. illegal logging in the case of forestry). Meanwhile, the Bank is supporting the implementation of immediate actions to protect natural resources from illegal exploitation. Following the cancellation of concessions and the moratorium on new concessions (see Question 3 above), increased forest area fees are expected to lead to additional relinquishment of concessions held by speculators. An independent expert is also being recruited to assist the Government in monitoring legality and compliance of all remaining contracts. Six million hectares of concessions which we understand were exchanged despite the moratorium will be re-assessed, along with the legitimacy of all other current concessions. These actions are consistent with the recommendations of the Final Report of the Panel of Experts on the illegal exploitation of natural resources of the DRC, October 2002.

7. What does the Bank do to promote civil society participation in policy design and implementation, and to take into account traditional needs of local communities?

The Bank's approach in the forestry sector, as is the case in all other sectors to which the Bank provides support, places emphasis on involvement of all stakeholders, at the central, provincial and community levels. Two regional workshops were held in Bas-Congo and Equateur Provinces in October and November 2003 to discuss the National Forest and Conservation Plan and this process will continue to cover all provinces. Multi-stakeholders workshops were held in Kinshasa to prepare forest fiscal reforms (September and October 2003) and the national biodiversity conservation strategy (October 2003). A national NGO was part of the team that carried out the forest sector economic review. In December 2003, with support from the United Nations Food and Agriculture Organization (FAO) and the Bank, the Government launched a nationwide information campaign on the new Forest Code which includes workshops, media support, and translation into local languages. Civil society participates in the preparation of the implementation decrees. On December 19, 2003, the Ministry of Environment accepted the request by civil society for three more NGOs to participate in its Steering Committee for the preparation of these decrees. The forest land use planning operation currently under preparation places emphasis on local participation, traditional customary rights and specific needs of indigenous people.

8. How was the Bank involved in the preparation of the 2002 Forest Code, and is it involved in the preparation of its implementing regulations?

The Bank provided advice to the Government at the final stage of the preparation process in 2002. This new code replaces the previous legislation dated 1949. It introduces major innovations in DRC including: mandatory implementation of forest management plans; public auctioning of forest concessions with the distribution of 40 percent of the resulting receipts to decentralized entities; rights for local communities to directly manage their own forest concessions; setting up of Forest Consultative Councils at national and provincial levels. The code sets principles. Detailed regulations are still to be defined. The Bank is working with the Government to ensure that the implementation of the Forest Code will meet internationally accepted standards (as outlined in the Bank's new forest sector strategy and operational policy) and protect the interests of local communities, as well as provide for adequate consulta-

tion on these interests (see Question 7 above). The Government is proceeding prudently, as exemplified in the process of reviewing existing contracts and of enacting the moratorium.

9. Does the Forestry Code take into account the customary rights of local communities in forest areas?

Yes. The new Forest Code takes into account the customary rights of local communities. However, specific regulations are necessary to enforce these rights effectively. To this end the Bank has advised the Government to undertake in-depth consultations throughout the country on the preparation of regulations to implement the Code's provisions on community forests and on local communities' consultation. In addition, the Bank has advised that implementation decrees should define the *modus operandi* of articles 8 and 21 related to the linkages between forest and land tenure rights in ways that reinforce the rights of communities. In addition the code provides for preservation of customary rights of local communities in the framework of any concession contract with logging companies, as well consultation of local communities as a mandatory step for all procedures leading to gazetting or de-gazetting forest areas.

10. Does DRC's forest code comply with the Convention on Biological Diversity?

The Forest Code is consistent with the Convention on Biological Diversity. However, in the DRC legal architecture, the forestry code will be complemented by the Law on Nature Conservation. The Government of DRC is in the early stage of the process of preparing a new comprehensive Law on Nature Conservation which will replace the current legislation dated 1949, and will provide a sound basis for the implementation of the Convention on Biological Diversity.

11. How is the Bank involved in the DRC forest land use planning process?

The Bank will finance a participatory forest zoning process aimed at identifying areas whose environmental, demographic and socio economic features makes them particularly suitable for agriculture development, other community-based forest uses, biodiversity conservation or timber production under sustainable forest management. This operation aims to secure the rights of, and avert conflict among, various forest stakeholders, and to protect DRC's biodiversity and natural resource base. It emphasizes local participation, and takes into account traditional customary rights and specific needs of indigenous people. The concept was presented at the national biodiversity workshop in Kinshasa in October 2003, and is now being prepared for implementation, in collaboration with several national and international NGOs, including the World Wildlife Fund (WWF), the Wildlife Conservation Society (WCS), CARE International and the African Wildlife Foundation (AWF). A pilot region, located in the Equateur Province, has been selected to test this approach, in cooperation with executing agencies of the Congo Basin Forest Partnership. As part of this process, the Bank is providing a structured platform for consultation with civil society, and the Government is encouraging the participation of local NGOs and communities to make sure the voice of local populations and indigenous people are taken into account.

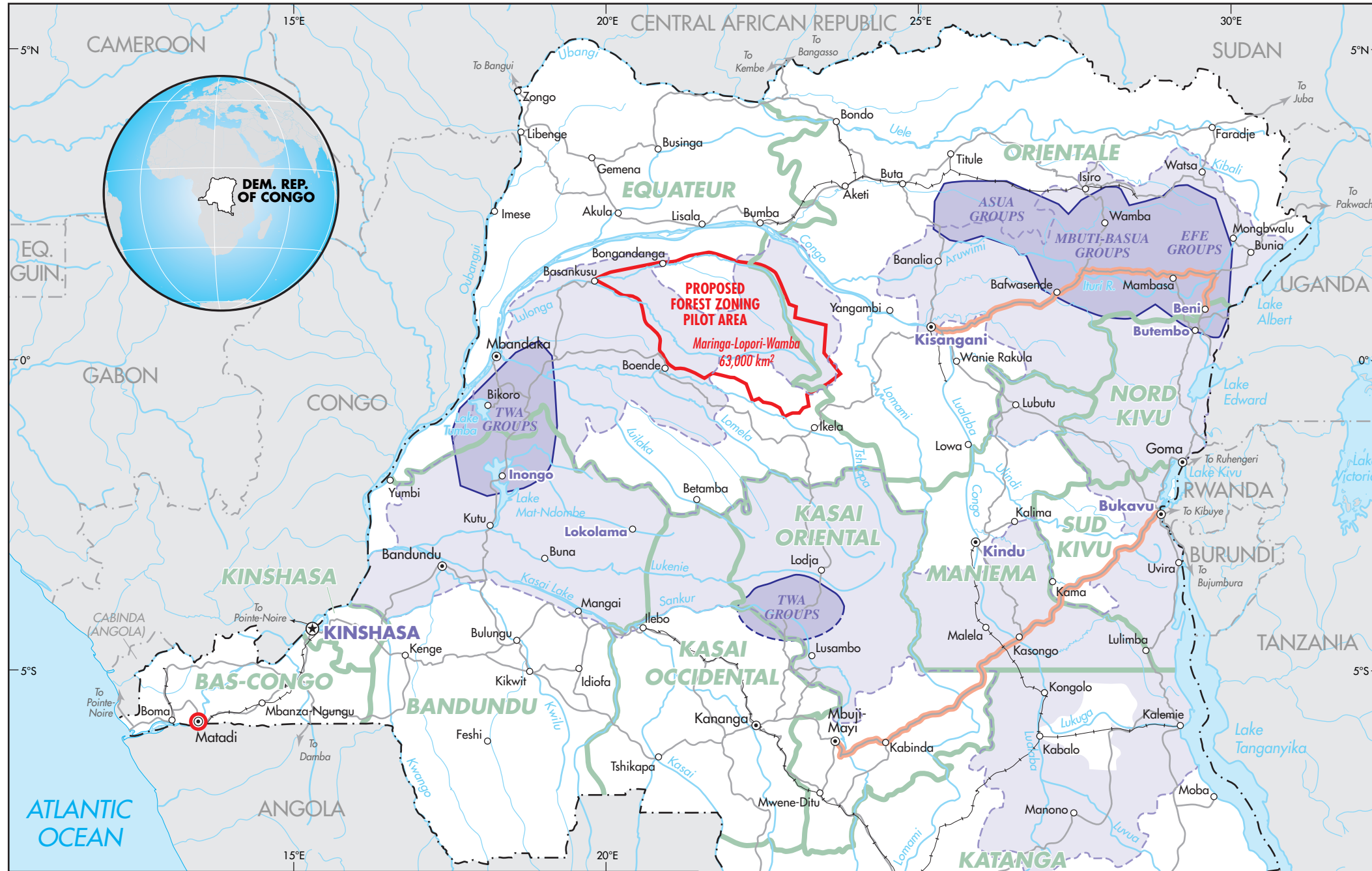
12. Does the Bank help protect the DRC's global biodiversity assets in protected areas and in production landscapes?

Yes. The Bank supports the efforts led by ICCN (*Institut Congolais de Conservation de la Nature*) to revive the national coordination platform for biodiversity conservation. The Bank financed field assessments in Virunga, Garamba and Maiko National Parks, of which two are World Heritage Sites, as well as Lomami and Itombwe critical ecosystems. A project for rehabilitation of these national parks will be submitted to the Global Environment Facility (GEF) for financing. In addition, the Bank is administrating a \$2 million European Trust Fund for environment and institutional strengthening. The new Forest Code provides that protected

areas are to cover 15 percent of the national territory: The cancellation of, and the moratorium on, new logging concessions since 2002 make it possible to create new protected areas in the rainforest region. The new code provides for sustainable management in all production forests. In this context, the Bank is advising the Government to include wildlife protection as standard obligations of forest companies under all concession contracts. Similarly we advise that contracts for concessions surrounding protected areas should be subject to a specific Environmental Impact Assessment (EIA). The Bank is also supporting ICCN's efforts to update the Nature Conservation Law.

13. Does the Bank comply with its policies and safeguards in its DRC forest work?

Yes. The Bank's work in DRC is consistent with the new Forest Strategy [[e-link](#)] and with applicable safeguards policies OP/BP 4.01, Environmental Assessment, O.P 4.04 Natural Habitats, OP/BP 4.12 Involuntary Resettlement, O.D 4.20 Indigenous Peoples, OP/BP 4.36 on Forests, (<http://lnweb18.worldbank.org/ESSD/sdvext.nsf/05ByDocName/ESSDAdvisoryService>). The Bank is not financing any industrial logging operation in the DRC. Current financial support to the forestry sector covers advisory services, studies, workshops, training and institutional strengthening. This support is being provided through several multi-sector operations including the Economic Recovery Credit (ERC Cr. 3660-DRC, [add web link](#)), the Emergency Multi-Sector Rehabilitation and Reconstruction Project (EMRRP Cr. 3703-DRC, [add web-link](#)) and the Emergency Economic and Social Reunification Support Project (EESRSP Cr. 3824-DRC, [add web-link](#)). The latter project has a forestry component of \$4 million that will finance the revision of forest contracts and the forest land use planning. In accordance with OP 8.50 ([e-link](#)), the EIAs for emergency projects will be completed one year after project effectiveness.



DEMOCRATIC REPUBLIC OF CONGO
EMERGENCY ECONOMIC AND SOCIAL REUNIFICATION SUPPORT PROJECT
 Request for Inspection

INFRASTRUCTURE REHABILITATION (COMPONENT 3) UNDER THE PROJECT	SELECTED CITIES AND TOWNS
PROJECT WORKS (COMPONENT 3, RN1 AT MATADI)	PROVINCE CAPITALS
PROPOSED FOREST ZONING PILOT AREA (MARINGA-LOPORI-WAMBA)	NATIONAL CAPITAL
Beni TOWNS FROM WHICH REPRESENTATIVES WERE SIGNATORIES TO INSPECTION PANEL REQUEST	RIVERS
AREAS OF PYGMY CONCENTRATIONS*	MAIN ROADS
AREAS WITH REPORTED PRESENCE OF PYGMIES**	RAILROADS
	PROVINCE BOUNDARIES
	INTERNATIONAL BOUNDARIES

*Source: Bahuchet et al. 1999, Bailey et al., 1990, Pagezy 1988a,b.
 **Source: Kapupu, ongoing study.



LOGGING CONCESSIONS AND PROTECTED AREAS

PRIOR TO 2002 CANCELLATION:

REMAINING AFTER 2002 CANCELLATION: *
 *Now subject to legal review; possible changes after 2002 not reflected.

LEGEND:

- PROPOSED FOREST ZONING PILOT AREA (MARINGA-LOPORI-WAMBA)
- LOGGING CONCESSIONS
- MAIN PROTECTED AREAS NETWORK
- PROVINCE BOUNDARIES
- INTERNATIONAL BOUNDARIES

This map shows the state of logging concessions and protected areas in the DRC before the 2002 cancellation. A second map below it shows the remaining concessions and protected areas after the cancellation, with a note that the remaining areas are now subject to legal review and that possible changes after 2002 are not reflected.

