

Industrial logging in the Congo: Is a Stakeholder Approach Possible?

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Introduction

Organising the 2006 elections in the Democratic Republic of the Congo (DRC) was a major technical, logistical and political accomplishment.² The Congolese authorities, albeit with massive support from the international community, succeeded in getting an unexpectedly large number of eligible voters to register and go to the polls. Avoiding conflict in the post-electoral period will be a much more daunting challenge because people have high expectations for greater security, economic development and improved well being.³ In what is the paradigmatic failed state in Africa, people paradoxically expect the Congo state to provide public services.

After 32 years of dictatorship and nearly 10 years of a frustrating political transition, the need for positive change is sharply felt. The newly elected president and his government will be under pressure to address these expectations quickly: without some tangible improvement in social and economic conditions, the political context could well become explosive. While political analysts speak of a 'grace period' in terms of months, development experts refer to decades of reform and rehabilitation before a meaningful development process can take form.

The international community has also been heavily involved in preparing Congo's economic future. The World Bank's involvement in drafting and having promulgated new mining and forestry codes⁴ is an obvious illustration. The World Bank's position — shared by other major actors such as the European Union, the United States and Belgium — is that stability in post-election DRC will be largely contingent upon improved management of the country's outstanding natural resources. There is an emerging consensus that this wealth could help kick-start the formal economy and could be a basis for reconstruction if major changes in the political economy of the

country are implemented along with increased transparency and accountability. State control over natural resources, in partnership with responsible private sector actors, could thus contribute to sustainable peace and development. The alternative could well be new phases of social degradation, conflict and violence. Development experts, therefore, are implementing policies that seek to formalise those key sectors of the economy that have either been exploited through patrimonial practices or pillaged by actors who have been able to escape the control of the state or collude with high level corrupt elites.⁵

The Bank consequently argues that the DRC has to gear up its industrial forestry sector in a responsible manner. 'Responsible' translates into protecting community and indigenous rights, respect of the environment and equitable distribution of benefits. The Bank also sees logging as one of the most important growth sectors in the DRC in the coming years because of its economic potential and its potential to be controlled or formalised. It is a fundamental assumption for rehabilitating the Congolese economy that makes some sense. Timber contrasts with other resources such as diamonds and gold, which are largely controlled by mafia-type networks. It is easier to clandestinely export a suitcase of diamonds than a six-cubic meter tree trunk.⁶ The investments needed to rehabilitate the collapsed Gecamines for copper and cobalt are unrealistic for the moment, although since 2005 Congolese copper has been the subject of renewed interest. For the first time in many years demand has surpassed supply due to Chinese imports. Embedded in this World Bank logic is the strategy of formalising potential growth sectors of the economy so the country can start paying back its external debt and attract foreign investments.

The Bank's actions in the DRC industrial timber sector are subject to some criticism. First, they are a clear example of an international organisation replacing the Congo state and making strategic decisions that are normally the prerogative of sovereign states. World Bank representatives occupy key posts as advisors in the relevant ministries, a situation that can be interpreted as undermining the process of state reform. Second, there are serious ethical considerations because there is little doubt that local populations will be victimised by industrialised logging. Although they should not be denied access to productive and cultural space, they may suffer from depletion of vital forest products as loggers transform the ecology and social relations in what local populations consider as their ancestral lands.⁷ Third, strategies proposed by the Bank reveal a certain lack of basic knowledge of the

country's size and logistical handicaps, making policy implementation difficult. It also seems that Bank experts have not grasped the complexity of indigenous representation issues. Fourth, the Bank continues to support the conversion process even though it withdrew from the zoning process, which should have come first. These problems accentuate Congolese perceptions that the international community is imposing reform without really understanding the country.

About 35 million Congolese depend on forest resources for their daily needs. Forests provide them with wood for cooking and building, as well as food and a wide range of non-timber forest products for food, healing, crafts and rituals. Although forests provide important earnings for a small group of about 20 official industrial loggers (mainly foreign), their contribution to the state is insignificant. Forest revenues contribute to about 0.7% of GNP, significantly lower than that of Cameroon, for example, where they represent about 6%.⁸

Congo has a total forest cover of 135 million hectares, according to Food and Agriculture Organisation estimates. Half of this surface is designated as *forêt de production* (exploitable forests). In 2003, 19 million hectares were under concession, an important reduction compared with the early 1990s when 45 million hectares were under concession.⁹ This reduction can be explained by World Bank policies implemented by Congolese authorities aimed at breaking contracts on lands that were not generating tax revenues because they were not exploited or were under-exploited.

Given the fact that much of the *forêt de production* (notably in Equateur and Oriental provinces) was inaccessible due to war, it was not surprising that concession holders were forced to cease operations. Concession holders who lost titles in this process have contested the decision. The World Bank, moreover, has been under serious pressure from indigenous rights advocacy groups and NGOs, which also contributed to contract termination.¹⁰

After many years of war, political and economic crisis and a stalled electoral transition, the logging sector has entered its start-up phase. Although there are about 60 companies registered with the Department of Forest Resources in the Environment Ministry, fewer than half are operational today.¹¹ The bulk of timber exports are in the form of tree trunks: only a small percentage of Congolese timber is processed or partially processed. Moreover, a large percentage of timber harvesting is being carried out by either illegal loggers or by some 8 000 artisanal informal harvesters.¹² The macro-economic limits

of the logging sector in DRC can be summarised by the following constraints:

- Exorbitant freight and transport costs due to poor road, port and rail infrastructure.
- Very high operating costs.
- Political insecurity, which is a disincentive to investors creating economies of scale.
- An arbitrary and unpredictable tax system.
- Complaints by loggers that they have to replace the state with respect to provision of social services and infrastructure development.

Given this complex context in which a wide range of stakeholders compete for access to resources, this paper focuses on the challenges facing local communities who live in and around forest concessions. These high-stake economic spaces are also conflicting social spaces characterised by an ambiguous institutional framework. The discussion is based on the assumption that positive change in the forestry sector will require much more than a change of government or the development of new laws or new policies. International donor funding may help to address some immediate problems but it will not change deep-rooted ideologies and practices. A tripartite *modus vivendi* between people, the private sector and the Congo state is an absolute prerequisite to any form of rehabilitation of the formal economy in general and the logging sector in particular.

The forestry code and participatory management

The 2002 forestry code includes substantial requirements for public consultation and integration of social and environmental factors into the forest concession allocation process. In theory, this represents a significant improvement over past laws and practices because until the 2002 law was passed, the sector was governed by a colonial decree dating back to 1949.¹³ The need to modernise legislation and practices due to unsustainable forest management schemes was obvious and long overdue. An independent observatory was consequently created

in 2005 to provide technical support for the conversion of old forest titles to new concessions.¹⁴ The observatory was mandated to:

- identify titles that were awarded illegally during the moratorium that was set up after the UN report on the illegal exploitation of Congo's natural wealth;
- identify titles that had not paid surface or exploitation taxes; and
- ensure that all stakeholders were involved in the conversion process.

The major challenges facing the observatory include addressing the competing claims held to forests by concession holders and indigenous communities and involving groups (notably Batswa Pygmy communities) that have little or no voice in decision-making debates. The real pertinence of the observatory, which has mobilised a large amount of organisational energy and funding — like many such initiatives in Africa — is ambiguous. It will review applications for concessions based on technical, legal and social criteria. It has visibility and international credibility but its recommendations are not binding. While the observatory has been meticulous in maintaining high standards with respect to procedures and transparency, it is ultimately a Congolese inter-ministerial commission that will decide which applications will be accepted for concession awards. The commission will comprise members from different ministries, civil society representatives, local communities and private sector operators. This diversity reduces the possibility of corruption but given the high stakes, cannot eliminate it completely.

While the new legal and regulatory framework relating to logging in Congo offers some opportunities to improve the well being of local populations in the spirit of sustainable management, there are major challenges. The administrative, logistical and institutional control mechanisms are non-existent or insufficient. This means that they will be unable to stop legal and illegal loggers from pursuing the corrupt practices that characterised the sector in the past.

It is common knowledge that the revenues earned in the logging sector were shared directly by political elites and the loggers themselves with little concern for local populations or the environment. This continues to generate serious conflicts between stakeholders. The observation moreover characterises the entire

political economy of DRC and other timber-producing countries in the Congo Basin. Four principles will have to be assimilated to improve this state of affairs and there are indications that the political climate is favourable. These are:

- The distinction between the responsibilities of the state and those of the logging companies must be clearly defined and respected.
- Loggers must accept a social dimension in their relations with local populations.
- The state and loggers, in partnership with local populations, must improve the lot of the latter by the direct and indirect advantages of timber extraction.
- The participatory approach must be open and transparent and understood by all stakeholders.

Significant efforts with respect to awareness, communication, capacity building and coalition building will be needed before these principles are realistically accepted and implemented by all parties. The process taking form in the DRC today can benefit from lessons learned in other Congo Basin countries, notably Cameroon, where efforts to improve partnerships between loggers and forest dwellers have a head start of about a decade. The elaboration of costly forest management plans (*plans d'aménagement*)¹⁵ and respect of the international codes of conduct constitute major advances with respect to local populations' rights, the environment and working conditions in the logging camps. Nonetheless, the overall social balance sheet remains catastrophic.

First steps will include a major awareness campaign about rights and responsibilities and a greater involvement of civil society actors. This will be predicated on improved education, without which participation in the development process will be impossible. Restarting the private sector is a prerequisite to putting the Congo's economy on track. Although this is a very long-term process that will take, optimistically, at least 20 years, this should not give the private sector the licence to extract natural resources without allowing ordinary people to benefit. People living in forest areas under concession, however, also have to be realistic in their demands for socioeconomic investments.

Just as some loggers try to get away with minimum investments in schools, health services or infrastructure, certain communities expect universities, airstrips and even canals in compensation for logging on what they perceive as being their land. Local elites, moreover, often manoeuvre to monopolise benefits for themselves or their families without taking into account the needs of the community at large. These communities generally need very basic socioeconomic investments and are often unable to decide in a participatory way the list of priorities to present to the management teams working with the loggers. In the past, the Congo state was totally unable and simply not

Social and economic impacts of industrial logging	
Positive	Negative
Job creation	Social context and relations between members of the community are transformed. Jobs are generally short term, lasting only as long as loggers work in the area.
Social-economic investments (schools, clinics, roads, etc.)	Creation of false hopes and frustrations because outside development strategies do not respond to local expectations. No controls on the quality of investments.
Links outside the community created and strengthened	Conflicts emerge because communities are unable to manage new revenues.
Cash enters community (in the form of salaries but also through the sale of food, bush meat, fish, etc.)	Imported form of development not appropriated by all members of the community and unequal distribution of benefits.
Professional training and capacity building	Jobs are low level with little training. Women are left out of the process because of the nature of the work.
	Inequalities exacerbated (gender, youth-elders, educated-uneducated, Bantu-Pygmy...)
	Ancestral importance of forest undermined.
	Lack of negotiation experience and lack of support from the state, civil society and loggers result in inadequate agreements and conflict.

motivated to carry out the mediation work between forest people and loggers. Greater implication of civil society actors and the active support of the international community can help reinforce this process of change, though again, this will require many years of transition in political practices. Another prerequisite is the need to embed the participatory approach in local logics and belief systems. It must consequently take into account a host of cleavages, tensions, problems of distrust, as well as gender and generation gaps that characterise forest communities.

The 2002 Forest Code specifies the land and resource rights of local populations and stipulates the obligations of the concession holder to provide social services (Article 89). One of its main advantages is the attempt to narrow the gap between the theory of state power and the reality of customary law (Article 36). This is an important step forward because traditional claims are now recognised and institutionalised. Even within concessions, local populations have the right to hunt, fish and harvest non-timber forest products (Article 44).

Until 2002, the state claimed sole ownership of land and resources. The 1949 law that governed forestry issues until 2002 institutionalised the absence of any indigenous claims or rights. If loggers previously set up schools, clinics, company stores or organised club houses with satellite TV or other such initiatives, it was because they sought to maintain a minimum level of social peace. They had no legal obligation to do so. It was largely due to the involvement of indigenous peoples' lobbies and environmental NGOs that the 2002 law recognised the importance of working with local populations with respect to forest management.

In practice, however, industrial loggers are reluctant to invest in social infrastructure because they claim the taxes they pay to the central government should cover those responsibilities. They further argue that it is incumbent on the state to respect its responsibilities. As a response to this reluctance, Presidential Decree No 116 of 24 October 2005¹⁶ Article 7(d), requires loggers to make concrete propositions in their management plans to protect local populations' rights and practices. In the spirit of participatory management (consultative committees are institutionalised in Article 29 of the forestry code), these propositions must be supported by signed reports of meetings held between loggers and representatives of local communities. Article 7(f) has similar requirements with respect to the environmental impacts of industrial logging (threats to wildlife for

example) and the implications that these impacts could have on the well being of communities.

Despite these requirements, land tenure practices remain riddled with ambiguities. Badly needed land reform has not yet been seriously addressed. Traditional authorities and state agents, therefore, vie for power, access to resources and legitimacy in an unending negotiation process characterised by 'turf wars' and hard bargaining in and around logging concessions. Other civil society actors such as religious figures, NGO workers and international development experts have also become omnipresent. They are not, however, very effective actors. Relations between all these actors are characterised by conflict, even though a situation of fragile accommodation has been worked out.

According to the DRC government, land (literally *le sol et le sous-sol*) belongs to the state. The 1966 Bakajika law enabled the state to claim full sovereignty over land issues, including the awarding of agricultural, forest and mining concessions. The other, opposing logic is the one maintained by the people living in rural communities. They consider themselves to be the real landowners based on ancestral rights: they say they are the guardians of the land, making the cosmic link between their ancestors and future generations. The Bakajika law for them is no more than illegitimate fiction invented in Kinshasa for political reasons.

The potential for conflict in and around forest concessions results from this hybrid system, which is, moreover, exacerbated by the ambiguity that surrounds procedures and their implementation. There is no clearly defined set of rules in these spaces because in the context of state failure and economic crisis, whoever has the slightest form of power or authority exploits it to maximise personal gain. Taking the claims and preoccupations of forest communities into account is a positive sign but there is considerable room for scepticism with respect to the capacity of administrations to uphold the law – especially in a sector where corrupt practices at the highest levels remain commonplace. For the time being, moreover, relevant ministries are unable to guarantee that these laws and procedures are enforced.

Decentralisation and local socio-political organisation

The new constitution that was ratified in December 2005 institutionalises a decentralisation process. It stipulates that 60% of revenues are destined for the central government and 40% for the 26 provinces. The provinces in turn retrocede 15% to those smaller

administrative districts, called *secteurs*, from where revenues are generated. Concretely, this means that if a logging company pays \$100,000 in tax to Kinshasa, \$15,000 will be earmarked for the *secteur* in which the timber was harvested.

Discussion with territorial agents about who should logically be involved in these transfers found our questions very amusing. In addition to political obstacles, they stressed a range of logistical problems in receiving funds from a higher administrative echelon. Congo is a country with practically no formal banking system and ministries that are only just now starting to use computers. Administrators in rural areas rarely have vehicles to travel in their districts.

More generally, the budget issue reveals real political mismanagement: the total national DRC official budget is approximately \$1,3 billion, or around that of a mid-sized American university. Sceptics moreover could raise the very pertinent question of whether or not a state such as the DRC possesses the technical and administrative capacities to decentralise itself. Major problems consequently remain unsolved: who exactly within the community should receive this 15%, in what form and for what specific purposes? There is insufficient harmony at the village level to imagine that people can reach a consensus on how to distribute or invest new revenues. This is especially problematic in communities that live largely outside of a cash economy because power structures in rural Congo institutionalise a certain number of exclusions.

Bantu men, the elders, control power and they alone decide how the community should preserve its past and organise its future. Women have no voice. Pygmies have no voice. In the forest areas of the DRC, Pygmy communities — widely considered as being 'backward' — are numerically significant. Although some progress has been made at the discourse level, this has had practically no impact on the realities of women and indigenous peoples. These exclusions are serious handicaps to the Congo's broader development needs.

There are many examples of conflicts that have arisen within communities because members do not always share the same views about how to deal with the presence of loggers in their areas. Even the seemingly positive question of socioeconomic investment creates conflicts over choice of location and choice of development initiative: some people may want a school, others may want a bridge, and others may want a well. Logging companies reinforce these forms of exclusion because their interlocutors are the Bantu male elders who

make decisions in non-participatory ways. Improving the participatory process of traditional social organisation is admittedly not the responsibility of industrial loggers. Logically, civil society groups should implement this. These latter, however, have neither the capacity nor the commitment to do so.

Civil society

In the early 1990s, the number of civil society associations, local and international NGOs and community-based solidarity networks exploded in the Congo. Since then, they have become vital components of the survival strategies invented by people to replace the state in many areas of public life. The phenomenon developed because the country was in crisis and people had to reinvent new survival mechanisms. Congo's civil society initiatives exemplify people-based social organisation driven by pragmatism and the will to survive.

Despite the huge numbers of affiliates, however, the DRC's apparently dynamic civil society is still far from being a genuine civil society where people are citizens claiming rights instead of clients seeking access to random benefits in an arbitrary negotiation process. Congolese civil society, moreover, is not a homogenous body.

On the contrary, competing interests and stakeholders divide it. Civil society is also caught up in a degraded social, political and economic situation. This very harsh environment that will most probably last for many years to come, necessitates strategic revisions and major strengthening if civil society is to play any determinant role in political matters, sustainable peace building, poverty alleviation, or gender equality.¹⁷

Ethnic associations (the largest component in terms of members), churches, and development and human rights NGOs currently dominate civil society. Some major weaknesses include:

- the lack of experience and professionalism of civil society leaders;
- the absence of a critical mass of competent actors;
- the weak representation of women and minorities;
- serious financial and material shortages;
- political manipulation;

- poor co-ordination between civil society actors;
- dependence on outside funding;
- the dominance of urban elites claiming to represent rural communities but who are disconnected from their bases; and
- the absence of collaboration between civil society actors and state agents.

Why is the weakness of civil society in the DRC a threat to the implementation of the new forest code? It is because the World Bank logic integrates civil society in its plan to improve mediation. The Congo state, however, is unable to mediate between the private sector and local communities.

It was no more than wishful thinking on the part of Bank experts when they participated in designing the code believing that civil society would be able to play the role of mediator. In reality, civil society is practically absent from forest areas and many civil society elites often tend to disdain rural folk. These constraints will probably last for many years to come. Strategic revisions and sustainable strengthening of civil society is urgently needed if it is to play a determinant role in the future.¹⁸

A bleak future for forests and people

This paper has attempted to respond to the question raised in the title: is a stakeholder approach possible in the forest concessions of the DRC? The response, at least for the near future, is negative. While people are integral elements of tropical forest ecosystems and need to be consulted, informed and involved when elaborating national priority policies such as concession awards, the mechanisms currently in place in the DRC are woefully insufficient. Participation is hampered by a host of obstacles ranging from the complex nature of traditional authority and its institutionalisation of inequality to the long established practices of high-level corruption in the logging sector. Other obstacles include the difficulties in accessing information and the isolation of most forest communities.

While the World Bank logic of using the logging sector to kick-start the economy has merit from a macroeconomic point of view, the impact on local communities living in and around logging concessions

will clearly be negative. Their access to vital resources will be diminished as forests are logged. The participatory management approach that is fashionable in some donor and NGO circles has little currency in the ruthless world of industrial logging. Moreover, the fiscal revenues that should accrue to them remain more imaginary than real. These populations have no reliable mediators and insufficient experience in participatory strategies.

A sensitive ethical question that has received little attention pertains to the trade-offs between the need to generate national revenues for the common good and the sacrifice of large blocks of the Congo's natural heritage and its impact on local communities. Can new ideas and policies pertaining to socially and ecologically sustainable forest management really work? There is little evidence that proves so. Sustainable forestry is not a technical challenge: it is a political, social and cultural problem. In the specific case of Congo, this problem is exacerbated by the tragedy of its recent past. Can Congolese authorities responsible for forest management design and implement locally appropriate policies that will enable the country as a whole to benefit from logging revenues? Again, there is little evidence that proves so.

Endnotes

- 1 THEODORE TREFON directs the Contemporary History Section of the Royal Museum for Central Africa, Belgium. Françoise Van De Ven of the *Fédération des Industriels du Bois* of the DRC and Alejandra Colom, anthropologist and consultant specialising in the DRC forestry sector are thanked for commenting on a draft version of this article.
- 2 Parliamentary elections and the first round of presidential elections took place in July 2006 and the second round for the Presidency, contested by Joseph Kabila and Jean Pierre Bemba, took place in October.
- 3 Serious skirmishes between Kabila and Bemba already occurred in late August, just after preliminary results were announced.
- 4 Law No 011/2002 of 29 August 2002 is commonly referred to as the Forestry Code.
- 5 See for example, United Nations Panel of Experts, 'Interim Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo', 2002; UN Security Council Document S/2002/565, and *The State vs. the People: Governance, mining and the transitional regime in the DRC*. Amsterdam: Netherlands Institute for Southern Africa (NIZA), 2006.
- 6 For a discussion of illegal timber exports from DRC see 'Conflict Timber: Dimensions of the problem in Asia and Africa: Vol 3', Burlington, Vermont: ARD/USAID, 2003,

- available at <http://www.rainforestfoundationuk.org/files/ARD%20report%20vol3afr.pdf>.
- 7 The impacts of industrial logging in the DRC are less severe than in other Congo Basin countries because of the relatively low extraction rate: between three and six cubic metres per hectare.
 - 8 Vande Weghe JP, 'State of the Forest Report', draft version, 2006.
 - 9 Roda JM & K Erdlenbruch, 'Analyse des conditions de reprise économique du secteur forestier en République Démocratique du Congo', unpublished World Bank report, 2003, p.1.
 - 10 The major NGO actor in this context is the London-based Rainforest Foundation.
 - 11 Notably Parquetfrigue (Italian), ITB (Lebanese), Safbois (American), SIFORCO (German) SODEFOR (Portuguese) and SOFORMA (Portuguese). Source: Kwokwo Barume A, 'Le nouveau code forestier congolais et les droits des communautés des forêts', 2003, available at <http://www.rainforestfoundationuk.org/files/DRC%20Code%20and%20communities.pdf>.
 - 12 Djire A, 'Etude sur le secteur informel du bois d'œuvre en RDC', unpublished report, Kinshasa, 2003.
 - 13 Decree of 11 April 1949.
 - 14 The author was responsible for designing a socioeconomic methodology in the framework of the independent observatory in January 2006. Information about the observatory is available at www.rdc-conversiontitresforestiers.org. For further analysis of the conversion process, see 'Une revue du projet d'appui technique pour la conversion des garanties d'approvisionnement et les lettres d'intention en contrats de concession forestière en République Démocratique du Congo', Resource Extraction Monitoring, London, 2004, available at www.rem.org.uk.
 - 15 Forestry management plans are supposed to address the three following priorities: (i) identification of all commercially valuable tree species; (ii) identification of plant and animal species to maintain biodiversity; and (iii) population census and identification of villages and other areas used for agriculture, fishing, hunting, harvesting and ritual purposes.
 - 16 Decree No 05/116 of 24 October 2005, pertaining to the concession conversion process.
 - 17 CARPE and CARE have implemented meaningful projects to empower local NGOs.
 - 18 Budge-Reid H, *et al*, 'Civil Society and Peace Building in the DRC: A review of contexts and donor challenges for support to civil society and peace building in the DRC', unpublished paper, Department for International Development, London, 2003, p.5.