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Kinshasa, 12 February 2004

- **To His Excellency the Minister for the Environment, Waters and Forests in
Kinshasa – Gombe**
 - **The World Bank Resident Representative**
 - **The FAO Representative**

Copy for information to:

- **His Excellency the President of the Republic**
- **His Excellency the Vice-President Responsible for Economic and Financial
Affairs**
 - **His Excellency the President of the Senate**
 - **His Excellency the President of the National Assembly**
 - **His Excellency the Minister of Finance**
 - **The UNDP Resident Representative**

Re: The future of the forests in the Democratic Republic of Congo and the people living within these forests.

Your Excellency the Minister, Representatives,

We, Congolese civil society organisations, appeal directly to you as those currently defining the objectives and terms of the Democratic Republic of Congo's future forestry policy.

We are extremely concerned at the current situation. If its objectives and implementing conditions are not reconsidered, the « development » of the DRC's forests will have major repercussions for the rights and livelihoods of millions of Congolese people, and this will also have serious and irreversible consequences for this vital forest resource.

- We note that, on 24 January 2003, the United Nations Security Council unanimously adopted Resolution 1457 which 'noted with concern' that « *the plundering of natural resources [in the DRC] continues and constitutes one of the main factors feeding the conflict* ». We are concerned to note that the current development of the forestry sector,

and of forestry policy and legislation in the DRC, fails to take this fundamental problem into account.

- The management of these forests must under no account be guided by the hypothesis that the development of industrial forest activity necessarily contributes to the development of the people, nor of its most disadvantaged sectors.
- The new Forestry Code for the DRC (Law No. 011-2002 on the Forestry Code) presents several problems, which were identified in research documents commissioned by the Rainforest Foundation for a workshop organised by the Working Group on Forests / GTF in November 2003 in Kinshasa.
 - The Code does not comply with all the DRC's obligations deriving from various international treaties, including article 8(j) of the Convention on Biological Diversity;
 - The Code takes insufficient account of the specific needs of forest-dependent communities and could lead to serious conflicts over community rights and access to forest resources;
 - The Code fails to take account of the lessons learned from application of similar forestry legislation in Cameroon, and numerous provisions are inappropriate.
- The elaboration of implementation decrees acts is just as worrying, particularly with regard to the opportunities for civil society to participate in this process. For example, among the decrees already adopted or in the process of elaboration, only three (3) have thus far been made available to us.
- Forest zoning is a critical process. It will determine the legal relationship linking the people to the forests, and may thus affect the subsistence resource rights of millions of people living in the DRC's forests. Thus far, local consultations on defining a methodology and criteria for dividing up the country have only involved the State departments and the private sector.
- Civil society's knowledge of the existence of the « Coordination Unit » within the Ministry for the Environment, Waters and Forests, and of this Ministry's responsibilities in developing a National Forestry Plan, is currently extremely limited.

We, the Congolese NGOs, have for several months been undertaking numerous initiatives aimed at the World Bank, the FAO and the Minister for the Environment, Waters and Forests of the Democratic Republic of Congo to encourage you to secure the effective participation of civil society in the process of implementing the Forestry Code and, more particularly, in the process of elaborating the Forestry Code's implementing decrees and disseminating them.

The words and good intentions of the World Bank and the FAO have thus far not resulted in any concrete action in response to the concerns of a civil society that has been sidelined in a process which is deciding, at this very moment, and without our contribution, the fate of our country's ecological heritage and the future of its people. These are people whose subsistence and very existence depend directly on their access to the resources and benefits of a sustainable management of their forests.

This lack of consultation and involvement of civil society heralds the establishment of a forestry policy that is devoid of all popular legitimacy. This policy thus risks being rejected by the population and creating innumerable social conflicts.

Civil society takes note and requires urgent measures

Taking note of the resistance to change the process for implementing the Forestry Code in line with our recommendations, we thus formally request that the following measures be taken:

- ***The immediate adoption of a moratorium on the process for elaborating the Forestry Code's implementation decrees.***
 - The initial planned duration of the process is already halfway through. The moratorium must be maintained until the breaches in World Bank and FAO policy have been addressed, and effective civil society involvement secured.
 - This moratorium will enable a further examination of all texts aimed at implementing the Forestry Code, with the consultation and participation of civil society and all affected communities. The texts in question are those already having been adopted to date or in the process of being elaborated, along with those considered as « not requiring consultation ».
 - The implementing decrees and the Code itself must be re-examined in the light of international obligations legally binding upon the DRC, particularly those resulting from international conventions on the protection of human rights or the environment.
- ***An increase in the number of civil society representatives on the Steering Committee for FAO Project TCP/DRC/2905 from three (3) to six (6).***
 - We would recall here the terms of the note sent to you, Minister, (19 November 2003) calling for better civil society representation on the Committee, and proposing the nomination of the **CNONGD**, the **GTF** and one person representing indigenous people's interests.
 - A letter from the Secretary General for the Environment, Waters and Forests, dated 7 February last, invites the GTF coordinator to designate three additional experts as members of the Steering Committee, « in the spirit of the note ». We are thus awaiting the consequences of this ministerial progress via the official nomination of the said experts.
- ***The traditional and customary rights and practices of local communities must be effectively and systematically taken into account in the process of elaborating the implementing measures, as well as in the development of the National Forestry Plan and, in particular, the zoning plan.***
 - There must be particular attention paid to the methodology and criteria for zoning, including any recommendations made during the extended consultations with civil society.
 - The zoning plan must be accompanied by effective local consultations including appropriate participatory techniques, for example, for the demarcation of community territories and for determining land use.
- ***The World Bank and the FAO must ensure that their interventions in the DRC are in accordance with international law, with the obligations resulting from international conventions on the protection of human rights or the environment and with the Constitution of the DRC. In addition:***
- ***The World Bank must ensure that its interventions in the DRC are in accordance with the terms of its internal policies and directives.***

- ***The FAO must ensure respect for its commitment to guarantee the participation of all those affected in its interventions in the DRC, in particular in terms of the rights of forest communities.***

We, the Congolese NGOs, now await determined actions and a response from you, Minister and Representatives of the World Bank and FAO, in order to do everything possible to obtain a positive outcome.

In the hope that this call from the Congolese people will be heard by yourselves, we the NGOs working for the well-being of all Congolese send you our utmost respects.

Enc :

- ***Note from the participants of the Kinshasa workshop (19 November 2003)*** sent to the Minister for the Environment, Waters and Forests

