



Giuseppe Topa  
Lead Forest Specialist, Africa Region  
The World Bank  
1818 H Street  
Washington DC 20003  
USA

By e-mail to: [gtopa@worldbank.org](mailto:gtopa@worldbank.org)

2<sup>nd</sup> December 2003

Dear Giuseppe

**World Bank and the Forest Sector in the Democratic Republic of Congo**

We are writing to you to raise some concerns, and to request clarification, about the World Bank's involvement in forestry in DRC.

**1. Bank funding for forest sector activities to date**

We note and are encouraged by the remark made on behalf of the Bank by Odin Knudsen, at the recent AFLEG Inter-Ministerial conference, where he said:

*“Politically and economically, the World Bank and others can no longer justify, even for the sake of fighting poverty, putting funds into nations where resources are wasted and some are confiscated by the powerful. Our Governors and taxpayers will not permit it.”*

As we understand it, there have been forest components in Bank credits to DRC in the following projects in recent years:

- i. The Emergency Multisector Rehabilitation and Reconstruction Project (Bank contribution to total project cost: \$415 million, approved by Bank Board June, 2002)

The proportion of this project directed at the forest sector is not evident from the publicly available information (including the Project Identification Sheet, PID 10904), nor is it clear exactly what activities in the forest sector were to be supported. However, we understand that the forest-related component amounted to around \$15 million. We also understand that the release of Bank

funds for this project component was made conditional by the Bank only upon the adoption by the Government of DRC of the new Forest Code.

We also note from the Bank's Integrated Safeguards Data Sheet for this project (report no. I057296) that the project was considered as an 'Environmental Category 'A'' project, "*because the scale and nature of the project activities, and the potential for resettlement, displacement and social tensions due to the project are significant*". The triggering of Bank Operational Policies OP 4.36 (Forestry), OP 4.04, (Natural Habitats), OP 4.12 (Involuntary Resettlement), 4.20 (Indigenous Peoples) and 4.11 (Cultural Property) was, according to this report, "to be determined" during the preparation of a full Strategic Environmental Assessment and "sub-project Environmental Assessments" which would be completed within one year (i.e., by June 2003).

**Question 1:** Can you please confirm whether the above information is correct, and provide us with details of the size of the component of this project concerned with forestry, and details of this component, including the objectives, activities and recipients?

**Question 2:** Can you please provide copies of the Strategic Environmental Assessment and any 'sub-project Environmental Assessments' that have been conducted in respect of this project?

ii. The Emergency Economic and Social Reunification Support Project (Total project cost: \$214 million, approved by the Bank Board, September 2003)

According to the Project Identification Document (PID 081850), one of the aims of the project is "*ensuring implementation of forestry reforms throughout the country*". However, it is also unclear from the publicly available documentation what specific programmes/activities in the forest sector are to be funded under this project.

We note that, according to the Integrated Safeguards Sheet (report no. AC43), that the project triggered OP 4.01 (Environmental Assessment), OP 4.36 (Forestry) and OP 4.12 (Involuntary Resettlement), but did *not* trigger OP 4.04 (Natural Habitats), OP 11.03 (Cultural Property) or OP 4.20 (Indigenous Peoples).

**Question 3:** Again, can you please provide us with details of the size of the component of this project concerned with forestry, and details of the component, including the objectives, activities and recipients?

**Question 4:** Please can you provide details of the steps taken by the Bank to ensure compliance of this project with OPs 4.01, 4.36 and 4.12, and please could you explain why the project did not trigger OPs 4.04, 11.03 and 4.20?

## **2. The Bank and the findings of the UN Security Council Panel of Experts on the ‘Plunder’ of DRC’s natural resources**

The PIDs for both of the above projects state that “*the emergency [in DRC] was in no way related to inappropriate environmental management practices*”. However, we note that, on January 24<sup>th</sup>, 2003, the United Nations Security Council unanimously adopted Resolution 1457, which ‘noted with concern’ that “*the plundering of natural resources [in DRC] continued and was one of the main elements fuelling the conflict*”. The Resolution also encouraged “*States, international financial institutions, and other organizations to assist Governments in the region in efforts to create appropriate national structures and institutions to control resource exploitation*”.

We also note that, in its final report to the Security Council dated October 15<sup>th</sup> 2002, the UN Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of DR Congo recommended that:

*“[a] monitoring body, with the adequate expertise and resources, track the... ongoing investigations into the illicit commerce in minerals, timber and endangered species of fauna and flora.”*

**Question 5:** What steps is the Bank taking in support of UN Security Council Resolution 1457, particularly concerning timber and the exploitation of forest resources?

**Question 6:** What steps is the Bank taking to ensure that those involved in the “illegal exploitation” of DRC’s natural resources, including those identified in the UN Expert Panel’s report as being within ‘elite and criminal networks’, are not direct or indirect beneficiaries of Bank Forest Sector Credits?

## **3. The Bank and the new DRC Forest Code**

We note above that, as far as we understand, the only conditionality applied to the government of DRC by the Bank concerning the DRC Forest Sector has been the adoption of the new Forest Code. We are also aware that, since the adoption of the Code in August 2002, the Bank has continued to assign importance to its implementation as a means of ‘modernising’ forest management in DRC.

### i. The Code

The Rainforest Foundation has been assessing the process of development of the Forest Code and the various norms and decrees that will serve to implement it. Earlier this month, in Kinshasa, we held a three-day seminar for DRC civil society organisations on the subject of the Code. The seminar was also attended by Mr Sébastien Malele Mbala, Chef de Division aménagement forestier au SPIAF, Coordonnateur national du projet, and Mr Crispin Mutumbe, Consultant, working on

FAO project TCP/DRC/2905, who are responsible for developing the application texts for the Code<sup>1</sup>.

In preparation for this seminar, we commissioned three studies (copies attached), concerning:

1. The Forest Code in relation to international environmental and human rights agreements;
2. The implications of the Forest Code for forest-dependent communities, especially DRC's 'Pygmies';
3. A critical analysis of the provisions of the Code, drawing on the experience of implementation of similar provisions in Cameroon.

The findings of these papers, and the outcomes of the seminar, are highly disturbing. Whilst the Code includes important new provisions on issues such as concession allocation, and the establishment of community forests, we believe that it presents major risks, both to the forest environment and also to the rights of poor people living within the forest. Specifically:

- The Code does not appear to comply with all of DRC's obligations under various international treaties, including Article 8(j) of the Convention on Biodiversity;
- The Code does not adequately take account of the particular needs of forest-dependent communities, and may provoke serious conflict over community rights and access to forest resources;
- The Code does not reflect the lessons that have been learned concerning the implementation of similar forestry laws in Cameroon, and many of the provisions would appear to be deficient.

We would also add that, as we understand it, despite the importance of forest resources in the lives of millions of poor Congolese people, the process of development of the Code was highly 'non-participatory'. As far as we understand, there was virtually no public consultation about the Code, and it was passed hurriedly through a non-elected parliament that has subsequently been replaced by a transitional government.

#### ii. The implementation norms and decrees

The development of the norms and decrees is equally worrying, particularly concerning the extent to which civil society has been able to participate.

The Steering Group of the FAO-supported project for the elaboration of the decrees includes three NGOs which have been nominated without any consultation with civil society at large. In spite of the existence of well-known and functioning NGO networks in DRC, it appears that one of the criteria used for selection of NGO

---

<sup>1</sup> An invitation to the seminar was sent to the World Bank representative in Kinshasa, but no-one from the Bank attended the meeting.

members of the Steering Group has been whether the NGOs were registered with the Ministry of Environment; it is clear that the existing groups have not in any way consulted amongst civil society more widely, nor do they represent the interests of forest communities<sup>2</sup>.

In practice, very few people in DRC are presently even aware of the existence of the Code, let alone the possible implications of it for their lives and livelihoods. The Bank is fully aware of this, through the study which it commissioned from the Centre National d'Education Mésologique. The April 2003 report of this study revealed that, in a sample of 32 community members in three of DRC's provinces, only two people even knew of the existence of the code and none knew anything about what it contained. Even among Forest Department staff, only 10 out of 28 staff knew anything about the contents of the new code.

Concerning the implementation decrees, we understand from the consultants on the project that some 15 decrees have been drafted or are planned, and it is expected that several more will follow. Of these 15, six have been immediately passed for official authorisation, having been deemed as 'needing no consultation' and 9 are at various stages of 'discussion and consultation'. Of these, only three have so far been made available to the NGOs on the Steering Committee. These three were made available to other civil society groups at the Groupe de Travail Forêts (GTF)/Rainforest Foundation seminar in Kinshasa two weeks ago, after repeated requests, but no process has been established by the project for ensuring that this kind of dissemination of the texts will continue for any others.

We have subsequently learned that four of the implementing arrêtés have, in fact, already been adopted and published in Juricongo as long ago as **October 3<sup>rd</sup>, 2002**, (including one of the three which civil society groups were invited to 'comment on' in November 2003). Those already adopted, apparently without any meaningful consultation with civil society, include arrêté CAB/MIN/AF.F-E.T/262/2002, which sets out the basic, and critical, processes for authorisation of forest exploitation.

The deficiencies in the process leading to, and the content of, both the Code and the implementation norms and decrees give cause to doubt whether the Bank's support and promotion of the new Code is strictly in compliance with the Bank Strategy or Operational Policy on Forests, OP 4.36. Specifically, the Code as it currently exists does not appear to be consistent with OP 4.36, which states that:

*"6. The Bank does not finance projects that contravene applicable international environmental agreements."*

*and*

*"13. In accordance with OP/BP 4.01, Environmental Assessment, the environmental assessment (EA) for an investment project addresses the potential impact of the project on forests **and/or the rights and welfare of local communities.**" (our emphasis).*

---

<sup>2</sup> Following the RF-sponsored seminar, civil society has requested that 3 further civil society representatives are invited to participate on the Steering Committee, including a representative of 'indigenous people'.

Our analysis also suggests that the Code is inconsistent with the Bank's Revised Forest Strategy, October 2002, which states (p32) that:

*“Priority areas for Bank action will include:*

*Promoting policy, institutional and legal frameworks that ensure that the rights of indigenous and other forest-dependent peoples and communities are protected.*

*Empowering women, the poor, and marginalized groups to take a more active role in formulating and implementing rural forest policies and programs”.*

The non-participatory nature of the processes to develop both the Code and the norms and decrees also appears to us to be inconsistent with the Bank's 'Principle of Engagement' as set out in the Forest Strategy, which states (p30) that:

*“The Bank will help build and respect [country] ownership. Governments and people must own the policies and interventions that will make their forests viable. This ownership can only be built through knowledge, participation, and consultations.”*

Whilst we understand that the DRC Forest Code is not a Bank 'project', we believe that, given the Bank's significant involvement, the Code should nevertheless be assessed for its compliance with both the Bank's Forest Strategy and Operational Policy.

**Question 7:** What steps, if any, has the Bank taken to ensure that its support and promotion of the DRC Forest Code is consistent with the Bank's Forest Strategy and Operational Policy 4.36?

#### **4. The Bank and forest zoning in DRC**

The basis for implementation of the many of the new Forest Code's provisions will be the zoning of DRC's forests. Clearly, zoning is a critical process, as it will underpin the legal relationship between people and forests, potentially affecting the rights to subsistence resources of millions of people living within DRC's forests.

We are aware of the forest zoning pilot work that is being undertaken by FAO in Equateur Province, and we understand that the Bank has supported this programme financially.

**Question 8:** Can you please clarify what is the relationship between the Bank and FAO concerning forest zoning in DRC? Can you please clarify what future zoning activities are anticipated? If the Bank has already provided support for zoning, what steps have been taken to ensure that such support is consistent with OP 4.36?

## 5. The Bank and fiscality of the DRC forest sector

We understand that the Bank is (rightly) concerned with the contribution that any future development of the forest sector might make to the economic development of DRC and its impoverished people. We also understand that, with this concern in mind, efforts have been made by the Bank to ensure that the forest area tax levied by the government on forest concession holders better reflects the value of the forest.

However, we understand that the Bank's efforts have been met with resistance both from the private sector and the government. In particular, we understand that, despite the Bank's insistence in 2002 that the forest area tax should be increased to \$0.50 per hectare (through incremental increases, starting with a raise in the area tax to \$0.25 in 2003), in April 2003 the government of DRC again reduced the area tax of \$0.50, as it had imposed in April 2002, to \$0.06 per hectare.

**Question 9:** What steps is the Bank taking to ensure that the area tax payable by holders of forest concessions better reflects the full value of the forest, and more generally that the people of DRC benefits to the maximum extent from any large-scale commercial exploitation of forests?

## 6. The Bank and the National Forest Plan

We understand that the Bank is also supporting a "Cellule de Coordination" within the Ministry of the Environment. This Cellule will be developing a National Forest Plan, and coordinating activities to 're-launch' the forestry sector and implement the new Forest Code.

As with the development of the Code and its implementation norms, civil society awareness of the programme to develop a National Forest Plan is extremely limited at present.

**Question 10:** What steps are the Bank taking to ensure that the development of the National Forest Plan will be consistent with the Bank's Forest Strategy and Operational Policy 4.36?

## 7. The Bank and Transparency in the Forest Sector

We note above several serious concerns relating to the lack of public participation in the development of the Forest Code, the implementation decrees and the National Forest Plan. We also note that UN Security Council Resolution 1457, notes in its fourth paragraph that:

*"the natural resources of the Democratic Republic of the Congo should be exploited **transparently**, legally and on a fair commercial basis, to benefit the country and its people"* (our emphasis).

We further note Paragraph 4 of the DRC constitution, which states that the government is:

*“résolus à édifier un Etat de droit durable fondé sur: la participation des citoyens à l'exercice du pouvoir, le contrôle des gouvernants par les gouvernés, la **transparence** dans la gestion des affaires publiques”.*

**Question 11:** What steps has the Bank taken to ensure that its support for the development of the forest sector in DRC is consistent with both UN Security Council Resolution 1457 and the DRC Constitution, concerning transparency?

## **8. Learning the lessons from Cameroon**

We are aware that the strategy of the Bank and other donors in DRC is broadly modelled on earlier interventions in Cameroon. However, we are concerned that this approach in DRC may suffer from the same deficiencies that have been identified concerning the Bank's interventions in Cameroon.

As you will recall, the Rainforest Foundation has been broadly supportive of the Bank's attempts to encourage reform of the Forest Sector in Cameroon. However, we are also conscious of the various studies, including that of the Bank's own Operations Evaluation Department (OED)<sup>3</sup>, which cast serious doubts on the efficacy of these efforts, particularly in terms of the Bank's 'inadequate understanding of the social-economic forces at play within the forest sector'. We would add that, in our view, these problems were exacerbated by a failure on the part of the Bank to rigorously uphold important conditionalities on forest sector credits to Cameroon in the late 1990s. More recently, the Bank appears to have failed to act decisively in relation to the findings of the Independent Monitor in Cameroon.

We believe that these failures have contributed to the perpetuation in Cameroon of a climate of conflict and impunity: the forest laws are often treated with complete contempt, corruption persists at the highest levels of government, illegalities are endemic, and conflict between forest communities, the private sector and government authorities is widespread.

In our view, there is a serious danger that the Bank is now laying the ground for similar patterns of events to unfold in DRC. In particular:

- The Bank does not appear to have taken full account of the 'social-economic forces at play within the forest sector' in DRC. In particular, the Bank seems to have almost totally neglected to consider the interests of people dependent on the forest for their subsistence, and neither has it undertaken a realistic assessment of the role within the forest sector of corrupt and criminal 'elites';
- The Bank's overall strategy for the DRC forest sector appears to be based on the assumption that the expansion of commercial logging will necessarily bring benefits to poor people. The experience in other comparable countries, such as Cameroon, suggests that this is very unlikely to be the case. New research by CIFOR (including in Cameroon) indicates what has been known

---

<sup>3</sup> Essama-Nssah B. and Gockowski, J, 2000. Forest Sector Development in a Difficult Political Economy; An Evaluation of Cameroon's Forest Development and the World Bank, World Bank Operations Evaluation Department, January 2000, Washington DC.

by many forest people for many years: that the imposition of inappropriate laws relating to zoning and the establishment of ‘Permanent Forest’ for the purpose of commercial forestry or strictly protected areas, and the restrictions on usage and access rights which this inevitably entails, often serve to further impoverish poor people rather than benefiting them<sup>4</sup>.

- Because of the lack of public consultation and participation in development of the Forest Code and the implementation decrees, the legal framework for forestry in DRC is unlikely to gain much ‘public ownership’. Indeed, in our view, it is likely to fuel social conflicts.
- The Bank appears to have failed to apply conditionalities to recent forest-related credits, whilst ‘agreements’ between the Government of DRC and the Bank, such as that concerning the level of forest area tax, have been broken with impunity.
- The experience in Cameroon has also highlighted the difficulties of promoting better forest governance under conditions in which senior officials principally use their position to convert public resources into private wealth. As has been clearly demonstrated by the work of the UN Security Expert Panel, as well as the study recently completed by ARD for USAID<sup>5</sup>, such attitudes are widespread within governmental and private sector ‘elites’ in DRC.

**Question 12:** What efforts has the Bank made in order to ensure that the deficiencies identified in the 2000 OED study on the Bank’s intervention in the Cameroon forest sector are not being repeated in current Bank interventions in DRC?

## 9. Conclusions

We conclude with some proposals to the Bank, which we believe will help to ameliorate some of what we consider to have been unsatisfactory aspects of the development of the forest policy framework in DRC to date:

- The Bank needs to undertake a detailed ‘stakeholder analysis’ of the interests involved in the forest sector in DRC. This should draw on the work of the UN Expert Panel and other studies such as that conducted by ARD, and should identify the interests of specific individuals and organisations in the development of the DRC Forest Sector. These interests should be analysed in relation to the potential for poor, forest-dependent, communities to benefit from forest resources.
- The process of developing the norms and implementation decrees should be extended to ensure that proper and meaningful consultation with civil society can be carried out, and that the views of forest peoples and communities incorporated into the relevant texts. Concretely, the Bank should support the

---

<sup>4</sup> CIFOR, in press. Forests, Livelihoods And The Law: Ensuring Forest Law Enforcement Helps The Poor, Bogor.

<sup>5</sup> ARD, 2003. Conflict Timber: Dimensions of the Problem in Asia and Africa, Volume III, African Cases, ARD/USAID, Vermont/Washington DC

request of the Kinshasa workshop's participants concerning the introduction of three more NGOs with the Steering Group.

- The Bank should seek to ensure that the forest zoning process in DRC takes full account of traditional and customary rights and claims by forest communities, and that the particular circumstances of hunter-gatherer people such as the Twa and Mbuti are also properly addressed.
- The process of developing the National Forest Plan should also ensure that proper and meaningful consultation with civil society is carried out, and that the views of forest peoples and communities are incorporated into the plan.
- In keeping with its Forest Strategy, October 2002, the Bank should seek to ensure that transparency in the DRC forest sector is guaranteed in law, such that civil society is assured access to the information necessary to monitor compliance.
- The Bank should itself ensure that it is consulting with civil society organisations, and forest people, to ensure that their views are being incorporated into the development of new Bank-funded programmes in the forest sector.

Thank you very much for taking the time to consider these issues, and we look forward very much to receiving your response.

Sincerely



Simon Counsell  
Director  
Rainforest Foundation UK  
[simonc@rainforestuk.com](mailto:simonc@rainforestuk.com)



Lars Løvold  
Director  
Rainforest Foundation Norway  
[lars@rainforest.no](mailto:lars@rainforest.no)

CC: Laurent Debroux, World Bank