



To: Ambassador Jolke Oppewal,

Cc. Representatives and affiliates of the Inter-Donor Group on Environment and Climate (GIBEC)

21 March 2023

Subject: The risk of a pre-election resource grab to forest reform efforts in DRC

As Congolese and international environmental and human rights NGOs working in the Democratic Republic of Congo, we are writing to share our concerns about a possible sell-off of forests, carbon rights and sub-soil resources, and the continued closing down of democratic space in the country. In advance of GIBEC's meeting with President Tshisekedi planned for March 23rd, we call on you to make the necessary representations to uphold the rule of law in DRC's forests as well as the various forest reform commitments you are engaged in, including but not limited to the CAFI Letter of Intent.

1. The legal review and threat to the logging moratorium:

Further to the Congolese civil society network GTCRR's position note of March 8 about declining environmental governance in DR Congo¹, we wish to expand on two of the issues raised: the use of an opaque Ministry-run commission to carry out the preliminary legal review of industrial logging and conservation titles and the related threat this poses to the national logging moratorium.

On the face of it, the Ministry's legal review of 82 logging and conservation contracts fulfils certain requirements of the CAFI Lol aimed at bringing the forest sector under control.² Its preliminary findings are also broadly consistent with our own long-held view that most concessions in the country are illegal and should therefore be cancelled and returned to the state.³ However, rather than cleaning up the industry, we are concerned this rushed process is designed to prepare the ground for a pre-election sell-off of forest resources via the reallocation of cancelled concessions.

The absence of a clear and transparent methodology for determining the legality of the concessions, the deliberate exclusion of civil society experts from the commission and the hasty submission of the results to the Council of Ministers all appear designed to avoid proper scrutiny of the process and to fast track the reallocation of these areas.

It is our strong view that any industrial scale allocations at this time would be in violation of the logging moratorium⁴ and various laws pertaining to the award of any future logging or conservation concessions,⁵ among other legal requirements and CAFI milestones.

2. The oil and gas auction:

Another major issue to highlight is the ongoing auction of 30 oil and gas blocks in DRC covering tens of millions of hectares of forest including the carbon-rich Cuvette Centrale peatlands, several protected areas and the lands of thousands of local and indigenous communities.⁶

The auction is clearly flouting several national laws and procedures in place to protect the environment, human rights and good governance as well as agreements made with international partners.

For example, one of the action points agreed at GIBEC's 13 October 2022 meeting with the cabinet director of President Tshisekedi was "*la mise à disposition des données sur les études stratégique[s] d'impact environnemental sur l'exploitation pétrolière et gazière.*" These studies, if they exist, have yet to be made public.⁷ We also consider the doubling of the number of auctioned blocks as illegal, in the absence of approval by the Council of Ministers.

¹ [GTCRR Position Note, 8 March 2023](#)

² See CAFI Lol Forest Milestones H and I: [EB.2021.18 - Letter of Intent with the DRC 2021-2030 with annexes 2.pdf \(cafi.org\)](#)

³ Only 12 out of 82 logging and conservation concessions were validated by the commission. See the Preliminary Report [here](#)

⁴ See Presidential Decree No. 05/116 of October 24, 2005

⁵ See, for example, Decree No. 08/09 of August 8, 2008, setting the attribution procedure for the forestry concessions, Decree No. 011/25 of May 20, 2011, modifying the said Decree 08/09 of August 8, 2008, and Decree No. 011/27 of May 20, 2011 setting the specific rules for the allocation of conservation forest concessions.

⁶ [Congo in the Crosshairs \(rainforestfoundationuk.org\)](#)

⁷ See, <https://7sur7.cd/2022/10/13/mise-en-oeuvre-de-lagenda-climatique-en-rdc-guylain-nyembo-echange-avec-les-ambassadeurs>

The highly opaque bidding process appears to be as much about rent seeking and the leveraging of more international climate funding than it is about the country's very real development needs. Only recently, NGOs wrote to the Prime Minister after it was reported that the Hydrocarbons Minister had struck a secret deal to offer two of the oil blocks to a Nigerian gambling magnate.⁸

All this is incompatible with several aspects of the CAFI agreement, not least that it precedes a process of defining high-value forests and the peatlands that may be at risk from these kinds of developments⁹, undermines land-use planning reforms¹⁰ and flouts various commitments on protected areas.¹¹

3. Next steps

These and other issues highlighted by civil society belie DRC's projected image as a 'solutions country' to the climate and biodiversity crises and jeopardise the important reform efforts we are all engaged in. As such, we ask that you use the leverage at your disposal to join us in demanding the following priority actions.

On the legal review and logging moratorium:

- Jointly revise and undertake the legal review methodology with civil society leaders, integrating the findings and existing data from the IGF and PPM audits.
- On this basis, cancel and return all illegal concessions to the state domain, as per CAFI forest milestones H and I.
- Reaffirm the national logging moratorium and fulfil all legal conditions including Presidential Decree No. 05/116 of October 24, 2005. Of these, ensure that geographical programming of future allocations is aligned with the participatory and multi-sectoral land-use planning reforms foreseen in the CAFI Lol.

On oil and gas development:

- Publish the full geological survey data of the oil and gas blocks as well as the details of bidding companies and their beneficial owners.
- Conduct a thorough assessment of the compliance of the auction with relevant Congolese laws, taking the necessary corrective measures where due process has not been followed.
- Ensure that the fulfilment of local and indigenous communities' land rights, a genuine land-use planning process, defining high-value forests and peatlands and public consultations take precedence over and guide future land allocations in DRC.
- Support the Congo and other rainforest countries in a just green transition by harnessing the potential of localised renewable power generation while also phasing out fossil fuel developments in your own countries.

On forest governance:

- Publish all conservation, carbon, logging and other industrial contracts as well as independent audits and reports of these areas as per CAFI Forest Milestone L.
- Scale up implementation of community forests, the new Indigenous Peoples law, independent monitoring and other decentralised approaches that promote greater ownership and accountability in forest areas.

⁸ Letter available on request

⁹ See CAFI Forest milestone K

¹⁰ See CAFI Land-use planning milestone D

¹¹ See CAFI Mining and Hydrocarbon milestones D, E and F

- Address the shrinking of civic space in the governance of DRC's forests, particularly in an election year, by enhancing access to information, participation in decision-making and providing means of effective and secure recourse.
- Consider other recommendations set out in the civil society position note.

Yours sincerely,

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