

**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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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	Integrated 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.
- (xxxii) Annex 31: CARPE, Landscape 9 Maringa-Lopori-Wamba.
- (xxxiii) 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
6	August 2002	Forest Code submitted to the Assembly, and approved.	Code promulgated on August 29, 2002
7	November 2002	Minister of Environment moved to Ministry of Agriculture.	
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.	Awareness materials available
9	May 2003	Estimated 4 million hectares reportedly exchanged in breach of the moratorium and 2 million hectares allocated as new contracts.	List of existing concessions published in local media, May 24, 2003
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.	
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.	Aide-memoire of August 2003
12	June to November 2003	Economic review of forest sector with two national workshops in September and October 2003.	
13	September 2003	First National Workshop on Nature Conservation, and field missions in Virunga, Garamba, Maiko national parks.	Proceedings available
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.	Draft National Forest Plan ready; Proceedings available
16	October 2003	Internal decision not to include forest sector in second budget support operation (ERC2).	Country Director communication to the team
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.	Co-authored by CIFOR, CIRAD, 3 networks of local NGOs (GTF, CNONGD, REPEC) and 4 international NGO (WWF, WCS, CARE, AWF)
20	March 2004	Recommendations of the economic review approved. Includes the raising of the area fee over 2004-2007.	Interministerial arrêté of March 17, 2004
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	Grant Agreement signed with ICCN for GEF preparation funds for a full project for national parks.	
	24 July 2004	Adoption of procedures for legal review of concessions, six months after submission to Minister's office.	Ministerial arrêté of July 2, 2004
	25 July 2004	Videoconference chaired by President Wolfensohn with participation of CIFOR, WWF, WCS, AWF, RFF, Greenpeace and local NGOs.	Overall support to key measures of the reform agenda: moratorium, legal review
	26 November 2004	First International Forest Forum, in Kinshasa, with participation by civil society, private sector, donors. Discussion on forest code and implementation decrees; participatory forest zoning; nature conservation; and contribution to local development.	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.
	27 November 2004	New ministerial arrêté on legal review reversing the criteria and procedures established in July 2004.	Ministerial arrêté of November, 22, 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.	TSERO is budget support only, with no sector investment
	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.	Letter denounces RFF misrepresentation of Pygmies' views
	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.	Greenpeace and local NGOs support to presidential decree; Independent observer financed under EESRSP
	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.	No criticism of WB work. Expression of interest to collaborate with WB
	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.	Organized by French Cooperation

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>

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		<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 in 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-	<p>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</p>

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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		
<p>14.</p>	<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 Pygmies and Pygmies’ 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 CENADEF (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 CENADEF at every technical mission since early 2004. The last meeting with Mr. Bobbia, Coordinator of CENADEF, 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>

No.	Claim/Issue	Response
	<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>

No.	Claim/Issue	Response
	<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 Ndoi 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 4
TERMS OF REFERENCE FOR THE PARTICIPATORY FOREST ZONING PILOT (PFZP)*

Technical Assistance for the Preparation of a Forest Land Use Plan

1. CONTEXT AND CHALLENGES:

The Democratic Republic of Congo contains half of Africa's moist humid forests. These Congolese forests cover about 880,000 km². The Government intends to realize a forest land use plan that is seen as a dynamic tool for consultation between actors and as a vehicle for the progressive field implementation of the new forest law. This land use plan needs to constitute a transparent and negotiated framework regarding access to forest space and resources. The operation consists not only in the delivery of tangible products (maps, databases) but even more so in the steering of a living process of analysis and consultation/concertation on land management and resource allocation.

This activity, for which the Ministry of the Environment, of Conservation of Nature, and of Water and Forest is in charge, will be conducted by a consultant for which the terms of reference of his mission are presented here.

The consultant will contact the whole set of other concerned Administrations: the Ministries that have in their prerogatives the Plan, Territorial/Land Management, other technical ministries and territorial Administrations. The activity is also a component of the National Program on Forests and Nature Conservation framework that is being prepared by the Ministry of the Environment.

The objective is to attain an indicative land use plan that distinguishes land use categories affected in priority to: (a) sustainable forest management in forest concession regimes; (b) rural development; or (3) nature conservation¹. This land use plan should be validated by the Government 'as an indication', so as to serve afterwards as a starting point for more detailed procedures related to gazettelement of forest for sustainable management or conservation. Thus, the objective is to dispose of a cartographic basis, known and accepted by all concerned parties, and that can be used by the Government, for, e.g.: (i) to define the localization and the schedule of future auctions of concessions; (ii) to avoid the geographical overlap of non-compatible or competing land use types such as forest management and agriculture, or biodiversity protection and mine exploitation. The works should lead to a clarification and securisation of the rights of the different user of forest space in the DRC.

Given the context of rapid demographic growth in DRC, strong international demand for tropical timber, revival of the economy and the rehabilitation of infrastructure, land use planning is a strategic activity that will have a defining impact on the future of the Congolese forest, the development of the forest sector and on its contribution to the economic revival of the country and sustainable growth. It will determine the part of the national territory destined to stay under natural forest cover for the long term.

* This document has been translated from the French for the present Management Response. It is unofficial and has not been reviewed by technical specialists.

¹ The new (2002) Forest Law (chapter II) defines three main forest categories: classified forests (with ecological objective); permanent production forests (objective = timber production under sustainable management regime) and protected forests (all the other types of forest). The law introduces other important innovations such as sustainable management of production forests, the possibility for local communities to manage concessions directly, the gazettelement of 15 percent of the national territory under protected areas, local consultation before attribution of new concessions, etc. (cf. annex 1)

2. OBJECTIVES AND EXPECTED RESULTS²

The consultant will assist the Government to carry out a forest land use planning process, so as to develop a spatial framework that is recognized by all stakeholders and that will serve as a basis for the field implementation of a new policy of access to and management of forest lands: (1) at the national level limited to the very coarse level of ‘macro land use zoning’; and (2) at more detailed level in a pilot site so as to realize an indicative land use plan. This zoning will project on a map a spatial vision for developments for the next 10 to 30 years, in a very provisional way for the national macro-zoning, and in a more precise way, for the indicative zoning plan for the pilot site.

1. **Concerning the pilot zone:** the objective is to attain an indicative zoning plan that distinguishes the forest spaces attributed (in priority) to: sustainable forest management under a concession regime, to rural development; or to nature conservation. This zoning plan will be submitted by the Ministry of the Environment for validation ‘as an indicative zoning plan’ by the Government, so as to serve in the future as a starting point for detailed procedures leading to definitive gazettelement of the zoning units. The objective is to obtain a known and accepted cartographic basis that should be used by the Government (Ministry of the Environment, ICCN, as well as other Ministries and Territorial Administrations) to decide the localization and schedule for future forest concessions, the extension of existing and creation of new protected areas; the creation of new infrastructure, and the attribution of other types of concessions (agriculture, mining, other...); and to avoid the geographical overlap of competing and non-compatible use categories (e.g. agriculture and sustainable forest management, or mining concessions and biodiversity protection).
2. **At the national scale:** The objective stays grossly the same, but with a lesser level of precision, and of comprehension of challenges and issues, and of consultation between stakeholders. As a consequence, the national macro-zoning plan will stay provisional and evolving in nature. It might constitute the first draft of an eventual future plan of (national) land/territorial management, at least for the forest zone of the country. It will report on a map the presently available information and will form a provisional basis for reflection and vision on the socio-economic development of the country, susceptible to evolve in permanence. Macro-zoning will thus be the basis for an evolving process, and will be refined piece by piece as new zones will be covered with more precise land use planning exercises (similar to the one proposed for the pilot zones).

The assistance to the forest land use planning process will take place simultaneously in three dimensions:

- A. **The technical dimension** (maps, studies, field work, etc.). The principal result will be the delivery of a schematic macro zoning plan at the national level and an indicative land use plan for the pilote zone. The schematic macro zoning plan will cover the entire dense humid forest zone and will serve as a permanent consultation/concertation platform on questions of forest land use planning and forest land management in the DRC. To both plans will be attached the data base that underpins them and (for the indicative land use

²The present forest zoning operation is part of the forestry component of the Emergency Economic and Social Reunification Support Project which has the following general objectives: support the field implementation of the new forest law and the priority reform Agenda for the revival of the forest sector; to facilitate the social and economic reunification process and initiate an institutional reform process (in the field and in Kinshasa).

- plan) the results of the various field activities and demographic, socio-economic and ecological analysis.
- B. **The participative dimension and aid to decision making.** The focus of this operation is on the animation of a living process of collective reflection and collaboration within Congolese society and with the international partners. The consultant will assist the Government to drive this consultation and negotiation process, so as to prepare decisions that take into account the views of all actors. The wanted result is thus knowledge of and adhesion to the zoning proposals by the Congolese society and its international partners.
 - C. **The institutional strengthening dimension.** The consultants mandate is to assist the Congolese institutions for which forest zoning is part of their prerogatives. Every activity carried out by the Consultant has to reinforce the capacity of the MINENV and the other Administrations to carry out zoning processes in an autonomous way in the future. The principal result expected by the end of the project will be that MINENV and the other concerned Administrations (in particular within the context of the ‘Consultative Provincial Council for Forests’, and the “Inter-Ministerial National Committee for Territorial Management”) will have acquired or re-acquired the institutional capacity (human, technical, organizational) to conduct themselves the future phases of forest land use planning in DRC.

3. TASKS AND ACTIVITIES

The consultant will assist the Ministry of Environment (the contracting authority) for the realization of the land use plan. He will work together with the different units in the Ministry (cf. section 3.4, section 6 and annex 2) and under supervision of the Secretary General of the Ministry via a type of organization that will be précised before the start of the project. He will facilitate inter-ministerial coordination and will assist, on its request, the Provincial Consultative Council on Forests, and the National Inter-Ministerial Committee of Territorial Management.

The works can be sub-divided in four types of services, which are not isolated or successive, but to the contrary intimately linked with each other, all along the execution of the mandate.

- 3.1. Support to the Realization of Macro Zoning at National Scale
- 3.2. Support to the Realization of an Indicative Land Use Plan in a Pilot Zone
- 3.3. Support to the Animation of a Process of Consultation and Aid to Decision Making
- 3.4. Institutional Strengthening / Capacity Transfer

3.1. Support to the Realization of Macro Zoning at National Scale

The objective of macro-zoning is to indicate on a map, at the national scale, the present use of forest and rural areas so that the different actors have access to a common platform to orient decisions and development projects in the years to come³.

³ It is probable that the Government will be under pressure to take rapidly certain decisions (without being able wait for the realization of indicative land use plans) e.g. on allocation of a number of logging concessions in different areas of the country, on infrastructure works or other development or industrial projects. In order to ensure that these decisions are harmonious with current land use and rural development needs or conservation needs, the Government intends to start up a transparent and participative reflection process for the whole of DRC’s forests. The schematic macro zoning plan prepared by MINENV with the assistance of the Consultant will help the Government to locate sites for forest concessions, sites for new protected areas, to plan roads or other works of infrastructure rehabilitation (drainage, rail-road, etc.). The schematic macro-zoning plan allows the immediate initiation of a collective and participatory process on critical and urgent questions of land management: choice of zones for logging, localization of new protected areas, infrastructure works etc.

The consultant should obtain Landsat or Spot images covering the entire dense forest zone of the country, and should report on a map existing information on present land use in the provinces covered with dense forest, and assemble this information in a consolidated data base (e.g. Arc-View-Access). This operation does not include specific field work or studies. The outcome will be a map of the forest zones (potential scale: 1: 2 500 000). Data layers will include existing logging concessions, protected areas, communication infrastructure, industrial infrastructure, population density, urban centers, infrastructure projects, mining register, agro-industrial zones. This data base should be compatible with those of other interacting ministries. The data base should contain the information and have the functions necessary to build the forestry register (cadastre) (in the sense of article 28 of the new forest law).

This macro-zoning scheme will offer a large scale view of land use as it stands out presently, and can show incoherence or incompatibility in current land use projections. It will also provide an idea of the level of flexibility in planning land use corresponding to the non-affected forests spaces. He will produce, with the help of GIS and spatial simulation, visual and quantitative analysis so as to improve understanding, and rationalize and quantify land use planning challenges and trends (ex. Analysis of forest accessibility). He will assist the Ministry and other actors to identify the grand scenario's of macro land use planning that could be eventual outcomes.

The macro-zoning scheme will cover the provinces of Bas-Congo, Bandundu, Equateur, East Province, Nord-Kivu, Kasai and Maniema. The definitive limits of the zone to cover will be defined during the first two months of the operation by the Ministry of the Environment and based on the Consultant's advise.

This macro zoning scheme, including the analysis and the spatial simulation and the grand scenario's that might be outcomes, will be presented and discussed during a national workshop and within the National Inter-Ministerial Committee on Territorial Management. After that it will be diffused at large scale. A mechanism to progressively refine and update the macro-zoning scheme will be put in place, in a coordinated effort with all of the concerned ministries (in the framework of the National Inter-Ministerial Committee on Territorial Management) and by including an open consultation mechanism with the non-governmental stakeholders (private sector, national and international NGO's, other development partners). The macro-zoning scheme will be established during year 1, and a first update will be produced during the second year of the project.

The Consultant will ensure that the different partners of the Ministry (other Administrations, non-governmental actors) have the possibility to contribute to the macro-zoning exercise.

3.2. Support to the Realization of an Indicative Land Use Plan in a Pilot Zone

The identified pilot zone is located in the Cuvette Centrale (map in Annex 2) and covers approximately 63,000 km². The limits and area are indicative at this stage and should be defined during the first six months of the project by the Government on the Consultant's advise. Whatever the case, priority will be given to the quality of the land use planning and participatory process rather than on the maximization of area covered.

The work will include a refined lecture of actual land use and will show: incoherence between different land use designations or different actors; the level of flexibility to plan for land use in not formally attributed zones. The Consultant will propose different scenarios to solve incoherence et to affect land use categories to non-attributed zones.

The analysis of present land use, and the analysis of potential scenarios together with different actors are intermediary steps. The final result will be an indicative forest land use plan that is validated by the Steering Committee and that will propose the limits of the conservation domain, the permanent production domain and the rural domain. Within the permanent forest domain, the Consultant will identify sub-classes corresponding individual forest management units that could be attributed to logging concessions or to different types of protected areas (national parks, nature reserves , etc.) and their buffer zones. Within the non-permanent forest domain, he will identify sub-classes corresponding to e.g. agricultural land, agro-forestry mosaic, mining, agro-industrial land, or others. He will develop criteria for the evaluation of the possibility of overlapping, or not, or to have nearby or not, different land use types (compatibility or not) (in particular important for multi-use zones and buffer zones).

This series of steps is dynamic and flexible. From the start on, based on available information (roads, villages, population density, forest concession limits), the reflection process can take off and be discussed with the different stakeholders. This pro-active approach will allow to identify from the start on the data gaps and allow the programming of field missions. It will allow to start as soon as possible the consultations and meetings on the difficult choices inherent to land use planning and to mobilize the parties around the process.

This component includes two types of activities, apart from the consultations:

- 3.2.1. Production of thematic maps and a geo-referenced data base.
- 3.2.2. Field work and socio-economic analysis

3.2.1. Production of thematic maps and a geo-referenced data base.

The Consultant needs to realize a satellite image cover (Landsat TM and/or Spot Vegetation) of the whole of the pilot zone. The images will be selected on catalog, on the basis of criteria of quality, recentness, and the relative homogeneity of the periods of acquisition. These images need to be given basic treatment (radio-metrically and geometrically) with the realization of a mosaic of ortho-rectified images and geo-referenced in conformity with the standards in DRC. At least two types of color composition will be proposed, via combination of the six multi-spectre channels. The ortho-images will be treated afterwards so as to be easily exploitable in GIS.

The Consultant will be using these images (Landsat TM and/or Spot Vegetation) as well as already existing interpretations (like the Africover series available on 1:200 000) so as to have a first reading of the present landscape. The image interpretation will distinguish different forest types useful for land use planning, in particular dense humid forest, swamp forest, already logged forest, secondary forest, agricultural land and young fallow, herbaceous vegetation. This interpretation will allow the estimation of the present extension of agricultural activity (community and industrial agriculture). This reading of the landscape will encompass all different socio-economic and ecological layers in relation with forest management and rural development. The data base and associated maps will include data layers on geological information, mining potential, soil potential, agricultural potential, on vegetation types, population census data, forest/mining/agricultural concession limits, infrastructure projects, roads, river navigability, past logging activity (or other activity), principal logging roads, known sites of interest for conservation.

The maps and thematic analysis thus obtained from the superposition of the different GIS layers will identify areas of potential incoherence, for example between soil occupation and the position of logging concessions or land use categories priorities. The consultant will propose and simulate

zoning scenario's that contain solutions to restore coherence in the use of forest lands and that secure the rights and responsibilities of the different actors, and that show priority attributions as well as alternatives.

The result is the progressive realization of a georeferenced data base that contains spatial simulations and that is refined in an iterative process. This central database (for example Access-Arcview type) will be located at SPIAF with an satellite in the concerned MINENV Provincial Delegation.

3.2.2. Field work and socio-economic analysis.

This component completes the previous one. The field work in the pilot zone is aimed at:

- (a) Check correspondence between the results obtained from reading satellite and from various data interpretation with the actual situation on the ground;
- (b) Consultation of a wide variety of actors: villages, capitals of districts and 'territories', economic operators, etc., with the objective to conceive and evaluate the feasibility of different zoning scenario's; Special attention will be given to the consultation of pygmy groups while taking into account the particularities of their nomadic or semi-nomadic life style;
- (c) Acquisition of detailed understanding of the challenges linked to land rights and local agricultural dynamics, of the use of the forest by different ethnic groups – and in particular the pygmy groups, of the customs related to access to land and land rights, and customary use rights;
- (d) Updating the data on spatial population distribution (including taking into account an estimate of the population movements because of conflict) , and estimating the demographic trends in the future: population growth, migratory flow towards cities or towards rural areas;
- (e) Updating information on agricultural/forest/land/mining concessions and on other industrial or infrastructure projects that might impact on the forest zoning; and contribute with whatever field information necessary for the development of zoning scenario's.

The collected data will be geo-referenced and introduced in the general data base. Field missions could be of two types: socio-economic missions that meet villages and different actors in the field; and biological reconnaissance missions to identify critical sites for nature conservation.

All these missions and consultations will be realized by the Consultant in collaboration with the Provincial Delegation of the Ministry of the Environment or ICCN, as well as with other partners or sub-contractors that have been identified by the Ministry and the Consultant. During these field missions it is important not only to collect missing data, but also to exchange with local actors on zoning scenario's and ideas.

The Consultant will realize the necessary studies so as to acquire good understanding of socio-economic and land right issues at the local level. These studies will make use of national expertise (universities, etc.) strengthened by international experts as needed (in particular to analyze how to integrate community forestry issues in the design of the land use plan). The consultant will compile existing analytical work and will make up a synthesis of the data that is already available, so as to avoid duplication or replication of already existing research. The Consultant will look for collaboration with other organizations for the realization of the field work and the local consultations.

A delicate step in the realization of the indicative land use plan is the determination of the limit between the permanent and non-permanent forest domain. Three types of analysis retain our attention:

Demographic trend projection and estimation of agricultural land needs. As good as possible understanding needs to be acquired on the different factors that determine the area needed for agriculture and other uses by local communities for the next 30 years⁴. The Consultant will assist the Ministry and the land Administrations to analyze these factors and will develop a quantitative model to estimate the area to be reserved for agricultural and other uses by local populations for the next thirty years. As needed, different scenario's could be developed.

Issues specific to indigenous forest populations. A very good and as refined as possible understanding needs to be acquired and assembled on the dynamics of the use of the forest by indigenous peoples, and in particular the pygmies, that have a non-sedentary way of life. These particular dynamics will be taken into account in the zoning scenario's, by showing to what extent the fact of attributing a priority (but not exclusive) land use objective (like protected area, or sustainable forest management concession) is compatible with the respect for the traditional rights and the way of life of these peoples, and by showing how the land use planning process can help to secure the exercise of these rights.

Challenges linked to community concessions. Community concessions are an innovation in the new forest law that has not yet been put into practice, but that will have an impact on the delimitation between the permanent and non permanent forest domain. Should these community concessions belong to the permanent domain or to the non- permanent forest domain, or is an hybrid system more appropriate? The Consultant will identify the advantages and disadvantages of different approaches within the socio-economic and ecological conditions of the pilot zone, and will propose a well thought-through choice adapted to the pilot zone.

After these field missions and local consultations, the Consultant will assist the Ministry and the territorial Administration to propose zoning scenario's with priorities and alternatives, and point to the advantages and disadvantages of each scenario. The stakeholders will then be able to pronounce their opinion on these scenario's during workshops and bilateral consultations/concertations.

3.3. Support to the Animation of a Process of Consultation and of Aid to Decision Making

The first two phases, conducted as the gathering of factual data, will determine the degree of liberty that remains for making "choices" or "plan" land management in relation with the existing situation and with future projections. This will allow to develop and analyze different zoning scenario's. The eventual choice among these possible scenario's needs to be made in a transparent way and on the basis of public debate that includes all stakeholders and that should discuss also the consultation procedures. All along the process, the project will fund meetings organized by the forest services to inform the provinces on the objectives and challenges of forest zoning. Also, once the first cartographic products have been delivered that show the present situation, the pro-

⁴ These factors include: The present need for agricultural space, the customary land access/rights regulation, population growth, potential rural exodus, sedentary or nomadic life style, the way of life and the spatial evolution/wanderings of populations of hunter-gatherer pygmies, other migratory fluxes, agricultural intensification, agro-industrial potential, the need to maintain part of the rural domain under forest cover for local needs and to maintain a certain mosaic of forest-swamp -fallow-fields, and other parameters linked to land rights dynamics and demographic dynamics that might affect the forest zoning.

ject will organize awareness building meetings and consultations with administrations, private operators, civil society so as to build a process of collective thought on the zoning of the forest.

The Consultant will assist this process of consultation/concertation, of negotiation and of assistance to decision making that will take place at the local level and at the national level, along the following axes:

- **The Ministry of the Environment is the Master of Works.** This Ministry takes the leadership and carries out the zoning process as well as the mastership over the proposed zoning scenario's. The Consultant will work under the supervision of the Secretary General of the Environment, and in daily support to SPIAF, to DGF and ICCN, as well as to the concerned Provincial Coordination. The provincial services will be made responsible for the various field surveys and socio-economic studies, as well as for carrying out the consultation process at local and provincial level.
- **Formal frameworks for collective consultation, at the national and the provincial level.** The consultant will help to re-activate the National Inter-Ministerial Committee for Territorial Management, or, according to the Government's choice, other inter-ministerial instances while including in particular the Ministry of Planning, of Territorial Management, of Mining, of Rural Development, of Transport and of Public Works. In the same way, the Consultant will help the Ministry and the Governor in whose province the pilot zone is located to put into place the Provincial Consultative Council on Forests created by the new law (articles 29 and 30). These consultations and information sessions will be held during the same period, in Kinshasa (in particular for the national macro-zoning scheme) and at the local level (territories, districts, province) for the indicative land use plan.
- **Permanent consultation with the whole set of actors and local participation.** The Consultant will ensure that the various stakeholders are consulted and have the possibility to contribute their knowledge and can assert their rights, wishes and constraints. Apart from the different Administrations and local authorities, this also includes national and international NGO's, associations and local communities, academic institutions, logging companies, agro-industries, other private operators, and other development partners. The Consultant will help the Ministry to keep these groups regularly informed and associated to the evolution of the ongoing works, via the organization of bilateral consultations and (multi-stakeholder) workshops. Mechanisms for facilitation, negotiation and conflict prevention need to be put in place. As much as possible the project will valorize local expertise and know-how. For field missions as well as for provincial and local consultations the consultant will lean on the organizations and associations already active in the field. The team in charge of the activity must maintain a participative process from the beginning on and all along the way up to the end. Apart from the large information workshops and discussion seminars, the team must take care to consult a maximum of key actors (during the socio-economic survey for example).
- **Organisation of workshops.** In the beginning, a start-up workshop will be organized, as well as a regional ('provincial') workshop to inform stakeholders on the objectives and the methodology of the forest land use planning exercise. Once part of the field results are available and when the individual consultations will have allowed the realization the first draft zoning scenario's, an intermediate workshop will be organized to inform the stakeholders and to take into account their contributions. After this workshop, the work will continue to be refined and dialogue with the stakeholders will be maintained, so as to attain a satisfactory consensus. A provincial validation workshop will be organized. The consultant will operate in a pragmatic way, and make use of opportunities to organize local consultation and to strengthen the ap-

proval and the recognition of the process at a national level. A possible schedule for national and provincial workshops is presented in section 5.

- **Public information.** The consultant will produce and assist the Ministry to diffuse the necessary communication and vulgarization supports to ensure sound comprehension of the zoning process and its results, before, during and after the operation. The final land use planning products will be made accessible to the public, on the website of the Ministry and by multiplication and distribution of maps.
- **Adoption by the Government ‘as an indication’.** Once the land use plan is validated by the stakeholders’ representatives, it will be transmitted to the Government for formal adoption ‘as an indication’. In practice all concerned Administrations will have been associated with the preparation of the land use plan via their participation in the Provincial Consultative Council on Forests and the National Inter-Ministerial Committee on Territorial Management.

3.4. Institutional Strengthening / Capacity Transfer

This service includes assistance to and strengthening of the capacity of the Ministry of the Environment to be able to conduct the missions confined to it by the forest law. The project aims to re-activate the institutions in relation with clearly defined (land use planning) objectives. The institutional strengthening will thus intervene explicitly to attain the assigned objectives. As much as possible, the activities of institutional strengthening will be in coherence with the recommendations of the institutional review of the sector (to be carried out during the first year of the project).

The consultant assists the Ministry of the Environment, contracting authority, to put into place a forest land use plan. He will work together with the different units of the Ministry and in particular with the Secretary General, the Office of the Minister, the Direction of Forest Management (DGF), the Permanent Service of Inventory and Forest Management (SPIAF) and the Congolese Institute for the Conservation of Nature (ICCN) as well as its services/offices at the level of provinces, districts and territories.

In the beginning of the operation, the Consultant will start with a rapid assessment of the capacity of the different institutions that participate in the zoning process (at central level and at pilot province level) so as to define in agreement with the Ministry the equipment acquisition schedule and the training schedule that should then be subsequently launched. The duration of this initial assessment should not take more than 2 weeks.

The institutional strengthening program will use as a support the framing note presented in annex 3 and that will have been revised after the rapid initial assessment and in agreement with the Ministry:

- **Provision of equipment:** The consultant will supply equipment and supplies necessary to conduct the activity and attain the fixed objectives (cf. annexes 3 and 5). During the activity the equipment and supplies will be under management of the Consultant. After the realization of the activity, the equipment and supplies will be transferred to the Ministry of the Environment. The Consultant will not only supply the equipment but also make sure that a management system of international standard is put in place and implemented (log book for vehicles and outboard motors, inventory lists, etc.).
- **Methodology and technology transfer – Training.** The consultant will deliver a training program to the agents of MINENV and ICCN so as to develop at the level of these institu-

tions the technical, organizational and mediation capacity needed to conduct forest land use planning independently. This training will combine 'learning by doing' with more formal training sessions. The consultant will develop the skills and the existing expertise in SPIAF, ICCN, DGF and the provincial delegations, and in particular in the following domains:

1. Implementation, design and utilization of data bases (e.g. ArcView-Access), image treatment, use of equipment and cartographic software, archiving systems, remote sensing methodologies, quantitative spatial simulation models, etc.
 2. Biological and socio-economic reconnaissance methodology and the quantitative treatment of associated data so as to update demographic data, agricultural and economic activity data, land rights issues-data, and the impact of conflict on human population distribution.
 3. Methodology for carrying out information sessions and for consulting local actors (ex. participatory mapping at large scale) so as to apprehend the feasibility of different scenario's.
 4. Methodologies of facilitation, mediation, conflict prevention, and assistance to decision making processes. This training should be addressed in particular to the provincial directors of the Ministry who are the animators of the consultative process in their province.
- **Re-activation of the mechanisms for monitoring-evaluation and for human resource management.** In favor of these missions, the Ministry and ICCN should restore the communication lines (today cut off) and the programming and result evaluation mechanisms between central and outlying services. The Consultant will conceive and ensure the management of a system of performance based incentives to encourage the achievement of results and to mitigate the impact of the extreme low salaries in the civil service.
 - **Stimulation of a collaborative platform between different services of the Ministry, and between different Administrations.** The aim is to create a sound framework for the exchange of information and ideas and for the coordination of the work programs of the different services of the Ministry of the Environment around the common mission of forest land use planning. In the same way, the Consultant will provide advise and will assist at their request the Provincial Consultative Council on Forests in the province where the pilot zone is located, and the National Inter-Ministerial Committee for Territorial Management in the exercise of their role of coordination and steering of forest zoning and territorial management.

4. SCHEDULE AND DELIVERABLES

The expected duration for the activity is two years. The contract might eventually be extended after these two initial years so as to cover other services in support to other forest land use planning phases in DRC.

In addition to the products indicated in sections 2 and 3 above, the consultant will produce six-monthly progress reports (printing a sufficient number) that outline progress, difficulties and solutions found, and updates of the work program and/or the methodology.

After having completed the two years, the Consultant will produce a final report, and issue a sufficient number of copies. The final report will be accompanied by an internal evaluation of the results and of recommendations regarding techniques and methodologies most appropriated for future phases of land use planning in DRC: at the national level, at the level of the evolution of the macro-zoning scheme towards a national territorial management plan, and at the zonal level

via replication of the same type of exercise but with greater autonomy for the perennial institutions.

The acquisitions and deliverables of the project are the exclusive property of the DRC Government and will be put spontaneously at the disposition of the Government. Equipment will be managed by the Consultant during the duration of the project and transferred to MINENV at the end of the project.

The schedule below is proposed as a guide to the tenderers for the preparation of their chronogram and workprogram proposals:

Activities realized- Expected results	
0-6 months after signature of the contract	
<ul style="list-style-type: none"> • Start-up workshop in Kinshasa (national workshop) as well as in Mbandaka (Cuvette) • Institutional assessment done; equipment delivered; offices in Kinshasa and Mbandaka operational • National Inter-Ministerial Committee on Territorial Management re-activated • Partnerships and sub-contracts concluded • Field activities started; development of estimation of rural land needs in pilot zone started • Training and capacity transfer ongoing • Work plan and detailed budget (6-24 months) adopted 	
6-12 months after signature of the contract	
<ul style="list-style-type: none"> • Macro-zoning discussed during national workshop and during meeting of National Inter-Ministerial Committee of Territorial Management • Geo-referenced data bases (macro-zoning; pilot zone) operational at the level of the Ministry • Field activities (socio-economic survey, local consultations) ongoing in pilot zone • Spatial model for forecasting agricultural land needs, and specific related analysis in progress • Training and capacity transfer in progress; system of performance fees operational • Consultative Provincial Council on Forests meeting held in pilot zone. Communication to public ongoing. 	
12-18 months after the signature of the contract	
<ul style="list-style-type: none"> • Field activities (socio-economic surveys, local consultations) finalized in pilot zone • Quantitative forecast of needs for rural lands in the pilot zone realized, discussed and refined • Indicative land use plan scenario's for the pilot zone have been discussed in a regional (pilot zone) workshop • Training and capacity transfer ongoing; performance fee system operational 	
2 years after signature of the contract	
<ul style="list-style-type: none"> • National macro-zoning scheme updated in national workshop and recognized as a reference at the national level • Land use plan of pilot zone adopted 'as an indication'; map diffused • Technical capacity build at MINENV and at inter-Ministerial coordination level 	

Indicative chronogram – Suggestions for workshops

Workshops	6 mo	12 mo	18 mo	24 mo
Start-up workshop, Kinshasa	X			
Launching workshop, pilot zone	X			
Intermediate consultation workshop, pilot zone			X	

Workshops	6 mo	12 mo	18 mo	24 mo
National workshop to present macro-zoning		X		
Validation workshop in pilot zone				X
National workshop to update the macro zoning and to validate the indicative land use plan of pilot zone, Kinshasa				X

TECHNICAL PROPOSALS, NEEDED SKILLS AND SIZE OF OPERATIONS

Technical proposals. In their proposals, the tenderers will present the technical specifications of the used technology and of the delivered products, as well as the methodology, the work program and the precise chronogram that they intent to develop so as to assist the Government in obtaining the results indicated in section 2 of the present ToR's. They will use as a support the key elements mentioned in sections 3 and 4 (while not considering this an exhaustive list).

They will present the remote sensing products hat they propose use, the image and base map treatments and rectifications, the characteristics of the data bases and of the spatial modeling methodologies. They will explain the reasons for this choice and the advantages for the benefic i-ary party.

The will outline the terms of reference of the major socio-economic analysis that they intent to carry out in the pilot zone, and the methods for demographic forecasting and rural land needs estimation.

They will describe the methodology that ensures participation of all actors in the land use planning process, for example methods inspired by participatory mapping at large scale.

The tenderers are invited to make known their remarks and suggestions on the present ToR's.

The proposed mandate being complex, the tenderers are invited to make use of their imagination and to learn from the experiences in other countries (Gabon, Cameroon, others). They are also invited to seek economies of scale and partnerships so as to seek the benefits of potential synergies with ongoing initiatives and so as to increase adhesion by actors to the process and the products. The tenderers will identify groups, associations, operators who are already active in the country or in the field and, because of that, dispose of a specific advantage to ensure work quality and the quality of the consultative process, and with whom they propose to collaborate. The project will aim to valorize ongoing initiatives as well as local expertise. Will be consulted, in addition to the ministries and the local administrations: academic institutions, associations and local NGO's, logging companies and other private operators based in the pilot zone.

The tenderers will indicate how they will treat the following challenges:

- **Logistical difficulties.** The pilot zone in Equateur Province should not present a significant security risk. However, real logistical constraints with regards to transport and communications will be encountered. The tenderers will describe precisely how they propose to conduct the operations and the consultations in the field. They will propose team leaders (or methods to identify team leaders) for the long field missions.
- **Communications and support to the economic and social reunification process.** The tenderers will indicate how they intent to ensure efficient communication, to ensure that

land use planning is seen as an instrument benefiting social and economic reunification. The zoning plan will be the result of a negotiation and a compromise between different interest and should not become subject of political negotiation isolated from the technical priorities. The participatory process should start up-front and very soon with an active communication to ensure good understanding of the process, et to avoid the arousal of unfounded expectations or fears. Potential disagreement needs to be identified and resolved as soon as possible.

Institutional anchorage. Forest land use planning is carried out by the Ministry of the Environment, to whom the Consultant provides technical assistance and institutional strengthening as noted in the present ToR's. The Consultant will work under the supervision of the Secretary General of the Environment. He will work in coordination with other concerned Administrations, in particular within the context of the Provincial Consultative Council on Forests (in the province of the pilot zone) and within the context of the National Inter-Ministerial Council on Territorial Management. Before the start-up of the project, the Government will specify to the attention of the Consultant in a note on institutional organization, the mandates of each institution and each inter-ministerial authority involved, as well as the role of the Consultant with regard to these institutions. The consultant will provide a technical assistant for the duration of the activity who will come in support to the services of the Ministry of the Environment and the inter-ministerial coordination authorities. The principal data base will be located at SPIAF, and copies will be regularly send to the different services and coordination authorities mentioned above.

Skills/Expertise. The mandate requires a large set of skills notably:

- Technical skills in mapping, remote sensing, GIS development and management, networking between institutions, spatial modeling.
- Ability to facilitate a consultation and negotiation process involving a large set of stakeholders around a cartographic tool with socio-economic, ecological, political, and land rights issues within a context of national reunification and economic revival. Demonstrated ability in facilitation, mediation and communication. Capacity to build and communicate a common vision with the different actors and institutions (local communities, administrative services, political and administrative authorities, etc.); Capacity to mobilize at the same time the administrative structures and civil society to conduct a collective thought process all the way until the decision making that results from it.
- Strengthening of public institutions at the level of central and field services, and transfer of technical and organizational capacity. Equipment purchase and transfer. Training.
- Capacity to facilitate the coordination between Administrations, with regard to authorities like the Provincial Consultative Council on Forests and the National Inter-Ministerial Committee for Territorial Management.
- Expertise in ecology, forestry, sociology, land use rights, demography, economy and rural development, and territorial management.
- Capacity to organize field missions in difficult logistical conditions and the capacity to build performing and motivated teams with at once a technical and a consultation/mediation mandate.
- Creation and distribution of maps and other supports for communication and awareness building.

Size of components. The table in annex 5 provides indications on the size of different components: Consultations and workshops (cost estimated at \$350,000), operations (cost estimated at \$370,000), training (cost estimated at \$120,000), equipment-rehabilitation (cost estimated at \$180,000) and needs to be included in the technical and financial proposals of the candidates.

The volume of technical assistance to mobilize will be about:

- Long term technical assistant (2 years)
- Short term international expertise (20 man-months)
- National expertise (equivalent to 50 man-months in addition to the participating staff of the administration). Part of this may be sub-contracted to local associations/NGO's or universities.

It is suggested to provide the Ministry with a polyvalent technical assistant. This assistant will work to support and under the supervision of the Secretary General of the Environment. His office could be located at SPIAF as this service will ensure the most active role in the zoning work. Nevertheless, the technical assistant will work in relation with all other services and concerned Administrations. His missions will include for example:

- Refinement of methodologies and of the work program. Operational mentoring and advise on work and analysis; monthly monitoring;
- Acquisition and treatment of images, and basic cartography; Development of the national macro-zoning scheme database and the data base for the zoning of the database. Assistance to the analysis of land use planning scenario's;
- Management of the consultation/ mediation process and aid to the decision making process at local and national level;
- Coordination of field missions and socio-economic surveys/analysis, consolidation of the results, negotiation of collaborative agreements and sub-contracts
- Monitoring of intermediate products/deliverables; control on and validation of the quality of results;
- Mentoring and training of managerial staff during the different zoning phases; networking of the different concerned departments.
- Distribution of intermediate and final products;
- Administrative and financial management during the execution of the project; production of six-monthly and final reports.

TOR Annex 1.**Some Challenges to Take into Account while Preparing the Technical Proposals**

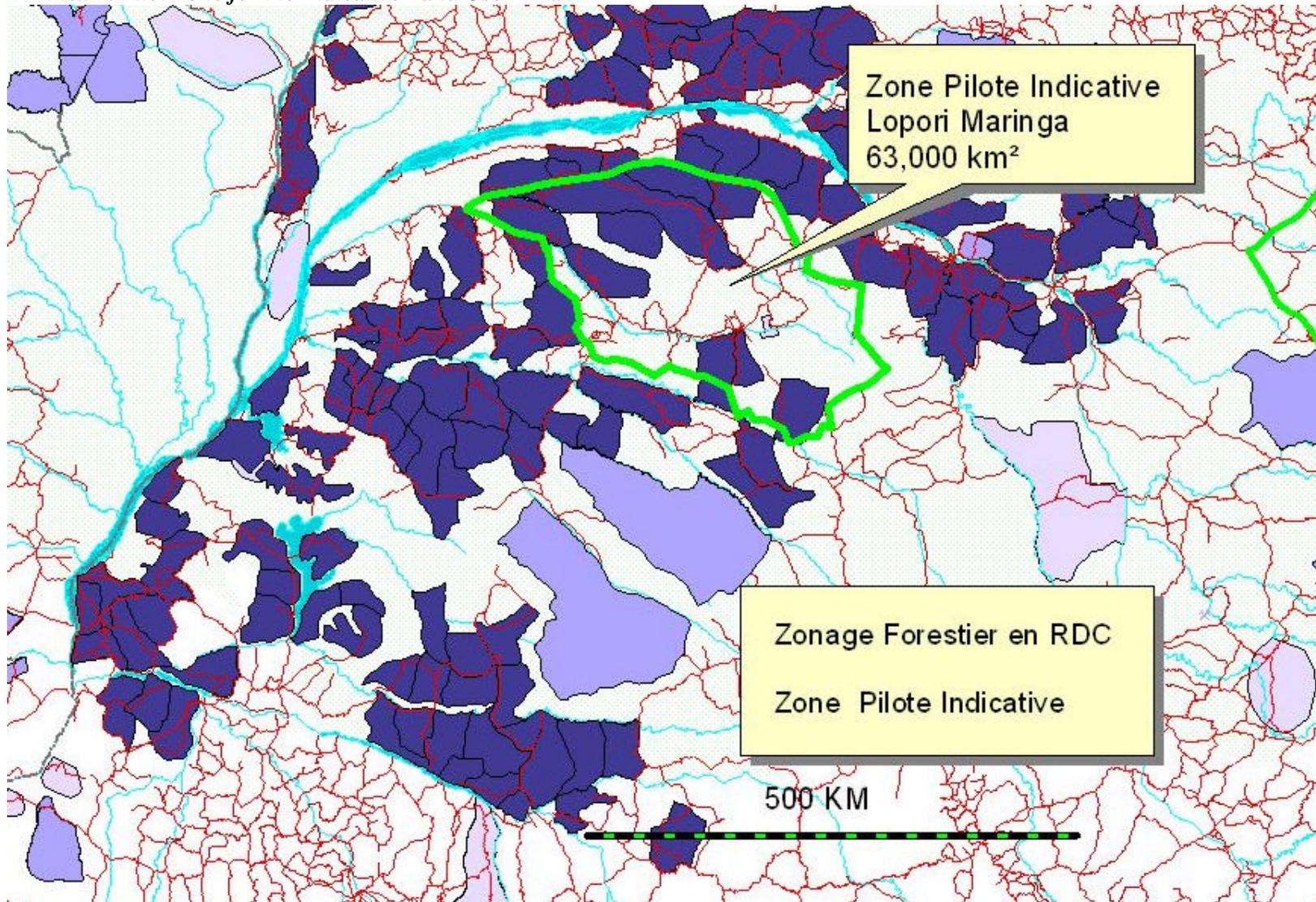
- (a) **Mastership/leadership of the Ministry of the Environment.** Preparation of forest land use plans is the Ministry of the Environment's responsibility (including ICCN). The consultant's role consists in supporting the Ministry in this mission, and ensuring optimum implication and participation of the Ministries services (in the capital and in the provinces). Also because it is this institution that will have to implement the proposed zoning and replicate it in other zones. The technical assistance role will contribute to necessary capacity building at the Ministry. Zoning equally is an exercise that allows to re-activate the different services of the Ministry and will request from all these services to think in an holistic manner on the future of Congolese forests. So zoning is not only a technical exercise, but also one in capacity building at MINENV.
- (b) **Piloting the sector and prevention of conflict over land.** The zoning plan is the instrument that will guide the Government for the implementation of the innovations brought by the Forest Law: Transparent allocation of concessions, sustainable management, participation of local communities, attaining 15 percent of the national territory as classified forests. To a certain extent, forest zoning will be the underlying framework for important issues such as opening up isolated rural areas, geographical distribution of employment, retrocession of fiscal revenue. It's also the instrument that has to guide the development of the forest sector and avoid conflicts between the interests of peasants, logging companies, conservation groups at the local, national and international scale. Forest zoning constitutes the geographical materialization of land rights and of management responsibilities of each group of actors. It needs to bring long term judicial security to the different users of the forest. It is a strategic negotiated framework that intends to secure rights and responsibilities, and to prevent conflicts over land. It needs to be ensured that forest sector development evolves harmoniously and responds to the legitimate needs and expectations of the interested parties.
- (c) **Coherence between different sectoral policies.** The land use plan needs to bring visibility needed for the Government and Congolese Society to make long term development choices at the scale of the country. It constitutes a basis on which might be designed a vision on the reconstruction of the country. The plan should allow to reinforce synergies between different sectoral policies (infrastructures and communications, mining development, agro-industries, rural infrastructure programs, etc.).
- (d) **Consultation and participation, support to the reunification process.** The proposed zoning will only become a pillar of rural development if it is recognized and respected by the stakeholders. In this view, the zoning process can also contribute to the social and economic reunification process. As such the proposed zoning plans will result from a participatory process with multiple concerned actors (local communities, political and economic forces at the local and central level, different ministries and government services, authorities and elites, national and international NGO's, etc.). The consultation and the collaborative work with the different stakeholders are not just an issue of organizing workshops, but should be an ongoing process that takes place everywhere (Kinshasa, provincial and district capitals, villages) and is managed by people who have a sound common vision on zoning questions. The activity is not only a technical exercise, but also and foremost consists of assistance to a collective multi-sectoral process of collaboration to be validated ('as an indication') by the whole Government.
- (e) **Macro-zoning exercise.** The Government is in need of a vision on the zoning of the forests at national scale, and cannot necessarily wait that the detailed zoning plans are finalized for every part of the country. As an example, in the short term, the Government might feel pressed to allocate new forest concessions so as to satisfy demand for new concessions to stimulate productive activity. The present activity will thus include the instauration of a "continued process of macro-zoning" (covering all of the dense humid forests of the DRC) that will allow to influence the allocation of logging concessions in areas that have not yet an indicative forest zoning plan or to define zones with particular importance for nature conservation. It is hoped that the macro-zoning process will contribute to conflict minimization between the interests of logging, agriculture, mining and ecosystem conservation needs.

- (f) **Continuation of the ongoing reform process.** To ensure that the relaunch of the forest sector takes place on a sound basis, the DRC has put in place a Priority Agenda that contains measures to protect the national interest against speculation on and commerce of logging concessions. These measures include a moratorium on all new allocations of concessions by mutual agreement, and the progressive elevation of the area tax on the allocated surfaces. The Government has cancelled 25 million ha of contracts of concessions considered ‘null and void’, and that had been allocated without an effort of building spatial coherence. These forests have re-entered the public domain and need now be the subject of this collective thinking on territorial management, before being reattributed to logging concessions, or to the rural domain or to the nature conservation domain. The DRC remains the only country in the region that contains vast areas of exploitable forests that are free of logging contracts, and a large degree of liberty regarding forest zoning remains. The demand for logging concessions is growing, and forest zoning will be the framework that allows to program for the decades ahead the progressive allocation of concessions, or the affection of forest lands to the rural domain and to nature conservation.
- (g) **Definition of the ‘agro-forestry’ domain, community forestry.** Zoning will lead to the definition of an agro-forestry domain that contains land that will not necessarily remain under forest cover and that might be utilized for agricultural and agro-forestry needs. The extent of the agro-forestry domain should take into account the future needs for agricultural lands, the needs for industrial agriculture, as well as the need to maintain part of the agro-forestry domain under forest cover (community forests, forest-fallow-swamp mosaic). This will be a delicate exercise with relatively large degrees of flexibility. The new forest law (article 22) foresees the possibility for local communities to manage forest concessions. The application texts still need to be developed to define the conditions of this type of forest exploitation. With regard to forest zoning, one of the questions is if these “community forests” should be located in the permanent forest domain or in the agro-forestry domain (non permanent) (see also tasks: studies to realize).
- (h) **Permanent forest domain and demographic growth.** According to UNFPA the DRC human population could grow from around 50 million people in 2000 to something like 200 million in 2050. Such an increase in population will have enormous impact on the forests. Forest land use planning is the system that will allow to define the permanent forest domain, legalized by gazettelement decrees. Forest land use planning is equally a way to steer internal migratory patterns and the installation of new settlements. Forest zoning will allow to plan for the maintenance of ecological connectivity between major forest blocks. Without a forest land use planning process that will lead to a protected permanent forest estate, the Congolese forest by 2050 will only be a vague reminder of what they once were. Zoning must lead to a national network of permanent forest based on sound principles: reserving sufficient space for agricultural development in the next 50 years and guiding the spatial dynamics of agriculture and settlement, locating protected areas in the most intact parts of the forest (the core of the major forest blocks is better protected against poaching) as well as in sites of particular ecological interest, buffering protected areas with logging concessions under sustainable management, and preserving ecological connectivity in between permanent forest blocks.
- (i) **Designing a national network of protected areas.** DRC’s network of protected areas is still very incomplete and forest land use planning will allow to define a conservation domain that should attain, according to the forest law, at least 15 percent of the national territory
- (j) **The question of edaphic forests (permanently or seasonally inundated).** In the central basin, considerable expanses of swamp forests border the large rivers. They are relatively less rich in biodiversity and in merchantable timber. They contain relatively small numbers of large mammals and access is easy for fishermen and hunters. How does this type of vegetation need to be integrated in the forest land use plan? Understanding of the economic, social and ecological role of these swamp forests will be necessary to conduct the forest zoning in and near this vegetation type.
- (k) **The semi-final character of the indicative land use plans.** Most of the work will concern the realization of the land use plan for the pilot zone and should lead to validation by the Government ‘as an

indication' and by inter-ministerial decree. The experience of other countries shows that these indicative land use plans undergo changes before being confirmed by definitive gazetteement decrees at the scale of the individual forest management units. However, it is difficult to make large scale modifications to the indicative land use plans given that these plans are based on a large amount of field work, photo interpretation and consultation/concertation/mediation work. This implies the heavy responsibility incurred in proposing limits for the rural domain, the permanent forest domain and the protected areas.

- (l) **Permanent production forests.** The production forest domain needs to be partitioned in forest management units (FMU). The size of the FMU will take into account the need to be able to propose appropriate sustainable forest management for these units. The forest law equally takes into account FMU's for objectives other than logging (example tourism, conservation, bio-prospecting, recreation, carbon sequestration) and the consultant will, if opportune, take this into account. The consultant will also use inventory data available at SPIAF.
- (m) **Conservation / Environmental services.** The consultant will ensure, through the socio-economic surveys and the biological survey missions, that sites thought to be critical for conservation, are identified and provisionally delimited. Also, the new forest law anticipates that forest management can not only be orientated towards timber production but also towards environmental services, tourism and hunting, and other objectives compatible with the maintenance of forest cover and the conservation of wildlife. The consultant will evaluate if this variety of options needs to be taken into account (for example is it feasible or opportune at this stage to propose concessions oriented towards conservation or carbon sequestration or a mixture of these objectives).
- (n) **Community concession issues.** Do these have to be located in the rural domain or in the permanent forest domain? The consultant will identify advantages and disadvantages of different approaches and will proposed a will thought through choice taking into account the development of application texts in this matter. He will monitor and contribute to the development of these application texts where they concern forest zoning. He will take into account the experience of other countries in the sub region.

TOR Annex 2. Pilot Zone for the Indicative Land Use Plan



TOR Annex 2 (continued) – Pilot Zone for the Indicative Land Use Plan

The criteria that have guided the choice of this zone are:

Criterion	Appreciation
• Importance for the reunification process	+++
• Future demand for logging concessions	+++
• Concessions that have been recently retro-ceded, necessity for re-zoning	++
• Important zone for timber production	+++
• Zoning relatively straightforward, low population density	++
• Necessity to prevent land rights conflicts	+
• Other land use issues (mining, agro industry) to reconcile	++
• Potential for protected areas and/or extension of existing ones.	++
• Accessibility, logistical constraints	-
• Security	+/-
• Potential for synergies and partnerships with other initiatives	+++

Description-Specificities. This zone is located around the Lopori and Maringa river basins and reaches up to the Tshuapa in the south and the Ikela-Opala road in the east. The area is accessible for logging because of the presence of navigable rivers. The area still contains relatively intact forest, some with high density of bonobos (example: Lomako-Yekokora, Wamba Forest). Major parts have relatively low human population density. The Consultant will propose the precise limits of the area that will be the subject of the indicative land use plan, based on feasibility criteria and taking into account that more importance should be given to the quality of the zoning process, rather than to maximizing the size of the area covered. Zoning will request sound understanding of agricultural land needs including industrial plantations.

Suggestions for work organization and partnerships. The site overlaps with the Lopori Maringa landscape of CARPE/CBFP. The Consultant will seek active collaboration with the actors in the field, and in particular with the CARPE program (AWF, CARE) as this should strengthen the quality of the process and avoid duplication.

A logistical base might be set up in Mbandaka, in the premises of the Provincial Coordination of the Ministry of the Environment. Offices have to be refurbished and equipped with an electricity generator. Computer hardware and furniture need to be purchased. Short term support missions by a GIS technician of the Ministry will be needed. This field base will support the various field missions. The Consultant will ensure that the Provincial Coordination of the Ministry and the Ministry services in the districts and territories feel responsible for the zoning process. A vehicle or motorcycle could be based in Mbandaka for local transport and motorcycles, bicycles, and dugouts could be used by the field teams.

TOR Annex 3. Framing Note for the Institutional Reinforcement and Capacity Transfer

The selected Consultant will assist the Administration to conduct a forest land use planning process through the provision of: (i) technical assistance and methodological support; (ii) training; (iii) equipment and operational means. These services aim to develop and repair the capacity of the Ministry and other concerned public institutions to carry out in an autonomous way forest land use planning in other areas in the future.

Within the Ministry of the Environment, The principal services in charge of forest zoning are: the Direction of Forest Management (DGF), the Congolese Institute for the Conservation of Nature (ICCN), the Provincial Coordination's, and the Permanent Service for Forest Inventory and Management (SPIAF). Given the multiple challenges of natural resource use, close collaboration will be necessary with other Ministries like these in charge of Rural Development and Agriculture, Territorial Management, Mining, Industries and Transport. This collaboration will be established in the framework of the National Inter-Ministerial Committee for Territorial Management and within the Provincial Consultative Council on Forests.

The Direction of Forest Management (**DGF**) is in essence responsible for management of forest resources. Its Division of Exploitation and Forest Allocation (DEAF) manages the requests for attribution. Forest land use planning will be an important tool for sustainable natural resource management by helping the forest administration with the definition and allocation of new logging concessions while respecting the socio-economic space of local communities, the development of other activities and of zones for biodiversity conservation. The Division of Forest Statistics (DSF) disposes since 2000 of a computer and an IT specialist for the compilation of statistical data on timber production, exploitation and allocation of logging concessions. The computer equipment of the DGF will be strengthened and a data base will be installed so as to improve the management of forest concession contracts in the framework of the support project for the conversion of ancient forest concession contracts.

ICCN is in charge of protected area management at the national level. These zones cover actually 9 percent of the country and should attain 15 percent, as written in the new forest law. ICCN has specialized conservators and technical staff in most of the protected areas. The zoning process will help ICCN with the extension of existing and planning of new protected areas while avoiding the geographical overlap with competing or incompatible land use types.

The **Provincial Coordination** of the MINENV is the principal intermediary with the authorities and the local communities, the logging companies and the Ministry of the Environment. It should be responsible for the field activities and notably for the awareness building operations, and the negotiations with the different actors in the rural environment. In addition, being involved in zoning will be useful for the provincial coordination, as it has to monitor attribution of concessions by the Ministry, as it has to discuss with logging companies on the attribution of new concessions, as it has to resolve conflicts linked to non-respect of concession limits and as it has to verify the exactness of certain data provided by logging companies. The provincial services of the Ministry of the Environment lack all means of intervention.

SPIAF is principally in charge of realizing, all over the national territory, forest resource inventories and management plans. For this SPIAF disposes of some recent cartographic equipment and has databases, as well as limited technical capacity (but of a good standard) in GIS systems, cartography and photo-interpretation.

Role of partner administrations

The zoning work will contain three major groups of activities: (i) collecting remote sensing data, production of thematic maps and the constitution of a geo-referenced data base (GIS); (ii) Field work to verify the accuracy of the satellite image interpretations, to define new protected areas and to realize socio-economic surveys in order to estimate the needed extent of the rural domain; and (iii) support to the consultation process and the decision making process together with all the interested actors (Administrations, private operators, civil society, local communities) at the local, provincial and national levels and through the organization of workshops, awareness building and consultation meetings, setting up of the provincial committee (on forests) and the re-activation of the National Inter-Ministerial Committee on Territorial Management.

Taking into account their prerogatives and capacities, the different concerned Administrations will be involved as follows:

- (a) **Secretary General of the MINENV:** given the multi-disciplinary challenges, it is proposed that the zoning work will be steered by the Secretary General of MINENV with the support of a specialist in land use planning and in animation of consultation processes. This specialist could set up his office at SPIAF, but will be under the direct supervision of the Secretary General.
- (b) The **DGF** (Direction of Forest Management): Being responsible for forest resource management, DGF will provide SPIAF with data on logging concessions and will steer the consultation/concertation work process around logging concessions.
- (c) **ICCN:** Being responsible for protected areas, ICCN will provide SPIAF with data on the protected areas and will lead the reconnaissance teams that will search for sites rich in biodiversity. It will participate in awareness building sessions and consultation sessions organized in areas close to the protected areas.
- (d) The **provincial coordination of MINENV** will collect necessary complementary data that is available in the different provincial and district administrative services. They will accompany and organize the field work as well as the different consultation meetings to be realized in their zone. The field missions will be composed of one managerial/technical staff representing the administration responsible at the national level (DGF or ICCN), one or two national experts, one technical/managerial staff from the provincial coordination, and local help as needed (data collectors, guides, trail pointers, conductors, porters, etc.).
- (e) **SPIAF** will be in charge of cartography and data base development. It will ensure complementarity of the data bases with other programs (ongoing or under preparation) such as Global Forest Watch, the Forest Information System (FIS) and the project for the conversion of ancient logging contracts. In addition, to complete its capacities (expertise, cartographic data, equipment, etc.), SPIAF will work with other structures and programs like DPFRI, the Agronomic Faculty, ERAIFT, MONUC, METELSAT, CARPE, etc.). Some technical missions to refine or confirm the interpretation of the cartographic and satellite image data are also foreseen.
- (f) The **other concerned ministries** will facilitate access to data that is available in their department and will be closely associated with the consultation/mediation and decision process via their participation in meetings and committees that will be organized in the provinces and

in Kinshasa as well as in technical workshops specifically linked to the problems that are their concern.

TOR Annex 4 – Some Experiences and Existing Products, Ongoing Initiatives, Partnerships and Potential Synergies

- Forest zoning and territorial planning: FAO Africover program, zoning component of FAO's TCP project; large scale participatory mapping conducted by IRM in the Equator zone, protected areas cartography program (ICCN/UCL)
- Field operations, socio-economic analysis and multi-actor consultations in the pilot zone: Executing agencies in the CARPE/CBFP program (AWF/CARE); Forest concession sustainable management initiatives (logging companies, WWF); Economic Conference of the Equateur Province.
- National concertation/consultation process: Forest Law vulgarization program (MINENV/FAO); National Center for Development NGO's.
- Institutional strengthening: Support by GFW to SPIAF in the context of ITTO and CARPE projects; institutional review and strengthening strategy conducted by MINENV; Training program supported by SCAC.
- Setting up of forestry register/cadastre: Ancient contract conversion program conducted by MINENV and supported by the Emergency Economic and Social Reunification Support Project.
- Remote sensing: Programs of Global Forest Watch and of Woodshole Research Center/NASA/University of Maryland for the monitoring of logging roads in forest concessions in DRC and other countries of the Congo Basin.
- GIS databases in DRC: ERAIFT, CARPE, WCS, University of Maryland, OSFAC.
- Field missions in isolated areas: experiences of certain ongoing projects (WCS/MIKE in Salonga National Park, survey experience of logging companies, CARPE (AWF), Zoological Society of Milwaukee, Bonobo Conservation International, Frankfurt Zoological Society.
- Tools: CyberTracker becomes more and more performing and robust and could increase the amount of collected data as well as data analysis speed.

TOR Annex 5 – Size of Components : Consultations -Workshops, Operations, Training and Equipment -Rehabilitation

Beneficiaries	Description of support	Unit	C.U. (\$)	Qty	Total Cost (\$)
Support for the consultation/negotiation process					350,000
National and provincial multi-actor workshops (ministries, private operators, civil society)	Workshops to build awareness and discuss zoning scenario's	Workshop	30,000	6	180,000
Support to the Consultative Provincial Council and the National Committee on Territorial Management	Setting up the councils, transport.	Lump sum			40,000
Communication, distribution of products	Multiplication of maps, public information notes	Lump sum			30,000
Other support related to consultation and local participation		Lump sum			100,000
Operations					370,000
SPIAF , DGF, ICCN	Supplies, stationary	Lump sum			20,000
DGF, SPIAF, ICCN, Provincial Coordination	Field missions - fuel and vehicle maintenance - air travel various staff and experts - mission per diem - Works field missions - Vehicle rent - Guides and daily workers	Lump sum Ticket Day Day Lump sum Day	400 100 50 10	100 800 800 2000	90,000 40,000 80,000 40,000 20,000
DGF, SPIAF, ICCN, provincial coordination	Performance fees linked to phased results of the work program	Annual lump sum	20,000	2	40,000
Training					120,000
SPIAF, DGF, ICCN	Study trip abroad	Trip	20,000	1	20,000
Provincial Coordination	Training sessions in Kinshasa	Lump sum			20,000
Other training programs		Lump sum			80,000
Equipment/ Rehabilitation					180,000
Secretary General and Minister's Office; SPIAF; ICCN; DGF	Rehabilitation of one office and of an archive secretariat per administrative entity. Liaison vehicle.	Service	8,000	5	40,000
Secretary General and Minister's Office; SPIAF; ICCN; DGF	Furniture for computer room, desktop computer, printer, GIS system, networking equipment	Service	8,000	5	40,000
Provincial coordination and offices in the territories	Furniture for computer room, desktop computer, printer, GIS software, networking, electrical generator	Province	20,000		20,000
SPIAF	Special equipment for the laboratory, computer 512 MB, laser printers, photocopier, current stabilizer, software, A0 scanner, plotter, etc.	Lump sum			20,000
SPIAF	Data Acquisition: recent aerial photographs, maps, satellite images, aerial surveys.	Lump sum			30,000
Provincial coordination and offices in the territories	Equipment for field missions (motorcycles, pirogues).	Province	30,000		30,000

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		
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.	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.	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.
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.	MINENV- Work in progress. Decree on conversion signed on July 2 nd , 2004. <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. 	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.
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.	MINENV-ICCN-DFC. Analysis of existing legislation in progress.	
NATIONAL FOREST SECTOR DEVELOPMENT AND INSTITUTIONAL STRENGTHENING PROGRAM		
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.	MINENV – Draft document PNFoCo available and consultation in the provinces initiated in September 2003. <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. 	Re-launching consultations with development partners and civil society. Build multi-actor thematic groups for each component of the PNFoCo.
Institutional Review – Design of a capacity building program. This review will examine all of the institutions in the forest and environment sector in	Recruitment of consultant in progress.	Financing jointly by WB, EU and SCAC. The review will take 6-8 months. This re-

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CONTENT OF MEASURES	PROGRESS REALIZED / NEXT STEPS / SCHEDULE / RESPONSIBILITY	REMARKS, PRECISIONS, POTENTIAL FUNDING
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.		view will build the foundation for a complete capacity building program, that could be supported by all donors.
PROGRESSIVE SET-UP OF A NATIONAL ZONING PLAN		
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.	MINENV/ICCN <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. 	The pilot zone corresponds to the Lopori-Maringa landscape of CBFP. An MOU is in preparation between MINENV and AWF and CARE to ensure synergy of activities on the ground.
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.	MINENV, other Ministries. <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. 	Prioritize local consultations as the central part of the procedure. Locate the concessions eligible for conversion and those to be put up for auction.
CONVERSION AND AUCTIONING OF LOGGING CONCESSIONS		
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.	MINENV/DGF-DC-SPIAF. Decree 050 defining the eligibility for conversion, signed on July 2, 2004. <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. 	Support from PUSPRES. The conversion process will take approximately 1 year. Conversion documents to submit by concession holders (deadline to determine) Process ongoing
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.	MINENV/DGF and MINIFIN/DGRAD. <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. 	Draft text to discuss in the Steering Committee and with all the partners.
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-	MINENV-EF-DGF. Already accomplished: <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- 	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)

CONTENT OF MEASURES	PROGRESS REALIZED / NEXT STEPS / SCHEDULE / RESPONSIBILITY	REMARKS, PRECISIONS, POTENTIAL FUNDING
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>sions in Mai 2002;</p> <ul style="list-style-type: none"> • Publication in the press of the list of the remaining contracts in Mai 2003. 	and the publication of the remaining contracts in the press (Mai 2003). No new allocations since July 2003. There has been change of location for some contracts.
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>MINENV-MINFI. To accomplish:</p> <ul style="list-style-type: none"> • Recovery balance to transmit by MINFIN to MINENV – July 2004. • Decrees 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>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>
FORESTRY TAXATION – CONTRIBUTION TO THE ECONOMIC REVIVAL AND POVERTY ALLEVIATION		
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 intend, among others, to reduce the half-transit fee of ONATRA from 16\$/m ³ in 2003, to 10\$ in 2004 and 5\$ 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>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. 	<p>2004 tax perception notes have been sent 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>
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.	<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. 	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.
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.	<ul style="list-style-type: none"> • 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. 	Article 122 of the Forest Law. Cede-back mechanism in progress.
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	<ul style="list-style-type: none"> • 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. 	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.

CONTENT OF MEASURES	PROGRESS REALIZED / NEXT STEPS / SCHEDULE / RESPONSIBILITY	REMARKS, PRECISIONS, POTENTIAL FUNDING
FOREST RESOURCE MANAGEMENT AND NATURE CONSERVATION		
<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>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>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>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>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>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.</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. 	
ASSERTION OF DRC’S ROLE AS A GLOBAL ENVIRONMENTAL SERVICE PROVIDER		
<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>
INTEGRATION OF THE FOREST SECTOR IN THE FIGHT AGAINST AIDS		
<p>Creation of a forest contact group in the fight against AIDS. This working group should include representatives from MINENV, the Federation of Congolese Enterprise (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/DDD. 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 CBFP-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-congo, 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 indige nous 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 plot 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 SAUTI 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

Avenue WAGENIA No.4847
Kinshasa-Combe
Democratic Republic of Congo

Tel.: (243) 994 9008 / 9011
Fax: (243) 997 5019

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/Bambuti 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/Bambuti. 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 Bambuti/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 (Linapycos) 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

THE WORLD BANK
INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT
INTERNATIONAL DEVELOPMENT ASSOCIATION

4847 Avenue Wagonia (243)9949015 phone
Kinshasa - Gombe (243) 99 75 019 fax
Democratic Republic of Congo

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 administering 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.

ANNEX 11 BIBLIOGRAPHY OF KEY DOCUMENTS

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