

**Indigenous Pygmy Organizations and Pygmy Support
Organizations in the Democratic Republic of Congo**

**Request
submitted to the World Bank Inspection Panel**

**October 30, 2005
Kinshasa-DRC**

On behalf of:

The indigenous Pygmy organizations and Pygmy support organizations in the Democratic Republic of Congo

To the attention of:

The Chairperson of the World Bank Inspection Panel
1818 H Street N.W., Washington, D.C. 20433, U.S.A.

Subject:

Request for inspection of World Bank operations affecting the rights and interests of the indigenous peoples in the Democratic Republic of Congo (DRC).

We, the indigenous Pygmy organizations and Pygmy support organizations in the DRC, wish hereby to:

Convey the opinions of the indigenous Pygmy communities that we represent and/or support; and

Air a number of grievances directly affecting the rights and interests of the indigenous Pygmy communities in the DRC.

Our grievances concern the failings and negligence of the World Bank within the framework of the **Emergency Economic and Social Reunification Support Project (EESRSP)**,¹ in particular:

- The failure to implement Operational Directive 4.20 on Indigenous Peoples, despite the presence of indigenous Pygmy peoples in the project implementation zone;
- The classification of the EESRSP as a Category B project, despite the existence of a potential impact considered to be “sensitive;”
- The failure to conduct the environmental assessment more than ten months after the effective date of the project.

¹ World Bank, Emergency Economic and Social Reunification Support Project (EESRSP), Technical Annex, Report No: T7601-R

EESRSP, Updated Project Information Document (PID), Report No: AB213

EESRSP, Integrated Safeguards Data Sheet (ISDS), Report No: AC43

Link:

<http://web.worldbank.org/external/projects/main?pagePK=64283627&piPK=73230&theSitePK=40941&menuPK=228424&Projectid=P081850>

I. Description of the EESRSP

A. Approval and effective date

The EESRSP project ID number is P081850. The project was approved by the World Bank's Board of Executive Directors on September 11, 2003, and its legal instruments were signed on September 22, 2003. The effective date of the EESRSP had been scheduled for December 2003.² The project has been in effect since December 5, 2003.

B. Objective

This project, which is being processed as an emergency recovery loan, seeks to extend the reforms to regions traditionally controlled by rebels, and lay the foundation for reunification and economic stability throughout the country, by supporting, *inter alia*, institutional strengthening (Component 2).

C. Forests – A priority area

Under the “technical expertise and capacity building” component (Component 2), one of the priority areas is to “ensure implementation of forestry reforms throughout the country”, and in particular, to “prepare a **forest zoning plan**,” with a focus on Equateur and Orientale,³ the most-forested provinces in the country. This operation aims to provide a land use plan that identifies areas dedicated to “rural development, sustainable production, and environmental protection.”⁴

II. Context for approval of the EESRSP

A. Adoption of the Forest Code under the structural adjustment credit

A new Forest Code was adopted in the DRC in August 2002.⁵ 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 approved in May 2002.⁶

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.

² World Bank, EESRSP, Technical Annex, Report No: T7601-ZR, page 54.

³ World Bank, EESRSP, Technical Annex, Report No: T7601-ZR, page 28.

⁴ World Bank, EESRSP, Technical Annex, Report No: T7601-ZR, page 29.

⁵ President of the Democratic Republic of Congo, Law No. 011/2002 of August 29, 2002 on the Forest Code. Link: http://www.radiookapi.net/fichiers/documents_fichier_8.pdf

⁶ World Bank, Economic Recovery Credit, Report and Recommendation of the President of the International Development Association, Report No: P7531, May 17, 2002, pages 15 (§48), and 27-28 (§95).

B. Indigenous Peoples are not consulted, not recognized, not taken into account

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.

By failing to implement any safeguards, the World Bank, without any input from civil society or involvement of the indigenous communities,⁷ 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.

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.

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.

C. An opportunity to correct or compound errors made

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.

To date, while we have not had access to the details of this component, we would 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.

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

⁷ World Bank, Norbert YambaYamba Shuku, national consultant, *Rapport d'appui à la Revue économique du secteur forestier, Quelques observations relatives aux interactions entre populations rurales et concessions forestières en RDC* [Supplement to the Economic Review of the forestry sector, *Observations on forest concessions and their impact on rural populations in the DRC*], November 2003.

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.

III. World Bank failures and negligence within the framework of the EESRSP

A. Failure to implement Operational Directive 4.20

The World Bank decided that Operational Directive 4.20 on Indigenous Peoples⁸ would not apply to EESRSP activities, by specifying that **“the Project is not supposed to include activities for areas inhabited by indigenous peoples.”**⁹

The Bank’s rationale is inconsistent with the prevailing situation.

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.¹⁰

These indigenous Pygmy peoples are the “people of the forest.” Their existence, survival, cultural identity, and traditional knowledge are intimately linked to the forest, their element and life source which they revere.

1. Pilot zoning plan in areas inhabited by the Pygmies

The World Bank has formulated some terms of reference (draft)¹¹ 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.¹²

The presence of indigenous Pygmy communities in these forests, which is acknowledged by the World Bank in the aforementioned terms of references,¹³ called for the application of O.D. 4.20,

⁸ World Bank, Operational Directive on Indigenous Peoples, September 1991.

⁹ World Bank, EESRSP, ISDS, Report No: AC 43, page 5.

¹⁰ United Nations, Human Rights Committee, International Covenant on Civil and Political Rights, Review of the reports presented by the State Parties pursuant to the application of Article 40 of the Covenant, Third Periodic Report, Democratic Republic of Congo, March 30, 2005, CCPR/C/COD/2005/3, May 3, 2005, page 5, § 18: “the Pygmies are found in the Equateur and Orientale provinces.”

Link: [http://www.unhchr.ch/tbs/doc.nsf/0/2c76e866f2532705c1257093002c9201/\\$FILE/G0541437.pdf](http://www.unhchr.ch/tbs/doc.nsf/0/2c76e866f2532705c1257093002c9201/$FILE/G0541437.pdf)

¹¹ World Bank, EESRSP, Preparation of a forest zoning plan, Draft Terms of Reference.

¹² World Bank, EESRSP, Preparation of a forest zoning plan, Draft Terms of Reference, pages 4 and 18. See also: Maringa-Lopori-Wamba Landscape, CARPE.

Link: http://maps.geog.umd.edu/carpemapper/PDFs/CL9_Maringa.pdf

See also: Central Africa Forest Satellite Observatory, Landscape data.

Link: <http://osfac.umd.edu/re/cbfp/landscmap.htm>

¹³ World Bank, EESRSP, Preparation of a forest zoning plan, Draft Terms of Reference, page 6:

“Consult a wide range of stakeholders: villages, territorial and district capitals, economic agents, etc.) with a view to designing, and assessing the feasibility of, various zoning scenarios. Particular attention will be paid to consultations with Pygmy groups, by taking into account the distinctive characteristics of their

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.

2. Current situation threatening the rights and interests of the indigenous peoples

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.¹⁴ 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.

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 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).

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 1457,¹⁵ as well as in an ARD¹⁶ report that was widely disseminated before the EESRSP was approved by the Bank's Board of Executive Directors, and which states that:

“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.”

nomadic or semi-nomadic lifestyle. Gain a keen understanding of the land issues and the dynamics of local farming, of the use of forests by different ethnic groups, in particular the Pygmies, of traditional land access and traditional land law, as well as traditional usufruct rights”; and page 7: “Issue facing indigenous forest peoples. It will also be essential to gain as thorough an understanding as possible of the dynamics of the use of forests by indigenous peoples, in particular the Pygmies, who are nomadic. This specific dynamic will be taken into account during the design of various zoning scenarios, by showing to what extent assigning a priority, yet non-exclusive, objective to certain spaces (conservation zones, sustainable development concessions) is compatible with respect of traditional rights and these peoples' lifestyle, or how zoning can reassure the exercise of these rights.” [Translated without reference to the original].

¹⁴ World Bank, EESRSP, Technical Annex, Report No: T7601-ZR, page 29.

¹⁵ United Nations, Security Council resolution 1457 (2003), 4691st session, January 24, 2003, §7.

Link:

<http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/b017ffc94c98049cc1256cbf005b12a2?Opendocument>

¹⁶ ARD, *Conflict Timber: Dimensions of the Problem in Asia and Africa, Volume III, African Cases*, USAID/ARD, Burlington, USA, May 2003, DR Congo Case study, §1.2 Current situation.

Link: <http://www.rainforestfoundationuk.org/files/ARD%20report%20vol3afr.pdf>

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.

B. Erroneous environmental classification

The EESRSP was classified as a **Category B project**.

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.

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,¹⁷ a policy implemented under the EESRSP. OP 4.01 stipulates that a "proposed project is classified as Category A if it is likely to have significant adverse environmental impacts that are sensitive, diverse, or unprecedented. These impacts may affect an area broader than the sites or facilities subject to physical works," and further notes that a "potential impact is considered sensitive if it may be irreversible or raise issues covered in OD 4.20."

The EESRSP therefore clearly falls under Category A.

The case study published by the ARD¹⁸ 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.

The documents prepared by the World Bank and the International Development Association (IDA) also raise the same alarm, as indicated in Section V of this request. IDA stipulates, for example, that: "by March 31, 2008, the following economic management performance indicators

¹⁷ World Bank, Operational Policy 4.01, Environmental Assessment, pages 3-4. Environmental screening, § 8a) Category A.

Link:

[http://wbln0018.worldbank.org/html/eswebsite.nsf/BillboardPictures/OP401_French/\\$FILE/OP401_French.pdf](http://wbln0018.worldbank.org/html/eswebsite.nsf/BillboardPictures/OP401_French/$FILE/OP401_French.pdf)

¹⁸ ARD, *Conflict Timber: Dimensions of the Problem in Asia and Africa, Volume III, African Cases*, USAID/ARD, Burlington, USA, May 2003: "The danger now hovering over the DRC's forests is weak governance, that is, the likelihood that the state will be unable to regulate access to forest resources effectively and, once concessions are allocated, control harvesting within them to ensure that concessions boundaries are respected, etc. If the state proves unable or unwilling to control domestic and expatriate logging concessionaires, this may signal the start of a logging boom that could rapidly decimate the country's wood resources. This could, in turn, unleash a wave of negative environmental consequences."

Link: <http://www.rainforestfoundationuk.org/files/ARD%20report%20vol3afr.pdf>

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.”¹⁹

C. Violation of Operational Policies 4.01 and 4.36

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 effective date of the project, that is, in December 2004.

OP 4.01 on Environmental Assessment,²⁰ as well as OP 4.36 on Forests²¹ 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.

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.”²²

IV. Rights and interests likely to be affected and possible damage

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.

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:

1. The violation of their right to occupy their ancestral lands;
2. The violation of the integrity of their traditional lands;

¹⁹ World Bank, EESRSP, Democratic Republic of Congo and the International Development Association, Development Financing Agreement, September 22, 2003, Schedule 7. [Translator's note: citation translated without reference to the original].

²⁰ World Bank, The World Bank Operational Manual, Operational Policies, OP 4.01, Environmental Assessment, January 1999.

Link:

[http://wbln0018.worldbank.org/html/eswwwebsite.nsf/BillboardPictures/OP401_French/\\$FILE/OP401_French.pdf](http://wbln0018.worldbank.org/html/eswwwebsite.nsf/BillboardPictures/OP401_French/$FILE/OP401_French.pdf)

²¹ World Bank, The World Bank Operational Manual, Operational Policies, OP 4.36, Forests, November 2002.

Link:

[http://wbln0018.worldbank.org/html/eswwwebsite.nsf/BillboardPictures/op436French/\\$FILE/OP436French.pdf](http://wbln0018.worldbank.org/html/eswwwebsite.nsf/BillboardPictures/op436French/$FILE/OP436French.pdf)

²² World Bank, The World Bank Operational Manual, Operational Policies, OP 4.36, Forests, November 2002, page 4 (§13).

Link:

[http://wbln0018.worldbank.org/html/eswwwebsite.nsf/BillboardPictures/op436French/\\$FILE/OP436French.pdf](http://wbln0018.worldbank.org/html/eswwwebsite.nsf/BillboardPictures/op436French/$FILE/OP436French.pdf)

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.

These violations of interdependent rights, and the damage which is equally interdependent, would therefore lead to:

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.

These negative impacts would further impoverish the poorest and most marginalized segments of the Congolese population, thereby jeopardizing all prospects for sustainable development.

V. The rationale for logging-driven development

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,²³ even though no regulations concerning the rights or interests of local communities, or even the protection of the environment, have been adopted.

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."²⁴ 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.

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."²⁵

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."²⁶ 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,

²³ President of the Democratic Republic of Congo, Decree No. 05/116 of October 24, 2005 which establishes the methods for converting of old forest titles into forest concession contracts and extends the moratorium on the granting of logging concessions.

²⁴ World Bank, EESRSP, Technical Annex, Report No: T7601-ZR, page 85

²⁵ World Bank, EESRSP, Technical Annex, Report No: T7601-ZR, page 25

²⁶ World Bank, Democratic Republic of Congo, Sectoral follow-up mission, July 1-12, 2003, page 1

they predict, could be achieved from 60 million hectares of “permanent production forests.”²⁷ Please bear in mind that the DRC has a total of 80 million hectares of rainforest.

Nevertheless, the limitations of this vision of development driven by industrial logging have been demonstrated in several countries,²⁸ such as Cameroon, where this activity has caused numerous social conflicts and further impoverished the poorest segments of the population.

Even if the World Bank has conceded that alternatives to industrial logging should be considered,²⁹ we see no tangible evidence of this in its forestry sector operations in the DRC.³⁰

V. Approaches made to the World Bank

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 unreceptive 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.

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.

By way of illustration, we cite the following examples:

1. Letter of February 12, 2004

In their letter of February 12, 2004³¹ 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.

²⁷ World Bank, Democratic Republic of Congo, Sectoral follow-up mission, April 15-27, 2002, page 4. See also: World Bank, Economic Recovery Credit, Report and Recommendation of the President of the International Development Association, Report No: P7531, May 17, 2002, pages 25-26 (§87)

²⁸ Rainforest Foundation, Global Witness, Forest Peoples Programme, 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.

²⁹ Rainforest Foundation, Videoconference with Mr. Wolfensohn, President of the World Bank, Transcript of discussions, July 8, 2004. Link (in English):

<http://www.rainforestfoundationuk.org/files/Transcription%20of%20video%20conference%2008.07.04.pdf>

³⁰ Permanent Forum on Indigenous Issues, Report of the Second Session, E/2003/43, E/C.19/2003/22, May 12-23, 2003, §26: “The Forum recommends that the agencies and bodies of the United Nations, the World Bank [...] rethink the concept of development with the full participation of indigenous peoples in development processes, taking into account the rights of the indigenous peoples and the practices of their traditional knowledge.”

Link: <http://www.un.org/esa/socdev/unpfii/pfii/documents/e200343f.pdf>

³¹ National Center for Development and Popular Participation (CENADEP), National Council of Development Non-Governmental Organizations of Congo (CNONGD), *The Future of the forests in the Democratic Republic of Congo and the people living within these forests*, February 12, 2004.

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.³²

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.

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 steps³³ 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.

2. Meeting of February 23, 2004

After sending their letter of February 12, civil society organizations held a national workshop in Kinshasa on February 23, 2004 on the Forest Code and its implementing measures.

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.

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.

3. Videoconference of July 8, 2004

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

³² World Bank Resident Representative in Kinshasa, Onno Rühl, *Your letter of February 12, 2004 on the future of the forests in the Democratic Republic of Congo and the people living in these forests*, March 11, 2004.

³³ World Bank Resident Representative in Kinshasa, Onno Rühl, *Your letter of February 12, 2004 on the future of the forests in the Democratic Republic of Congo and the people living within these forests*, March 11, 2004, page 2.

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.

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 better path in the DRC."³⁴

The videoconference was primarily held in English and, in the absence of interpreters, the DRC participants were not able to fully understand the discussions.

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.

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.

4. October 2004 Meeting of indigenous Pygmy organizations of the DRC

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.

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.

5. Informal Meeting with Mr. Debroux

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 operation.

Mr. Debroux simply 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.

³⁴ Rainforest Foundation, Videoconference with Mr. Wolfensohn, President of the World Bank, Transcript of the discussions, July 8, 2004. Link (in English): <http://www.rainforestfoundationuk.org/files/Transcription%20of%20video%20conference%2008.07.04.pdf>

This meeting had not been requested by Mr. Debroux, but Mr. Bobia of CENADEP (National Center for Development and Popular Participation) who had asked that representatives of indigenous Pygmy organizations be allowed to accompany him to the meeting.

6. Forest Forum of November 13, 2004

In November 2004, a Forest Forum was held in Kinshasa. This was actually the only outcome of the “exchange” with the World Bank President.

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.

On this occasion, local³⁵ 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 NGOs³⁶ 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.

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.

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.

7. Meeting of February 8, 2005

Madame MULEY, Mr. KAPUPU, and Mr. 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.

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.

³⁵ CENADEP, CNONGD, *Declaration by Congolese Civil Society at the Forum on Forests and Nature Conservation in the DRC on November 13, 2004 in Kinshasa.*

³⁶ 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*” Forest Forum, November 13, 2004. Link: <http://www.rainforestfoundation.org/files/DRC%20international%20NGO%20statement%20-%20Fr.pdf>

8. Meeting of July 21, 2005

This meeting was held at the World Bank Country Office in Kinshasa. It specifically addressed the EESPRS 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.

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 EESPRS, 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!

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.

Because of this and as a last resort, we sent a letter to the World Bank dated February 18, 2005.³⁷

Response of the World Bank Country Office to our last request

The World Bank’s response dated July 5, 2005³⁸, received on September 21, 2005, when a representative of an indigenous 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.

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.

Submission of our inspection request

In light of the fact that the Country Office has once again shirked its responsibilities by sending us to a powerless Congolese agency which we have already approached on many occasions, but which is incapable of providing us with what we needed to enable us to address our concerns, and who in turn sent us back to the World Bank, we hereby submit this request to the Inspection Panel to ask the World Bank’s Board of Executive Directors to initiate investigations into negligence by the Bank which we have pointed out, with a view to:

³⁷ Indigenous Pygmy organizations and Pygmy support organizations in the DRC, *World Bank negligence in activities involving the forests and indigenous peoples of the DRC*, February 18, 2005

³⁸ Resident Representative of the World Bank in Kinshasa, Jean-Michel Happi, *World Bank Operations on forests and indigenous peoples in the DRC*, July 5, 2005.

- Implementing the new Operational Policy 4.10 on Indigenous Peoples to the EESRSP;
- Reconsidering the classification of the EESRSP in environmental category A;
- Releasing the environmental assessment of the EESRSP;
- Taking the aforementioned observations and concerns into consideration in the framework of the approval of new projects with a ‘forest’ component, such as the ‘Transitional Support for Economic Recovery Credit’ which will be presented to the World Bank’s Executive Board on December 8.

Of course we are available to you for any additional information you may require.

In the hope that our request will receive favorable consideration, please accept, Madame Chairperson of the Inspection Panel, the assurances of our highest consideration.

The Undersigned,

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