



THE WORLD BANK CONDONES
LOGGING AS A POTENTIAL
QUICK FIX ... IN THE NAME
OF DEVELOPMENT

Tropical rainforest destruction and climate change⁶ are two fundamental drivers responsible for the world entering a period of mass species extinction on a scale not seen since the age of the dinosaurs.⁷

Climate change is the greatest threat the world faces today. This global problem demands a global solution. In February 2007, a new report⁸ from the Intergovernmental Panel on Climate Change (IPCC) underlined the case for immediate action to reduce all sources of climate changing GHG emissions, including deforestation and degradation of forested land.⁹ By storing carbon, forests play a powerful role in mitigating the growing instability of the climate.

The Congo rainforests of Central Africa form the second largest remaining block of largely intact tropical forest in the world. Yet these globally critical carbon reserves are rapidly being degraded both by deforestation and by forest fragmentation – fifty million hectares of rainforest is being carved up by logging companies in Central Africa¹⁰ (that is an area the size of Spain) – and important carbon stocks lost.

The recent return of peace in the Democratic Republic of the Congo (DRC), the holding of democratic elections for the first time in the country's history and the review of the legality of current forestry titles provide a unique opportunity for the international community to support genuine development in one of the world's poorest countries and take critical action to protect the global climate.

The recovery of the logging industry is probably the most significant change impacting the DRC's forests in the post-war period.¹¹

Agencies such as the World Bank are using their enormous financial influence to impose strategies for economic development on countries such as the DRC. The DRC's rich rainforest and mineral resources, the main stakes of its recent wars, are now at the core of donor organisations' assumptions about reconstruction. They are viewed as a quick source of tax revenue and foreign earnings to kick-start the country's collapsed economy, and thereby, supposedly, to lift the country's people out of poverty.¹²

*'There is a growing consensus that the traditional concession-based industrial logging model does not generate the desired economic, social and environmental benefits.'*⁵
Baroness Amos, Leader of the UK Government House of Lords and UK Government spokesperson on international development, 2006



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It is not simply a question of restoring governance systems and restarting a dormant economy [in the DRC], but rather the much more difficult challenge of totally reforming existing, ill-adapted governance and economic systems. This will involve controlling criminal and corrupt systems and gradually replacing them with transparent, equitable and democratic systems and institutions.¹³

2003 report for USAID

In this report, Greenpeace looks at the World Bank's strategy of forestry reform against the Bank's own measures of the effectiveness of its programmes in poverty alleviation. These measures, according to the Bank's 'Annual review of development effectiveness 2006: Getting results', include:

1. accountable and capable governance
2. effective delivery of essential services to the poor
3. sustainable and inclusive economic development

The first section of this report looks at the reforms themselves. The second section, based on Greenpeace research and field investigations, chronicles the governance, and social and environmental impacts of industrial logging.

Our work shows that even against the Bank's own measures, its strategy for forestry sector reform is set to fail. This strategy is unsustainable since it fails to protect Africa's remaining rainforests, their biodiversity and their critical contribution to protecting the global climate. The strategy has also proved ineffective in neighbouring countries at tackling corruption or driving genuine development by supporting the rights and needs of forest-dwelling communities.

THE DRC: LARGEST STRONGHOLD OF CENTRAL AFRICA'S GLOBALLY SIGNIFICANT CONGO RAINFORESTS

The spectacular Congo rainforests of Central Africa form the second largest rainforest block on earth after the Amazon forest, covering more than 172 million hectares.¹⁴ The rainforest contains numerous species of plants and animals found nowhere else on earth. The Congo forests are critical to the survival of our closest animal relatives: the bonobo, the chimpanzee and the gorilla. Millions of people, too, rely on the rainforest for shelter, medicine, food and their cultural survival.

In global terms, the forest plays a critical role in keeping the planet's climate stable by storing carbon.¹⁵ The DRC alone accounts for over 8% of that part of the world's carbon stocks which is held in forest biomass and 75% of those left in the tropical rainforests of Central and West Africa.¹⁶

But the future of DRC's rainforest and of the life that depends upon it is in jeopardy. The expansion of industrial logging into remaining areas of intact forest is the single largest threat to these forests.¹⁷ Across Central Africa, widespread destruction has been brought by industrial logging, both directly and via the influx of settlers, poachers and artisanal or small-scale miners that arrive once logging roads have opened a way into the forest. Outside the DRC, 71% of the richest Congo rainforest area is slated for logging.¹⁸

Intact areas of rainforest are critical for biodiversity protection and global environmental services. Two-thirds¹⁹ of the remaining intact areas of Central Africa's Congo rainforest lies within the Democratic Republic of the Congo (DRC).²⁰ Ironically, as a result of decades of despotism and war, much of the DRC's rainforest has not yet been destroyed by the large-scale industrial logging and forest clearance that has ravaged the rainforests elsewhere in Africa. Consequently, the DRC has the largest remaining unbroken areas of largely intact rainforest, vital to healthy ecosystem functioning and the survival of large forest mammals such as elephants.²¹ Well over a quarter²² of the DRC is still covered with large areas of intact rainforest, covering some 60 million hectares.²³ Within Central Africa as a whole, only 8.5% of the remaining areas of intact rainforest enjoys 'protected' status.²⁴

THE BATTLE FOR THE DRC'S RESOURCES: WINNERS AND LOSERS

Local people and the wildlife of the DRC have all suffered as a result of years of conflict in the battle for control over the country's rich resources. With the end of war and democratic elections in the DRC, the international community now has a unique opportunity to ensure that this rainforest is conserved. This is important for the well-being of the communities whose way of life and future depend upon it, the region's unique wildlife, and the sake of the global climate. Urgent action is needed to avoid replicating the failures of the past.

In order to understand why the World Bank-led reforms to the forestry sector in the DRC are an inappropriate development model for poverty alleviation, they must be seen against the background of the preceding decade of upheaval.

Since 1996 with the overthrow of General Mobutu, continuing through nearly a decade of

ferocious fighting and atrocities against the civilian population, and up to the country's first multiparty democratic parliamentary elections at the end of 2006, the DRC has been a battleground in a fight for control of natural resources.²⁵

At its height, at least seven foreign armies were involved in the war. For these forces – both foreign and Congolese – conflict was primarily an opportunity to loot the DRC's resources.²⁶ 'Corrupt and criminal elites', backed by foreign multinationals, joined in the free-for-all for control of the natural wealth of the DRC.²⁷

During the war, extensive logging titles were awarded. One incentive for this large-scale speculation was the price: until 2003, a 200,000-hectare logging title cost only \$286 per year in forest area tax.²⁸ These low taxes encouraged companies to acquire titles to forest they were not in a position to exploit, hoping to sublease to other investors once economic and political stability was established.²⁹

*'The danger posed by war to all of humanity and to our planet is at least matched by the climate crisis and global warming.'*³⁰

UN Secretary General
Ban Ki-moon, 2007



By 2002, even though production was at a virtual standstill because of the war, about 43.5 million hectares of forest – an area larger than California and twice the size of the United Kingdom – were controlled by the logging industry³¹ (in addition to a dubious arrangement with the Zimbabwean army to log 34 million hectares of forests made, ostensibly, in return for Zimbabwean military support for the Kinshasa authorities³²). Requests for new titles have continued to pour into the Ministry of Environment.³³

The 285 long-term holdings current in 2002 overlapped with villages, agricultural lands and biodiversity hotspots, depriving forest communities of the right to manage their own forests. The establishment of new protected areas or community forests, or of forest-based activities other than logging, was made impossible in these areas.³⁴ As a World Bank-led forestry sector review summarises the situation: ‘Forests were seized by logging interests and there was little space left for other forest uses.’³⁵

These problems remain today.

After the war, a new fight for control of the rainforest

According to Transparency International, the DRC is one of the most corrupt countries in the world.³⁶ It has been classified as the classic ‘failed state’ in Africa – unable to control its territory or resources – in a report commissioned by the United States Agency for International Development (USAID),³⁷ among other sources.³⁸

While war obviously provided a critical opportunity for massive land grabbing in recent years, the heart of the problem can be ascribed to the economy of plunder and the institutional corruption that has long characterised the DRC’s political class. For forty years, public office has been synonymous with personal profit.³⁹ The rule of law does not exist in the DRC.

‘Deforestation is a very large GHG emission source in the developing world, accounting for up to 20% of global emissions – an amount roughly comparable to the entire annual fossil fuel emissions of the United States. Given the urgency of the climate change threat and the ongoing drastic loss of biodiversity, the cost effectiveness and the potential for relatively rapid emissions reductions from deforestation and forest degradation make it a vital component of the global effort to prevent dangerous climate change.’⁴⁰

Climate Action Network International (CAN), 2007

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The logging sector is characterised by corruption.⁴¹ As elsewhere, lawlessness and corruption are an open invitation to loggers to log irresponsibly without fear of sanction. This situation has the effect of attracting the most unscrupulous companies to the DRC, providing even greater stimulus to corruption. As a report for USAID on conflict timber states:

‘The DRC’s unenviable reputation as one of the world’s most corrupt countries in fact discourages honest logging companies from operating in the country because they recognise that they will be competing against a set of companies accustomed to operating in highly corrupt environments. Dishonest, aggressive companies – “operators” – may, however, find such an environment attractive because they see opportunities for quick



profits in a context where rules are poorly enforced, bribery is commonplace, and unscrupulous entrepreneurs have broad leeway to operate as they will. These firms are well capitalised, as witnessed by the half million dollar bribe reportedly offered by a Malaysian lumber company to the DRC's timber allocation unit to obtain logging concessions.⁴²

In the words of the International Security Information Service, 'It is questionable whether a legitimate industry can even exist in the DRC where corruption is rampant and accountability minimal.'⁴³

A new battle for control of the DRC's rainforest is now in full swing, with the interests of logging companies and corrupt officials set against the rights of forest-

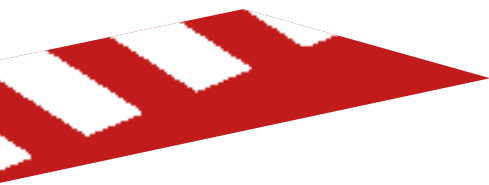
dwelling communities and the fate of the global environment. It is widely feared that the imminent conclusion of the World Bank-led legal review of current forest holdings is set to confirm the vast majority of logging titles and to open the way to the issuing of further concessions. The battle is now at a turning point.

The questions that must be asked are: why does the World Bank persist in supporting an industrial logging-led model as the basis for development, when this model is clearly unable to make a meaningful contribution to the fight against corruption, poverty alleviation, or environmental protection? How does it propose to help meet the monumental challenge of supporting genuine development in the DRC?



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Top: ©Greenpeace/Davison



DRC RAINFOREST DESTRUCTION: THE WORLD BANK IS A POWERFUL PLAYER

THE WORLD BANK HOLDS THE PURSE STRINGS BUT WHO CALLS THE SHOTS?

Controlled by rich industrialised countries, the World Bank is one of the world's largest sources of funding for developing countries. It is the most important international donor in the DRC, with direct influence on government policy through its contribution to state finances. Donor aid currently accounts for nearly 60% of the DRC's national budget.⁴⁴

The World Bank suspended financial assistance to the DRC during the conflicts of the 1990s and resumed lending in 2001. By August 2006, the World Bank Group had approved loans, credits and grants to the DRC worth more than \$4 billion.⁴⁵

The World Bank is by far the most influential international actor behind the reform of the DRC forestry sector. Several of the World Bank's budgetary support operations in the DRC have been specifically linked to the implementation of forest reform measures.

In June 2002, the World Bank approved a \$450 million Economic Recovery Credit for the DRC. The release of \$15 million of this was made conditional on the adoption of the DRC Forestry Code.⁴⁶ The negotiations on this structural credit between the World Bank and the interim DRC Government also resulted in the May 2002 moratorium on the granting of new logging titles.⁴⁷

One objective of the World Bank's December 2005 \$90 million budgetary support was that the 2002 moratorium be maintained until the completion of a legal review of existing titles and the development of a three-year geographical distribution plan for future concessions. In response, the President Kabila issued a presidential decree in October 2005 upholding the moratorium and laying out criteria and a timeline for a legal review.⁴⁸

The World Bank's mission in the context of the DRC's forests is to help tackle corruption, alleviate poverty, promote and support

sustainable development and consolidate peace, while safeguarding the DRC's globally important natural heritage.⁴⁹ However, the Bank's actual policy and project work on the ground in the DRC focuses on generating export-derived revenue for the Government on the basis of exploitation of the DRC's natural resources. The DRC's rich rainforest and mineral resources are at the core of the Bank's assumptions about reconstruction. They are viewed as a quick source of tax revenue and foreign earnings to kick-start the country's collapsed economy,⁵⁰ and thereby to lift the country's people out of poverty.

The majority of the World Bank's operations have been classified as either 'emergency lending', or adjustment loans for policy reforms and budget support, for which the Bank's social and environmental safeguard policies do not apply.⁵¹ Further, because the reforms are more an expression of the World Bank than the autonomous political vision of the DRC Government, their viability is questionable, given the potential lack of political will for their on-the-ground implementation in years to come.⁵²

The real decision-makers at the World Bank are member governments. Member governments exercise the direction of the World Bank through a Board of Governors. There is one governor for each of the 184 member countries, consisting mainly of finance and development ministers from the represented countries.⁵³ The Board usually meets once a year to review operations and basic policies; it also controls the budget. The Board delegates the day-to-day running of the Bank to 24 full-time Executive Directors based at the Bank's headquarters in Washington DC. Unlike the United Nations, where each member nation has an equal vote, voting power at the World Bank is determined by a nation's financial contribution. Five countries control nearly 40% of all votes: France, Germany, Japan, the United Kingdom and the United States.⁵⁴

The World Bank and those who control it have not yet exercised their influence to ensure that the Bank's financial support for the DRC is used appropriately or effectively to achieve genuine development.

*'All loans are governed by our operational policies, which make sure that operations we fund are economically, financially, socially and environmentally sound.'*⁵⁵

World Bank Group brochure, 2006

*'The ultimate goal was harnessing the potential of forests to reduce poverty.'*⁵⁶

World Bank, 2005

GREENPEACE INVESTIGATIONS EXPOSE THE FLAW IN WORLD BANK STRATEGY

Greenpeace's field investigations in both Cameroon and the DRC expose how counting on the logging industry to fight poverty tends to have the opposite result, compromising efforts to tackle corruption and build good governance, and failing to meet the needs of the poor or to ensure the long-term health of the global environment.

Beyond the rhetoric, the World Bank's commitment to the principle of using the forestry sector to generate revenue that can be 'trickled down' to benefit forest dwelling communities and protect the environment has been implemented to only a limited extent in the DRC, resulting in little positive impact.

The practical application of the principle so far amounts to the devolution of tax revenue for local development projects, and the proposed formalisation of a pre-existing ad hoc system whereby logging companies enter into social responsibility contracts (cahiers des charges) with forest dwelling communities to provide social assistance, facilities and infrastructure – these 'contracts of shame' amount to little more than licenses to loot.

Taxes or private income?

Central to World Bank strategy is the concept that by allocating rainforest to logging companies and collecting tax on it, the DRC Government will have money for development for rainforest communities. In 2003–2006, no taxes have been redistributed to local authorities in the DRC. No accounting or distribution systems at the provincial or territory levels have been established by the DRC Government to distribute taxes.⁵⁷

Greenpeace fears that the same mechanisms of fraud, corruption and embezzlement of public funds that sank Cameroon's forest reform will become prevalent in the DRC forestry sector.



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*'[For 40 years, World Bank aid has been] helping the wrong people, doing the wrong things. ... The end result is very little good for Africans.'*⁵⁸

Robert Calderisi, former World Bank spokesman on Africa, 2006



*'It is common knowledge that the revenues earned in the logging sector were shared directly by political elites and the loggers themselves with little concern for local populations or the environment. This continues to generate serious conflicts.'*⁵⁹

Theodore Trefon, 2006



Social responsibility contracts are little more than licences to loot

World Bank-driven reforms formalise a colonial tradition whereby a logging company deals with local communities in an area of forest where the company wishes to prospect or log. Rather than genuinely contributing to poverty alleviation, this approach produces forest community dependency on the industry in exchange for the loss of their forest resources. Building schools and hospitals is a central function of the state, and should not be reliant on handouts from profit-making companies – which generally complete such projects to very low standards or fail to carry them out altogether. When entering into these contracts the objective of logging companies is simply to 'buy' social peace by offering the most meagre benefits they can get away with – the deals are depicted by one source as 'wood in return for beer and a football pitch'.⁶⁰

A World Bank-led forestry sector review concedes that these contracts are a poor substitute for state provision:

'In well functioning States, the State provides social services throughout the country. In the DRC context, the cahier des charges [social responsibility contract] makes up for the State's inability to provide such services in remote areas.'⁶¹

By defending this arrangement as a 'legitimate' substitute for properly planned and equitable development, without any suggestion that this will be a purely temporary arrangement until the State can build up sufficient capacity to assume these responsibilities, the World Bank is helping build dependence on logging rather than fostering genuine development in the DRC.

THE REFORM PROCESS: A CATALOGUE OF DELAYS AND FAILURES

The following timeline describes the key events in international involvement in the DRC during and following the wars. As this shows, while many international bodies have called for the corrupt system of control of natural resources – including the rainforest – to be tackled, in many respects the problem has increased.

April 1999 – Recommendation to cancel dormant logging titles

In April 1999, a DRC Government Interministerial Committee on Timber recommends ‘rescinding all agreements and contracts for non inventoried, abandoned and/or undeveloped forests’.⁶² No immediate action is taken by the Government.

June 2000 – UN Security Council sets up fact finding mission

In June 2000, the UN Security Council (UNSC) establishes a panel of experts to collect information on activities of illegal exploitation of natural resources in the DRC.⁶³ Although the panel’s fact finding mission is intended to include diamonds, gold, coltan, copper, cobalt, timber, wildlife reserves, fiscal resources and trade in general, most of the work of the panel pertains to mineral resources. The panel publishes its findings in October 2002 (see below).

November 2001 – UN Security Council recommends the imposition of a boycott on the trade in resources including hardwood originating in rebel-held zones

2001 – World Bank resumes aid to the DRC

In 2001, the World Bank re-engages with the DRC. By August 2006, the World Bank has approved loans, credits and grants to the DRC worth more than \$4 billion.⁶⁴ Much of this is linked to reform of the forestry sector.

‘A moratorium should be declared for a specific period of time banning the purchase and importing of precious products such as coltan, diamonds, gold, copper, cobalt, timber and coffee originating in areas where foreign troops are present in the Democratic Republic of the Congo, as well as in territories under the control of rebel groups.’⁶⁵

UNSC

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‘With more than 90% of the 1.2 billion people living in extreme poverty dependent on forests for some part of their livelihoods, good forest sector governance is integral to the Bank’s mission of poverty reduction, and a key component of the Bank’s fight against corruption.’⁶⁶

Katherine Sierra, Vice President for Sustainable Development, World Bank, 2006

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April 2002 – Commission to review wartime title allocations

The Sun City Agreement, signed in South Africa in April 2002, establishes the transitional DRC Government to run the country until democratic elections can be held, and provides for a parliamentary commission to review the legality of extractive titles allocated during the recent wars to make sure they conform with Congolese law and that taxes due to the State in respect of them have been paid.⁶⁷

The commission’s report, known as the Lutundula Report,⁶⁸ is not submitted to parliament until June 2005, by which time events have overtaken it; moreover it focuses largely on mining rather than the logging industry. Nevertheless, that it is commissioned at all shows that the Government already recognises that the allocation of rights to extractive industries poses a problem.

April 2002 – Tax review leads to cancellation of logging titles covering 25.5 million hectares

THE NUMBERS GAME

– AREA OF FOREST CONTROLLED BY LOGGING COMPANIES:

PRE-TAX REVIEW

285 logging titles covering 43.5 million hectares of rainforest⁶⁹

POST-TAX REVIEW

122 logging titles covering 18 million hectares of rainforest⁷⁰

In April 2002, a ministerial decree initiates a first review of the status of 285 logging contracts covering 43.5 million hectares of rainforest. Although this initial review only looks at payment of taxes, it leads to the cancelling of 163 contracts covering 25.5 million hectares of rainforest,⁷¹ according to the Ministry of Environment’s June 2002 compendium.⁷²



**May 2002 –
Moratorium on the issuing of new
logging titles is imposed and
immediately violated**

In May 2002, as part of negotiations over budgetary support, the World Bank persuades the transitional Government to impose a moratorium on the issuing of new logging titles. This is intended to allow time to review the legality of the logging contracts that remained after the initial April 2002 tax review and to complete all the legal decrees necessary to implement the new framework Forestry Code (see below), also developed under pressure from the Bank.⁷³

On 14 May 2002, the Ministry of Environment issues a decree⁷⁴ suspending the allocation of new industrial logging titles⁷⁵ and the renewal or extension of existing ones, pending 'the adoption of transparent allocation procedures'.⁷⁶

However, the moratorium is violated almost immediately. New logging contracts for Soforma and CFT are signed on 31 May 2002 – barely two weeks after the moratorium is imposed.⁷⁷

**August 2002 –
The Forestry Code adopted**

Modelled on the Forestry Law that the World Bank developed for Cameroon in 1994, the Forestry Code is to be the principal legal tool for reform of the forestry sector in the DRC. As in Cameroon, the law is pushed through by the World Bank. The release of \$15 million of budgetary support is made conditional on its adoption⁷⁸ and consequently law 11/2002 is adopted by the transitional Government of the DRC in August 2002, replacing the 1949 colonial forestry regulations. The Forestry Code claims to make a key contribution to environmentally responsible and socially just development:

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*'It is common knowledge that the revenues earned in the logging sector were shared directly by political elites and the loggers themselves with little concern for local populations or the environment. This continues to generate serious conflicts between stakeholders.'*⁷⁹

Theodore Trefon, 2006

'The forestry system aims to promote rational and sustainable management of forest resources to increase their contribution to the economic, social and cultural development for today's generation while preserving the forest ecosystems and biodiversity for the benefit of future generations.'⁸⁰

October 2002 – UN Security Council recommends review of wartime logging titles

In October 2002, the UNSC finally publishes the findings of its independent panel of experts on the illegal exploitation of the natural resources of the DRC.⁸¹ Its recommendations include the examination of wartime-issued logging titles, and calls for the World Bank among others to provide the support necessary for such a review:

'Reforms of the mining and the forestry sectors should include **the review of all concessions and contracts signed during both wars**. On the basis of the Panel's findings, this could also target all informal agreements on the awarding of concessions and the implementation of contracts. **The international community, including the World Bank**, the International Finance Corporation and UNDP, **could collaborate closely with this commission** and provide the support necessary for it to carry out its work in a thorough and objective manner.'⁸² (Greenpeace emphasis)

June 2002–May 2003 – New titles granted

THE NUMBERS GAME
May 2003: 132 logging
titles covering 19,403,498
hectares of rainforest⁸³

A year after the decree instituting a moratorium on new allocations of logging titles, a first list is published of existing titles to be subject to legal review prior to conversion to concessions in line with the new Forestry Code. The list published on 24 May 2003 in *le Potentiel*⁸⁴ – the DRC's leading newspaper – includes logging titles covering an additional 1.5 million hectares of rainforest that do not appear on the Ministry of Environment's unpublished 2002 list of 122 titles covering 18 million hectares.⁸⁵

2003 – The World Bank extractive industries review completed

The World Bank-commissioned Extractive Industries Review (EIR) evaluation of the contribution of World Bank projects is completed. It concludes that, where basic conditions of good governance are absent, the oil, gas and mining sectors have no record and little hope of contributing to poverty reduction.⁸⁶

Its final report presents a series of recommendations, including that the World Bank should not support private investment in extractive industries in countries where pro-poor governance is inadequate.⁸⁷ In August 2004, the World Bank Group responds by making commitments to change its operations and policies.⁸⁸

June 2005 – Lutundula report published

The Lutundula Report on extractive titles issued during wartime advises that the management of natural resources has worsened during the transitional period in the lead up to democratic elections (2002–2006), recommends that many titles be reviewed and urges that no new ones be allocated.⁸⁹

July 2005 – Ministry of Finance tax review of logging contracts

In July 2005 the Ministry of Finance publishes how much area tax had been collected for the year 2004. About 45% of area tax (annual tax on the land area) is unpaid by logging companies, which suggests that contracts covering many millions of hectares are being held by operators who fail to comply with the terms of their contracts.⁹⁰ Companies included on the published list of defaulters include Trans-M, Siforco, and Soforma (NST).⁹¹ According to the Ministry of Environment, only 18 contracts covering 2.1 million are cancelled in 2005.⁹²

October 2005 – 'The legal review': another legal review of logging titles

Between July 2004 and September 2005, four successive ministerial decrees⁹³ on the process for conversion of logging titles are signed outlining the rules for the conversion of forest



titles to concessions in accordance with the Forestry Code.

Finally, under further pressure from the World Bank as a result of the weaknesses of these ministerial decrees and the continued moratorium violations, on 24 October 2005 the president of the DRC issues a decree⁹⁴ confirming the validity of the May 2002 moratorium, and extending the criteria to be met before it can be lifted. In addition, the presidential decree formally initiates a legal review requiring an assessment of the validity of all existing logging titles submitted for conversion in line with the new Forestry Code.⁹⁵

The decree commits the DRC Government to maintaining the moratorium on the awarding of new concessions until new rules for the awarding of logging titles through public auction are adopted, until the legal review is completed, and until the adoption of 'a three-year rolling plan for future concessions based on participatory process of public consultation ... so that excessively large forest areas are not opened up too quickly'.⁹⁶

November 2005 – More new titles

THE NUMBERS GAME
November 2005: 141
contracts covering
20,354,861 hectares⁹⁷

Although the Ministry of Environment's compendium in June 2002 lists just 122 titles covering 18 million hectares, an official list published in November 2005 reports 141 titles covering nearly 20.4 million hectares, a net increase of some 2.4 million hectares. These titles include 100 dated after the May 2002 moratorium, covering a total of 15 million hectares.⁹⁸

April 2006 – Titles put forward for conversion

THE NUMBERS GAME

April 2006: 156 logging titles covering some 21 million hectares of rainforest are put forward for conversion and legal review⁹⁹

In April 2006, a list is published in the DRC newspaper *l'Avenir* of the logging titles being put forward for legal review and conversion to logging concessions under the new system.¹⁰⁰ The list includes many contracts signed after the moratorium.

Other illegalities, such as social and environmental crimes and failure to pay tax, are not disclosed by the list.

February 2007 – Un Security Council calls for urgent action against all illegal natural resource exploitation

On 25 January 2007, the UNSC panel of experts presents its latest report.¹⁰¹

It recommends:

'Urgent intervention against all forms of illegal natural resource exploitation is required ... The Group of Experts recommends that the existing laws of the Democratic Republic of the Congo, particularly the regulations governing natural resources and their orderly exploitation, be used as a baseline for a new sanctions regime.'¹⁰²

Late 2007? – Legal review grants successful companies four year license to loot?

Once the legal review is completed, logging companies whose titles have been accepted for conversion will have four years in which to put together a forest management plan addressing social and environmental issues. If the example of Cameroon's experience is indicative, during this time they may carry on their unregulated plunder of the rainforests as usual. What will happen to cancelled titles is still unclear. The 2005 presidential decree states that companies have the right to appeal, but local communities directly affected by the outcome do not. Will legal challenges allow companies whose titles have been cancelled to continue exploiting them while their challenges proceed through the courts, a process that could take years?

WITHOUT ENFORCEMENT, WORLD BANK-LED FORESTRY INITIATIVES CAN MAKE POVERTY WORSE

The World Bank states that good governance and anti-corruption are central to poverty alleviation.

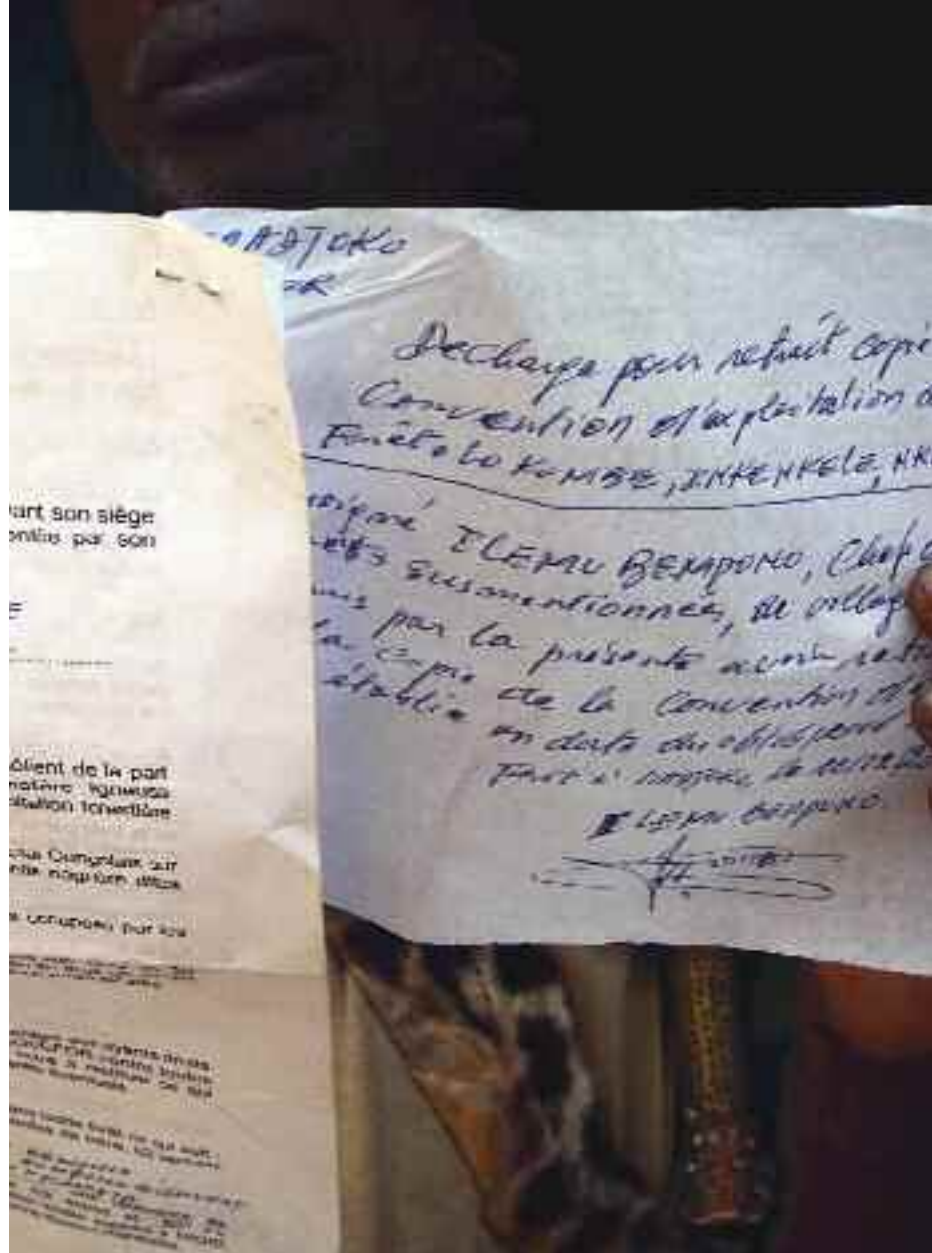
The World Bank congratulates itself for the April 2002 (tax) review which cancelled forestry titles covering 25 million hectares. Its online Q & A celebrates this ‘cancellation of non-compliant concessions [sic]’ as ‘an unprecedented move anywhere in the world’, critical to ‘slow[ing] the expansion of logging’ and ‘free[ing] up space for potential new protected areas in the rainforest part of the country.’¹⁰³ In fact, in the absence of good governance, the cancellation of non-compliant titles has freed up space for new, predatory logging operations.

The key initiatives introduced by the World Bank to regain control of the industrial logging industry – the moratorium on the allocation of new forest holdings, the legal review of current forest holdings, and the Forestry Code governing the management of the forest – are set to fail because they do not challenge the corruption that characterises business and politics in the DRC. The legal review’s narrow scope (which may not even be rigorously applied), the failure to enact decrees to implement the key social and environmental provisions of the Forestry Code, and the absence of mechanisms to enforce both the Forestry Code and the moratorium and to penalise infractions, all contribute to undermine forestry reform.

While few new areas have been protected since the 2002 moratorium, the DRC Government has signed logging contracts for new titles (new allocations), new title boundaries (extended titles), and renewal of existing titles.

In some cases, new contracts have been signed for titles in areas previously occupied by ‘non-compliant titles’, many of them in intact forest landscapes. Apparent examples include CFT, Forabola, ITB, Sicobois, Sodefor, and Trans-M.¹⁰⁴

The legal review – another World Bank-led attempt to bring the logging industry in the DRC under control – also looks set to endorse the de facto expansion of industrial logging.



The remit of this legal review amounts to a paper review. Beyond payment of tax and the title having been obtained following due process, to pass the legal review a logging title must ‘[comply] with boundaries as defined by the contract and the topographical map attached to said contract’.

This is a critical issue because many companies (eg Sodefor and Siforco) handed back forest post-2002 when taxes were set to increase. They may have been granted new (updated) contracts at this stage to reflect the change and may have taken the opportunity to redraw their boundaries. This means that companies will have had the opportunity to effectively launder new forest holdings through the legal paper review (no on the ground checks have been possible).

The potential bypassing of due process to gain new forest holdings is a governance, environmental and a social issue. On the latter

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‘Contrary to the moratorium on such contracts, in early 2003 concessions covering 6–9 million hectares were allocated by mutual agreement (allocation de gré à gré), and certain contracts that had been cancelled in April 2002 were reinstated, by way of exception, in early 2004.’¹⁰⁵

Government of the DRC, 2004



[I]n spite of the moratorium a gross 15 million hectares were reportedly exchanged or relocated. These transactions reflect the weight of the interests involved.¹⁰⁶

World Bank-led forestry sector review, 2007

point, while the Forestry Code does recognise the rights of forest dwelling communities in the process of allocating new areas of forest, they will effectively be marginalised by the legal review due to inadequate consultation with no appropriate mechanisms to resolve outstanding conflicts. This is left to the development of forest management plans, which companies have four years to prepare.

Fundamentally, in the context of the DRC – as elsewhere in Africa – focusing primarily on the raising of state revenue through industry reform does not create the necessary preconditions to bring genuine development because it does not tackle corruption.

THE MORATORIUM HAS FAILED TO PREVENT MILLIONS OF HECTARES OF LOGGING TITLES BEING AWARDED

As the numbers show (see pp82–85), the moratorium – while intended to allow time for the development of a more considered, coherent and effective approach to the management of the DRC's forest resource – has failed to clamp down on the allocation of new forest titles.

Right from the start of the moratorium in May 2002, 'interest groups began to undermine the reform strategy by taking advantage of the fragile coalition government'.¹⁰⁷ As a result, industrial logging rights have continued to be granted. The official list published in November 2005 includes 100 forestry contracts signed after the moratorium began, covering a total of 15 million hectares.¹⁰⁸

How have logging companies and officials allowed this violation of the law to happen? A World Bank-led forestry sector review identifies various irregularities. For instance: 'Companies reportedly relinquished forests they found non-productive or they had already logged over, but in some cases these low-value forests were exchanged for new ones. Thirty-two contracts covering 4.6 million hectares were reportedly awarded in 2003 under the guise of such "remapping" or "exchange" of old titles. Similar transactions seem to have continued in 2004 and 2005 under the guise of "readjustments" and "relocations".¹⁰⁹

While such 'exchanges' do not necessarily increase the total area under title, they are in all but name, new titles. They open up new areas of forest to logging with all the associated impacts, without proper land use planning, without transparency, without open and competitive allocation, and without consideration to other forest uses (see NST case study below). The review also notes that across these 32 titles 'there appears to be a discrepancy of more than 1 million hectares' between the forest area described in the titles and the boundaries drawn on the maps attached to them.¹¹⁰ Another irregularity identified by the World Bank-led forestry sector review is the 'rehabilitation' of at least 7 titles that were cancelled in 2002, covering 2.4 million hectares.

This information, available in a recent joint World Bank report to which the World Bank contributed,¹¹¹ leads to two important conclusions. Firstly, that the scale of the problem is massive (whatever the actual area of forest involved). And secondly, that it is impossible for anyone other than the World Bank, the Independent Observer – overseeing the legal review of logging titles pre- or post-moratorium – and the DRC Government to make considered judgement of the situation due to the opacity with which information relating to the industry is presented (for instance, the failure to name logging companies or to present maps). Throughout the reform process, no maps have been made publicly available by either the DRC Government or the Independent Observer, further obstructing efforts to expose moratorium violations through improved transparency.

A report funded by the UK Department for International Development alleges that many of the logging titles allocated following the moratorium have represented a valuable 'currency' to members of the political elite.¹¹² Hence, in the absence of enforcement – either by the appropriate State authorities, or through other forms of action against those profiting from corruption – foreign companies have not only benefited from but clearly reinforced the political corruption that has controlled the DRC's resources throughout its history.

NORD-SUD TIMBER CASHES IN ON 3 MILLION HECTARES OF RAINFOREST IN BREACH OF THE MORATORIUM

During 2002–03 the companies of the Liechtenstein-based, Portuguese-owned and managed Nordsudtimber (NST) group, in collaboration with officials in the DRC's Ministry of Environment organised a major restructuring of the group's forest titles.¹¹³ The DRC State has been a shareholder in at least one of the NST group of companies, and the present level of state participation or political shareholders NST or its subsidiaries (Sodefor, Soforma, Forabola, CFT) is unclear.¹¹⁴

Perhaps motivated by the increase in the forest area tax from \$0.062/ha in 2003 to \$0.50/ha in 2007,¹¹⁵ NST abandoned large areas of unproductive forest (logged-out forests and areas unsuitable for logging such as savannah or swamp). Certain NST logging titles were completely abandoned, and others only partially, with boundaries being modified to exclude the non-productive forest.¹¹⁶ At the same time, however, the group obtained a number of new logging titles after the moratorium was signed.¹¹⁷

Figures on how much new forest NST obtained vary, but conservative estimates indicate that the vast majority of NST's forest holdings (over 65%, covering more than 3 million hectares) are new forest areas which it did not control prior to the moratorium.¹¹⁸

In 2004 and 2005, the then Vice President Abdoulaye Yérodia and then Minister of Forestry Anselme Enerunga confirmed the 'legality' of these titles,¹¹⁹ notwithstanding their post-moratorium allocation.

NST argues that all these new titles are legitimate: it claims not to have been aware of the existence of the moratorium, and everything was arranged with the Ministry of Environment.¹²⁰

NST does not dispute that it is logging in areas it did not control at the time of the moratorium – only it prefers not to call the titles in question 'new awards'. In a 2004 response to Greenpeace's request for information, Sodefor (an NST company) manager José Albano Maia Trindade explained:

'Recently, a **redefinition of part of Sodefor's concessions** was carried out with the objective of effectively allocating useful logging areas, in conformity with the permits we controlled, and which would give us the means to restart our activities at the end of the war years. It's thus not a question of the award of new concessions.'¹²¹ [Greenpeace emphasis]

Clearly numerous new titles have been allocated under the guise of a 'redefinition' or 'exchange' of old titles. These awards nevertheless constitute new acquisitions, and thus violate the moratorium.

In addition, these new NST titles seem to violate the new DRC Forestry Code:¹²²

- **Method of allocation:** NST post-moratorium titles were all arranged via discretionary procedures rather than via a public auction procedure. It is difficult to argue that the allocations of several dozen titles covering three million hectares can all be presented as 'exceptional cases', as required by Article 83 of the Code.
- **Sale price for allocation:** Since no floor price for auctioning concessions had been set at the time the new titles were allocated, it was impossible to fix a price for discretionary allocations as required by Article 86.
- **Area of allocation:** The area obtained has been largely in excess of 500,000 hectares, in contravention of Article 92 which limits the area of new titles that any one company can obtain.
- **Consultation with local communities:** There was no public consultation on the new allocations, in contravention of Article 84 (indeed, the rules for public consultation were yet to be defined by ministerial decree at the time NST's new titles were arranged)
- **Redundant framework:** Finally, the new titles are referred to as 'letter of intent' and 'wood product supply guarantee'. Neither of these types of permit are recognised in the new Forestry Code and they can no longer legally be allocated.



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Sodefor's logging titles in the DRC



● Intact Forest Landscapes ● Logging Titles

These new NST title allocations have also been granted in the absence of land use planning, since the process of forest zoning stipulated in the Forestry Code has been stalled (see page 58–63). Proper land use planning prior to any increase in forest controlled by industrial logging interests is essential to ensuring socially just and environmentally responsible development for the DRC.

Many of the NST titles are located in intact forest landscapes and other areas of high conservation value, including bonobo habitat, and may also overlap with villages and other

areas where local people depend heavily on the forest. For example, Compagnie Forestière et de Transformation (CFT) title GA 15/03 (Orientale Province) and Soforma GA 06/03 (Equateur Province) are both partially located in the Maringa-Lopori-Wamba landscape (see pp61–62), an area which has been identified as a priority landscape for conservation by the Congo Basin Forest Partnership (CBFP).¹²³

Timber from the NST group is imported into European countries, including Belgium, France, Germany, Sweden, Italy and Portugal.¹²⁴

THE LEGAL REVIEW: WILL IT LAUNDER ILLEGAL TITLES AND LEAVE CORRUPTION UNCHALLENGED?

The legal review is a crisis point for the World Bank, the DRC Government and the country's rainforest – the future of more than 20 million hectares of forest hangs in the balance.

The legal review is a crucial opportunity to stand up for good governance and the rule of law. A display of firm governance is urgently needed by cancelling forest contracts held by loggers who have gained control of the rainforest illegitimately, or whose operations support corruption or violate social and environmental laws.

Unfortunately, however, the legal review looks set to reward corruption rather than tackle it, due to the weakness of the criteria against which it will assess the legitimacy of titles. The review will not look at the way titles were originally awarded – eg whether they were awarded during wartime, or whether bribery or other corrupt exchanges were involved – but merely at whether or not companies have complied with the terms of the contract agreed with the Ministry of Environment. New logging titles agreed with the Ministry of Environment after May 2002 ought to fail the legal review as they violate both the moratorium¹²⁵ and the Forestry Code.

The review will assess legality in terms of compliance with a few very basic elements,¹²⁶ the most important being the 'legal validity of the title' (ie that it was obtained in accordance with the correct procedures), 'full payment of forest area fees since 2003' (ie since the end of the war) and 'complying with boundaries as defined by the contract and the topographical map attached to said contract'.¹²⁷ On various occasions in 2006, Greenpeace has sought clarification of the actual scope of the review from the appointed Independent Observer¹²⁸ team overseeing the process (staffed by the World Resources Institute (WRI) and Agreco). They responded as follows:

- Payment of taxes: Article 118 of the Forestry Code stipulates that 'Any suspension of payment [of taxes] shall constitute ... a cause of forfeiture and result in the cancellation of the forest contract.'¹²⁹

Greenpeace suspects that retrospective payment will be deemed acceptable. In other words, legality will be bought retrospectively.



The DRC Government has already been lax in enforcing the area tax. In 2004, for instance, according to a World Bank-led forestry sector review, 45% of area tax on logging titles was unpaid.¹³⁰ A DRC Ministry of Finance 2005 list of titles that had not paid tax in 2003–2004 shows that of the contracts up for conversion that were signed prior to the moratorium, only about 40 did not appear on the list of defaulters during this period.¹³¹ As of March 2007, the definitive listing of tax payments 2003–05 has still not been published. In the fourth report on its activities, the Independent Observer complains of significant discrepancies between documentation made available for review.¹³²

- Compliance with boundaries: The Independent Observer agrees with Greenpeace that the 'presence of infraction reports is an inadequate means of verifying



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title holder's respect of boundaries in the DRC'. In a letter to Greenpeace in November 2006, the Independent Observer admitted: 'It is a weakness in the process that we are concerned about, but we do not have a feasible alternative to offer.'¹³³

This admission effectively rules out one of the criteria of the legal review, and potentially legitimises gross tax avoidance in cases where loggers have been logging larger areas of forest than that for which they have paid the relevant taxes.

- **Validity of title:** According to the Independent Observer, the correct application process will have to have been observed (ie obtaining a Prospecting Authorisation and then a Letter of Intent before receiving a Guarantee of Supply) and the title holder must have a functioning processing plant.¹³⁴

Thus the review seems unlikely to be effective even on its own narrow terms. There is also a question mark over what will happen if and when titles in violation of the moratorium are actually cancelled: title holders are likely to use their right of appeal to play for time and continue logging.¹³⁵ Logging and the establishment of logging infrastructure are already under way in many of the titles allocated in breach of the moratorium, amounting to de facto land use decisions in favour of industrial logging which will be extremely challenging to reverse.

In October 2006, a coalition of NGOs including Greenpeace contacted the World Bank to raise further concerns about the shortcomings and risks of the legal review.¹³⁶ These included:

- failure to undertake participatory land use planning (zoning) prior to the completion of the legal review process
- the absence of a guarantee that social conflicts within existing logging title areas will be fully assessed and every effort made to resolve them prior to the completion of the legal review process (see social chapter)

Similar concerns have been expressed by the Independent Observer.¹³⁷

Greenpeace fears that the legal review is not going to seize the opportunity to contribute to poverty alleviation and environmental protection by reining in the worst excesses of the logging companies.

THE WORLD BANK LEAVES THE IMPLEMENTATION OF MEASURES TO MITIGATE SOCIAL AND ENVIRONMENTAL IMPACTS LARGELY TO THE INDUSTRY ITSELF

According to the 2005 Presidential Decree, logging companies who keep their forest holdings have four years from the conclusion of the legal review to prepare forest management plans in which major outstanding social and environmental issues should, in theory, be resolved (during which time they can keep logging with virtual impunity).¹³⁸ Deferring resolution of outstanding social and environmental conflicts to the development of the forest management plan leaves logging companies free to resolve these issues themselves in whatever way they see fit rather than obliging companies to deal with these issues properly and in advance of the conversion process.

In Greenpeace's view, this arrangement is overly favourable to the companies and unlikely to foster environmental and social responsibility, particularly in view of some companies' dismissive attitude to forest management plans (see below). As the Independent Observer admits, it 'creates a presumption that because the titles have already been awarded for industrial forestry this land is indeed suitable for this purpose. Also the conversion process will not benefit from any social and environmental safeguards attached to the zoning process.'¹³⁹ The legal review process as it stands will in fact amount to de facto land use planning in the absence of key evidence as to the suitability of the land for industrial forestry and the threats to social and environmental interests. This is not an acceptable position. Instead, the resolution of such issues and any conflicts arising should be a clear criterion of progress through the legal review.





ITB SEES FOREST MANAGEMENT PLANS AS A PAPER EXERCISE 'TO PLEASE THE WORLD BANK'

The requirement of the Forestry Code that each logging company draw up a management plan for every concession it holds is viewed dismissively by some logging companies, this is unsurprising given the country's lack of enforcement capacity.

The Lebanese company Industrie de Transformation de Bois (ITB) is operating adjacent to the Lake Télé-Lake Tumba Swamp Forest landscape,¹⁴⁰ the most extensive block of swamp and seasonally inundated forest in Africa. The landscape is important for the conservation of bonobo and other threatened species. The CBFP has identified this area as key for biodiversity conservation planning in the Congo Basin.

ITB is already logging in the area, and it appears that the company considers the preparation of a forest management plan for its titles to be a bureaucratic formality. In the presence of Greenpeace investigators, ITB's chief forester (chef de chantier) in Bikoro admitted: 'The people who are preparing regulations for management plans have no idea of the reality

on the ground ... We are going to present a management plan to please the World Bank.'¹⁴¹

The company has built a logyard and wharf near Bikoro in a bay at the edge of Lake Tumba. (The company's logs are stored there before they are shipped to Kinshasa, where they are either processed in its sawmill or go on for export to Europe.) However, this bay was well known to be an important breeding ground for various fish populations. Since fish stocks in the lake are already threatened by overfishing, the loss of this area will create further pressure. With local people relying on fish for 90% of their protein,¹⁴² this has the potential for serious social as well as environmental consequences, which could have been avoided. Even in the absence of proper land use planning, local consultation and the development of a properly constituted and enforced management plan prior to the commencement of logging would have helped ensure that the resources upon which the local population depended were protected.

Timber from ITB is imported into European countries including Belgium, France, Italy and Portugal. Interholco (Danzer's trading branch) is a client of ITB.¹⁴³

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*'The other reforms we intended to undertake were delayed and had to be postponed, particularly the implementation of the Program to Secure Forestry Revenue, the transfer of 40% of the area tax receipts to local governments, the preparation and adoption of regulations implementing the Forestry Code (awarding of concessions, exploitation and development, and combating illegal operations), and the submission to Parliament of the draft Law on the Conservation of Nature.'*¹⁴⁴

DRC Government



Logging titles near the Lake T  l  -Lake Tumba Landscape



● Intact Forest Landscapes ● Logging Titles ● Lake T  l  -Lake Tumba Landscape

**UNIMPLEMENTED AND UNENFORCED,
THE 2002 FORESTRY CODE WILL NOT STOP
RAINFOREST PLUNDER OR CONTRIBUTE
TO POVERTY ALLEVIATION**

Central to the World Bank's reform strategy for the DRC is the Forestry Code which it imposed on the DRC Government. One of the Bank's key objectives has been to get industrial logging to contribute to poverty alleviation through the generation of state revenue. Accordingly, the Code includes provision for the redistribution of 40% of forest area tax revenues to regional and local government (25% to provinces and 15% to territoires – article 122). It also makes compulsory the direct negotiation between logging companies and communities adjacent to their operations of 'social responsibility contracts' (cahiers des charges) (article 89); and introduces a requirement for a forest management plan (articles 71, 99, 100), covering among other things the protection of biodiversity in production areas. It also calls for ultimate designation of at least 15% of the country's total surface area as classified (ie protected) forest.

Five years on, some of the key reforms set out in the Forestry Code remain unimplemented (for example land use planning see pp58–63). Of those aspects that have come into effect, the new forestry tax regime has yet to deliver any money whatsoever for local social projects, and measures designed to ensure that communities benefit from logging (eg community consultation and social responsibility contracts) have been implemented in a derisory manner or not at all.

The Forestry Code is heavily based on the reforms the World Bank imposed on Cameroon in the mid-1990s. As the example of Cameroon shows, industrial logging and the wealth it creates do not improve the quality of life of ordinary people when operating within a corrupt political context. All of the signs for the DRC are equally ominous.

Thanks to the failure to implement and/or enforce its key social and environmental provisions, the Forestry Code promises to do more to hand control of the country's forests to the industrial logging industry, than to promote those forests as a source of sustainable livelihood for the majority of the DRC's people or as an area requiring preservation for reasons of biodiversity or climate protection. Genuine development and environmental protection are likely to be the casualties, not the beneficiaries of 'reform'.



