



global witness

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Global Witness response to the DRC Government in response to the statement by the Ministry of Environment and Sustainable Development regarding Global Witness' report on the forest sector

Global Witness has been engaged in DRC for many years. We believe in this country and the Congolese people. But there are many problems that need to be addressed for the country's future to be based on sustainability, equity and social justice. Every part of government and the administration should be fully engaged in this process. The citizens of DRC deserve this.

Through our analysis and research, Global Witness aims to provide information that may encourage national debate on how DRC can build a better future based on sound governance principles,, which partners to choose for this and how to engage the international community in these efforts.

Global Witness acknowledges the response provided by DRC's Ministry of the Environment to our recent report on the forest sector. In its response, it says that "significant progress has already been achieved" and that the report speaks of "often minor infractions", without responding to any of the information detailed in the report. This is very worrying and surprising.

Global Witness has published an analysis of four years of forest sector inspections. We are transparent with respect to our sources of information and have included all illegalities, the most common of which is logging without permits and breaching social agreements with local communities. Overall, many questions arise out of our analysis, which the DRC government has so far not answered.

- Can the government provide documentary evidence that violators of these illegalities, many of which are punished by several years of imprisonment according to DRC law, have been fined and/or entailed prison sentences?
- How can two government inspectors in the province of Equateur, without resources, be expected to police close to 5 million hectares of forest under concession?
- How can citizens know that companies are being sanctioned for the illegalities found in their concessions and be sure that further contraventions are not occurring if the administration does not publish what sanctions it has applied, if any, and does not organise follow-up inspections to prevent recidivism? (The independent forest

monitor has previously highlighted that sanctions had no deterrent effect because they were so low).

- How can anyone be confident illegalities are not occurring in half of the country's concessions that have so far never been inspected?
- What mapping of the country's forests and forest-dependent and indigenous communities has the Ministry undertaken to come to the conclusion that forests provide a production potential of 150million ha?
- Did the Ministry act upon evidence of illegal tax deals in 2013 under which companies were paying taxes on the basis of their exploitable surface area rather than their full concession area, leading to a circa USD 10 million shortfall in revenues?
- Why does the Ministry not revoke concessions illegally allocated by the previous Minister?

We hope the Ministry will show good will in answering these questions, which we believe are legitimate and asked in good faith. The Ministry also needs to explain in full how it has acted upon the findings of independent forest monitoring missions and how it proposes to strengthen governance of the forest sector from now on.

The Ministry speaks of increasing the area under concession and increasing exports to Europe. Lifting the moratorium on the allocation of new forest concessions would not only be illegal – the conditions set in Presidential Decree No. 05-116 of 24 October 2005 have not all been met – but would deepen problems in the forest sector. It would also undermine international confidence even further. As our analysis makes clear, the administration lacks the capacity to regulate existing concessions, in accordance with the law; weaknesses in forest governance have not been resolved. Lifting the moratorium would also be incompatible with efforts to fight climate change and would notably reduce the geographical scope for local communities to exercise their rights to manage their ancestral forests and lands under forthcoming community forest management schemes. Indeed, promoting the rights and capacities of local communities should be the first priority of the government.

We hope DRC's government, and its Ministry for the Environment, can inspire new confidence in its commitment to clean up this sector for the sake of the people of DRC, who so vitally need this, and to the satisfaction of the country's donors. DRC's forests are a precious ecosystem that sustains millions of people. We firmly believe both people and environment require the highest levels of commitment from and protection by the Congolese government.

We respectfully call on DRC's Minister of Environment to implement the following recommendations:

- Maintain the moratorium on the allocation of new logging concessions, on the grounds that officials of the Environment Ministry do not currently have the means and capacity to police widespread illegalities in the sector.

- Impose deterrent sanctions as laid out in the legal framework, including the revocation of logging concessions that have not been attributed in line with the law or where repeated illegalities occur.¹
- Report publicly on the outcome of cases filed against companies as a result of control missions conducted by the administration's various control agents and joint missions undertaken by forestry officials and Independent Forest Monitors.
- Draft a plan of action to tackle failures in forest governance including ultra vires decision-making by government ministers (as occurred during the conversion process), for broad consultation with concerned parties and forest sector donors. This should also include raising the pecuniary values of sanctions, so the fines are significantly higher than the value of the timber felled, with the aim of increasing the deterrent effect of penalties.

¹ The revocation of logging concessions is stipulated in DRC law in cases where the law is violated or which did not meet the conditions of the conversion process, as is the case with the 15 logging titles that were arbitrarily converted in 2011. See Article 23, *Arrêté 028 fixant les modèles de contrat de concession d'exploitation des produits forestiers et de cahier des charges y afférent* and *Décret n° 05/116 du 24 octobre 2005 fixant les modalités de conversion des anciens titres forestiers en contrats de concession forestière et portant extension du moratoire en matière d'octroi des titres d'exploitation forestière*.