

global witness

Making the Forest Sector Transparent

Annual Transparency Report

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Making the Forest Sector Transparent

Making the Forest Sector Transparent is a four-year programme supporting civil society groups in forest-rich countries to advocate for greater transparency and good governance. An important part of the programme is the production of annual report cards by independent NGO partners to monitor the forest sector in their countries. The number of NGO partners has increased year-on-year, starting in Cameroon, Ghana, Liberia and Peru in 2009, to including Ecuador in 2010 and Guatemala and the Democratic Republic of Congo (DRC) in 2011.






The 2011 Report Card consists of 20 key indicators on important provisions of the legal and regulatory framework that applies to the forest sector governance. The partners collected data between July 2011 and August 2011. Each indicator includes an 'objective' assessment of whether clear provisions exist and information on them is publicly available, resulting in a 'yes', 'partial', or 'no' overall. This is combined with a more 'subjective' assessment of whether there is evidence of change in the last year (where a report card was produced in 2010) and analysis of whether the provision enables transparent access to information and/or decision-making. Data collection was largely carried out through office-based research, for example by searching the websites of government institutions and other official sources of information, supplemented where appropriate by contacting key informants and requesting specific information. The data presented on each indicator is organised as shown in the Table below.

Indicator assessment

Does it exist?	Is it available?	Indicator	
Yes – specific provision in current laws and norms that have been passed by state and applies to the forest sector	Yes – available to public from official sources (websites, publications, media)	Yes	
	Partial – some information provided but not complete (e.g. only parts of manuals)	Partial	
	No – although evidence that exists, it is not available (includes when only unofficial sources)	No	
Partial – process underway to develop it, but not yet established in law; or limited provision or relevance to forest sector	Partial – some information provided but not complete (e.g. only parts of manuals)	Yes	
	Partial – some information provided but not complete (e.g. only parts of manuals)	Partial	
	No – although evidence that exists, it is not available (includes when only unofficial sources)	No	
No – no current provision or plans to establish (even though needed)		No	
Not applicable - not relevant to the country-specific context		N/A	

Specific questions guided the determination of the existence and availability of the provisions for each indicator. In order to receive a 'yes', the provision needed to both exist in the legal and regulatory framework and information needs to be publicly available on it, whereas a 'partial' or 'no' indicator reflected that either one or the other criteria (or both) was partially or not met.

The change in the last year was assessed against the following scale:

-  Significantly Improved - major development such as new law or information system
-  Improved - steps forward such as initiatives with potential to improve transparency
-  No Change - no evidence of major change in the conditions for transparency
-  Worsened - steps backward such as activities taking place without transparent processes
-  Significantly Worsened - major deterioration such as termination of laws or systems

Specific information was provided on the full titles of the applicable laws or other norms, the names of the authorities or institutions responsible for them, the dates when they were passed, and the website or other official sources where they can be accessed.

For further information please go to www.foresttransparency.info.

Freedom of Information Law

Is there a Freedom of Information Act, which has been passed by the government and established in law?
Is the Act publically available in full from official sources (websites and/or offices)?

Although the principle of access to information is mentioned in the Constitution of the Democratic Republic of Congo, there is currently no specific law on access to public information. Access to information is a taboo subject in the country. The draft law is not accessible to communities and has never been translated into the four national languages. The existing laws do not yet enable citizens to access information, particularly those related to the signature of contracts in the extractive sector, including the forest sector. One has to wait until the “draft law on access to public information” has been adopted before citizens can make the government accountable. Civil society is the main instigator of this draft law, with the support of international partners and UN agencies such as the UNDP. Civil society has opted to have it endorsed by parliamentarians, to be more precise by senators Ndjoli and Otshumapita. The draft law might be discussed when Parliament resumes in 2012.

Title:	<ol style="list-style-type: none">1. Law n°096-2002 dated 22 June 1996 covering the rules relating to the freedom of the press.2. The 2006 Constitution through article 23 on freedom of speech and article 24 on the right to information.3. Law n°10 relates to the publication of the following official documents on hard copies and on websites in the official gazette:<ul style="list-style-type: none">• laws and decrees with the force of law• orders from the President of the Republic,• decrees from the Prime Minister,• orders from ministers of the Republic,• regulatory documents from any central authority.4. Draft law on access to public information in DRC submitted to the Senate’s approval on 26 July 2010.
Organisation:	Office of the President of the DRC Senate of the Democratic Republic of Congo
Date:	<ol style="list-style-type: none">1. 22 June 19962. 18 February 20063. 26 February 20104. July 2010
Source:	Official Journal www.leganet.cd www.Presidencerdc/constitution.html

National Forest Policy

Is there an explicit current document described as the national forest policy? Is the policy document available in full to the public from official sources (websites and/or offices)?

The priority agenda commissioned by the World Bank is a reference document which sets out the main issues and priorities that the Congolese government is addressing:

- cancellation of 25 million hectares of invalid or null and void forest concessions in 2002
- moratorium on allocations by mutual agreement set up in May 2002 and confirmed by presidential decree in October 2005
- reform of the forest tax system

- regular publication of the list of forest contracts and their fiscal status, so that the wider public can be informed on the management of the country's natural resources
- legal review of forest concessions with the help of an independent expert
- recruitment of a third-party monitor to support forest law enforcement
- drafting of the main implementing documents of the forest code

The on-going drafting of the "forest policy document" has the participation of all stakeholders: forest authorities, private sector, civil society. Consultations and awareness-raising workshops have been organised in seven provincial cities in DRC without reaching the forest territories and districts.

The project might come to a standstill because of the weak consultation of forest communities living in remote areas. It is highly likely that the text will not consider the issue of access to forest resources and thus it will favour the private sector over the communities who are the actual landowners. The REDD+ issue, in the context of the current discussions on the drafting of a national policy, has been debated among stakeholders and has been included.

Title: a. The Forests in the Democratic Republic of Congo Post-Conflict: Analysis of a Priority Agenda, CIFOR, commissioned by the World Bank, 2007
b. Draft Document of Forest Policy, Ministry of Environment, Conservation and Tourism, Kinshasa 2011

Organisation: Ministry of Environment, Conservation and Tourism

Date: a. November 2007
b. May 2011

Source: a. http://www.cifor.org/publications/pdf_files/Books/BCIFOR0701F.pdf
b. Legal Department, Ministry of Environment, Conservation and Tourism (MECNT) TCP/DRC/3203 Project, with support from the Food and Agriculture Organisation.

Codified Forest Laws and Norms

Is there a codified forest law and lower level norms (regulations, procedures, decrees, technical directives etc) that make the forest laws operative? Are the law and supporting norms available in full to the public from official sources (websites and/or offices)?

The review of the Forest Code nine years after it had come into force is becoming a necessity due to the fact that the REDD+ process and the negotiations with the European Union on a Forest Law Enforcement Governance and Trade Voluntary Partnership Agreement are not mentioned in the current law. There are contradictions between the code and legislation for oil, water, mining and agriculture.

Local authorities have an important role to play in forestry regulation, but at the provincial level they are often incapable of producing regulations that are compatible with national regulations because of conflicting interests. Furthermore, poor governance and corruption have prevented forest authorities from producing tools to promote the participation of all key actors in DRC's forest sector. The limited capacity of forest authorities and the paucity of financial resources allocated to the forest sector have led to the weak oversight of the forest sector in general.

Finally, these norms are not made easily available to the public or translated into local languages. At a provincial and local level, official documents, including the Forest Code, are often not made available to civil servants.

Title: Law No. 011/2002 of 29 August 2002 Forest Code
Law n°11/009 on the Fundamental Principles related to the protection of the environment
Law n°10/010 dated 27 April 2010 on public procurement (Art. 1, 6 and 80.)

Decree n°08/08 dated 08 April 2008 related to the process of classifying and declassifying forests
Decree n°08/09 dated 08 April 2008 establishing the process of forest concession allocation
Ministerial order n°024 dated 07 August 2008 establishing the survey process which needs to take place before a forest concession can be granted.
Ministerial order n°102/ CAB/MIN/ECN-T/15/JEB/2009/ dated 16 June 2009 establishing the rules and formalities in forest control
Ministerial order n°090 /CAB/MIN/ECN-T/15/JEB/2009/ dated 23 January 2009 establishing measures to implement decisions to turn down requests for conversion and cancellation of former forest titles
Ministerial order n°023/CAB/ECN-T/28 /JEB/10/ dated 07 June 2010 establishing the agreement template setting out contractual obligations in connection with forest concession contracts
Operational Guide: Standards of forest zoning
Operational Guide on the model of forest management reporting
Operational Guide on the standards for land use
Framework for description of the biophysical environment,
Framework for drafting a management plan
Framework for five year management plan
Norms of forest management inventory
Norms of forest stratification
Norms for inventory stratification

Organisation: Ministry of Environment, Conservation and Tourism

Date: 29 August 2002

Source: www.leganet.cd/Legislation/Tables/droit_economique.htm
www.mecnt.cd/index.php?option=com_content&task=view&id=59&Itemid=27

Signed International Trade Agreements on Forests

Has the country signed an international trade agreement that relates to forest products (logging and other products)? Are the agreements, including official discussions on their content, available in full to the public from official sources (websites and/or offices)?

DRC has ratified a memorandum of understanding to collaborate in the fight against the illicit trade in CITES species. The content of the agreement is available both on the website of the Ministry of Environment, Conservation and Tourism (MECNT) and in its offices, but it has not been translated into community languages and it has not been publicised. Furthermore, communities and even forest authorities are not very aware of it at a local level. The fact that it is available on the MECNT's website does not mean that it is known and relevant to the communities, civil society and all stakeholders.

The current Voluntary Partnership Agreement negotiations with the European Union could come to a standstill due to Congolese bureaucracy. The negotiation sessions and the drafting of the legal framework are taking place in an opaque context which does not allow the communities to know about the process. Several comments were made to the government on the way that members of the Technical Commission for Negotiation were selected, with only three members out of a total of 33 representing civil society. The under-representation of civil society in these negotiations is a key factor which does not help the balance of power. Moreover, working group meetings have been continually postponed since September 2011. The lack of adequate funds dedicated to raising awareness among communities means that the public is inadequately informed on this process, which shows that the government has little consideration for this fundamental process.

- Title:** a. Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)
b. Voluntary Partnership Agreement between Democratic Republic of Congo and the European Union
- Date:** a. Document CITES (convention) of 18/10/1976
b. On 21/10/10 the joint declaration with the European Union was signed in Brussels and on 27/11/2010 Decree 053 was passed on the establishment, functioning and organisation of the Technical Commission of the VPA negotiations of European Union and the DRC
- Source:** a. http://www.mecnt.cd/Download/cd_b/Convention_com_int_esp_sauvage/doc_Convention_sur_le_commerce_international_des_espces_sauvage.doc
b. http://www.euflegt.efi.int/files/attachments/euflegt/cr_15-17f_vr.pdf
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Provisions for Transparency in Forest Laws

Are there any forest-specific written laws and regulations that develop the right to access public information on the sector? Are the provisions in laws and regulations available to the public through official websites and other sources?

The Congolese Forest Code does not include clear provisions for transparency. Only articles 83 to 86 describe the procedures and the way in which concessions are acquired by auction. Such provisions are insufficient to guarantee transparency in the forest concession acquisition process. Article 9 of the new law on fundamental principles related to the protection of the environment goes further in the recognition of the right to information and consultation but it lacks regulatory measures to be implemented and known to communities.

Forest communities often demand that maps and forest titles are made publicly available, which justifies the efforts of civil society in providing information on transparency in public awareness campaigns. Without civil society's input, key information such as logging concession maps and permits for industrial and artisanal logging products granted by the Ministry of Environment, Conservation and Tourism are monopolised by the title holders and the authorities who are reluctant to publish them despite their obligation to do so.

- Title:** a. Law n°011/2002 dated 29 August 2002 establishing the Forest Code
b. Law n°11/009 on the Fundamental Principles related to the protection of the environment
- Organisation:** Ministry of Environment, Conservation and Tourism
- Date:** a. 29 August 2002
b. 9 July 2011
- Source:** www.mecnt.cd/index.php?option=com_content&task=view&id=59&Itemid=27
-

Legal Recognition of Customary and Traditional Rights

Are customary and traditional rights recognised in codified forest law and norms? Are the provisions in the law and norms available in full to the public from official sources (websites and/or offices)?

The Forest Code only recognises community user rights: it prioritises written law over customary law. Indeed, the Forest Code recognises local and indigenous communities' customary and traditional user rights, but it also establishes State ownership of forests. Decree 023 on contractual obligations under social agreements also grants communities the right to share in profits resulting from the exploitation of their forests. Furthermore, the draft text on local communities' forests recognises the right of communities to request forest ownership from the State.

Only those people that can use communication technologies have access to information and decisions on the issue. The majority of the forest people do not have access to the norms, which have not been translated into local or national languages (apart from French). The recognition of customary rights is hampered by the absence of a written version of such rights, which prevents a conflict with positive law, as well as by a lack of consultation with forest communities during the drafting of regulations. The lack of a process of micro-zoning and development of maps which detail customary rights is one further obstacle.

Title: a. Law No. 011/2002 of 29 August 2002 Forest Code, articles 22, 36, 44 and 89
b. Ministerial Decree No. 023/CAB/ECN-T/28 / JEB/10 / of 7 June 2010 setting out the template social agreement in the contract of forestry concessions

Organisation: Ministry of Environment, Conservation and Tourism

Date: a. 29 August 2002
b. 7 June 2010

Source: Office of the Secretary General for Environment and Conservation

Legally Recognised Procedure for Consultation on New Forest-Related Norms

Are there any documented procedures (in the form of regulations, official guidance etc) that lay out the methodology for consultations that should take place regarding new forest-related policies, laws, regulations etc (for example on REDD)? Are the reports from consultation processes available?

Since the Forest Code came into force in 2002, the Ministry of Environment, Conservation and Tourism has often carried out consultations and raised awareness of communities. However, the majority of consultations take place at the level of district chiefs, and hardly ever involve the affected populations. Forest communities' points of view are hardly ever considered by the authorities during the decision-making process.

The same applies to the REDD and Voluntary Partnership Agreement processes. Consultation workshops have only been organised in Kinshasa and in a few provincial cities. Therefore we can only consider the consultation to be partial and incomplete.

Title: Law No. 011/2002 of 29 August 2002 Forest Code,
Law 09/11 of 16 July 2011 establishing basic principles for the protection of the environment
Decree n ° 08/08 of 8 April 2008 laying down the procedure for classification and declassification of forests
Decree n ° 08/09 of 8 April 2008 laying down the procedure for allocation of forest concessions,
Ministerial Order No. 024 of 7 August 2008 establishing the procedure of preliminary investigation for the granting of a forest concession,
Ministerial Decree No. 102 / CAB/MIN/ECN-T/15/JEB/2009 / 16 June 2009 laying down rules and procedures of forest control

Organisation: Ministry of Environment, Conservation and Tourism

Source: <http://www.leganet.cd/Legislation/Droit%20economique/Code%20Forestier/D.08.08.08.04.08.htm>
http://www.mecnt.cd/index.php?option=com_content&task=view&id=59&Itemid=27
<http://leganet.cd/Legislation/Droit%20economique/Code%20Forestier/D.08.09.08.04.2008.htm>

Law Recognising Right to Free Prior Informed Consent

Is there any law that recognises the right to consent of indigenous peoples and communities on forest uses? Is the law available in full to the public from official sources (websites and/or offices)?

Free, prior and informed consent (FPIC) is mentioned in the forest code and in the law on the fundamental principles related to the protection of the environment. FPIC is also increasingly recognised in new processes such as REDD. However, it is not yet seen in practice and communities are not aware of it due to the lack of implementing texts. An FPIC-specific law would allow it to be established clearly and would thereby guarantee communities' rights in a stronger and clearer manner.

Title: a. Law N°011/2002 of 29 August 2002 Forest Code
b. Law N°011/09 setting out the fundamental principles related to the protection of the environment

Organisation: Ministry of Environment, Conservation and Tourism

Date: a. 29 August 2002
b. 19 July 2011

Source: www.mecnt.cd

National Land Tenure Policy

Is there an explicit current document that sets out the national policy on land tenure, including forest tenure? Is the policy document available in full to the public from official sources (websites and/or offices)?

The land tenure code is readily available on the Internet or in bookshops, but it is not easily accessible to local communities as it has not been translated into national languages (apart from French) and was published in small quantities, although it came into force in 1973. The lack of maps is also an issue.

Furthermore, there are numerous inconsistencies between different legislations, such as those for forests, mining and land tenure, meaning that some individuals use the code which is most favourable to them. Harmonising the various legislations would decrease conflicts between authorities and communities. A commission was set up to review the code but the commission's work is not disseminated to the public, therefore the public is unable to make suggestions.

Title:

Law No. 73-021 of 20 July 1973 on the general property regime, land tenure and real estate security regime, as amended and supplemented by Law No. 80-008 of 18 July 1980.

Organisation: Ministry of Land Affairs

Date: 2004

Source: Ministry of Land Affairs

Land Ownership and Forest Use Maps

Are there official maps showing current forest ownership by title and/or forest areas where concessions, permits and other authorisations have been granted? Are the maps available in full to the public from official sources (websites and/or offices)?

There are official national maps, which indicate current forest ownership by title and/or forests where concessions, permits or other authorisations exist, that are available to the public; however there is a lack of maps related to artisanal logging. Local communities do not have access to the Internet or to national agencies and are unable to get hold of these maps. Maps are often produced in small quantities by the Ministry of Environment, Conservation and Tourism's (MECNT) partners. Only concessionaries have concession maps showing their exact boundaries. Therefore, neighbouring communities are unable to access accurate data on concession boundaries and to check compliance with such boundaries.

Since the process of signing forest concession contracts has begun, the MECNT's Directorate of Forest Inventory might produce maps of concessions. Other maps are being produced by environmental civil society organisations in order to allow communities to recognise and identify their lands. Currently, there are no maps detailing forest use. Micro-zoning is considered to be too costly. The only detailed concession maps will be produced by the companies as part of their development plans.

Title: a. Forest domain in DRC at 31 December 2009
b. Map of the processes of conversion of forest titles into forest concession contracts

Organisation: Ministry of Environment, Conservation and Tourism

Date:

Source: MECNT, USAID, Carpe, WRI <http://www.wri.org/tools/atlas/map.php?maptheme=drcforest>

Regulated Permit System for Commercial Logging Operations

Is there a formally regulated system of permits for commercial logging operations? Are the contracts/ permits granted under the system publically available from official sources (websites and/or offices)?

There are several types of permits: standard logging permits; artisanal logging permits; logging and carbonisation permits; harvesting of forest products permits; special logging permits; special harvesting of forest product permits. The list of logging permits is not regularly made available by the Ministry of Environment Conservation and Tourism

and its agencies - only artisanal logging permits were available online from the first quarter of 2011. Moreover, the forest title conversion process has been quite transparent, even though some titles were made convertible by the inter-ministerial commission based on 'extraordinary' criteria which had not been selected initially.

The government should make a general effort so that all logging permits are made publicly available. In particular, strict rules are required to compel forest title holders to provide the public with information on forestry operations (declaration of tax returns, concession maps, logging distribution, exported volumes). The World Bank and the IMF have demanded the publication of forestry contracts following the review of titles and concessions that are actually in progress. Signed contracts have not yet been published.

Title: a. Summary of recommendations of the Inter-Ministerial Committee for converting old titles 2008
b. List of permits for artisanal logging 2010

Organisation: Directorate General of Forest Management/ Ministry of Environment, Conservation and Tourism

Date: a. 16 October 2008
b. 1 February 2011

Source: www.mecnt.cd

Legal Requirement for Stakeholder Consultation before Allocation of Commercial Logging Permits

Is there a requirement in the forest law and norms for stakeholder consultation prior to the allocation of commercial logging permits? Are the reports from consultation processes available?

There are no regulations requiring consultation as part of the allocation of logging permits. However, forest law and related norms require stakeholder consultation prior to the granting of concessions and as part of the development of the management plan. Industrial logging operators have to sign "social agreements" with affected local communities before forest concession contracts can be signed with the government. In practice, these negotiations have often been carried out under pressure and focused on involving customary chiefs rather than grassroots community representatives. In general, local and indigenous communities' points of view are often not considered by decision-makers, which frequently fuels conflicts between communities, concessionaries and the government.

The granting of annual logging permits then becomes an administrative task left at the discretion of relevant authorities (the minister, governor and provincial minister) on the basis of specialised services' advice for which no consultation is required. Steps have been initiated by civil society to improve consultation procedures, but they have faced a lack of political will.

Title: Law No. 011/2002 of 29 August 2002 Forest Code
Decree n ° 08/08 of 8 April 2008 laying down the procedure for classification and declassification of forests
Decree n ° 08/09 of 8 April 2008 laying down the procedure for allocation of forest concessions
Ministerial Order No. 024 of 7 August 2008 establishing the procedure for preliminary inquiry to the granting of a timber

Organisation: Ministry of Environment Conservation and Tourism

Date: 2002, 2008

Verification Process (Due Diligence) of the Eligibility of Permit Applicants

Prior to the allocation of permits for logging or other extractive use (e.g. mining) of forest land, is there a formal process in the regulations for independent “due diligence” checks to verify the eligibility, suitability and capability (technical and financial) of applicants? Are the findings and conclusions of the verification process made available to the public?

An inter-ministerial commission published and disseminated in 2008 the results of the legal review on the conversion of former forest titles. Because of the moratorium on new forestry allocations, new concessions cannot be granted. This is leading to an increase in artisanal logging, for which the Forest Code does not require any due diligence process prior to the granting of such permits.

Title: Recommendations of the Inter-Ministerial Commission on conversion of old forest titles.

Organisation: Ministry of Environment Conservation and Tourism

Date: 2008

Source: <http://www.mecnt.cd/images/DOWN/cim2.pdf>

Forest Management Plans

Once a permit or concession has been issued, is there a formal requirement for the completion of forest management plans on the operations? Are the forest management plans available to the public from official sources (websites and/or offices)?

Management plans provide information on valid logging periods, locations and authorised volumes, but they are hardly ever made available to local communities affected by planned operations. According to the Forest Code, such plans have to be provided but they have not yet been published. However, operators are required to negotiate a social agreement on benefits of this logging for neighbouring communities.

The drafting of forest concession management plans requires socio-economic surveys, participative zoning and other surveys, as well as negotiations on contractual obligations, which involve local communities. Therefore any document developed in a participative manner has to be made available to these communities.

Currently, management plans are being drafted by most companies as part of the process related to the conversion of former titles and the signature of new contracts. These new contracts should include management plans and be posted on the Internet (as per World Bank/IMF requirements), but it has not been done yet.

Title:

- a. Ministerial Order No. 036/CAB MIN / No 036/CAB/MIN/ECN-EF/2006 of 05/10/2006 on the management plan of forest concessions,
- b. Ministerial Decree No. 038 of 23/09/2008 for protected areas.
- c. Economic Governance Programme - Action Matrix

Organisation: Ministry of Environment Conservation and Tourism
Ministry of Finance / World Bank

Date: a. October 2006,
b. September 2008
c. March 2011

Source: www.mecnt.cd/index.php?option=com_content&task=view&id=59&Itemid=27
www.minfinrdc.com/

Regulation of Environmental Services

Is there a formally agreed system for the regulation of environmental services, such as water, carbon and biodiversity, as it affects forests? Are the regulations for the system available to the public from official sources (websites and/or offices)?

Research has not found any reliable information on the regulation of environmental services related to forests. The question of ownership of carbon has started to be discussed in the context of REDD processes, but the development of a law is still far off. DRC has signed the Biodiversity Convention, but there are no regulatory instruments for its application.

Strategic Environmental Assessment of Development Priorities

Is there a formal strategic process set out in policy to determine the priorities for land use between forests, mining, large-scale agriculture, infrastructure development and other demands? Is the policy available in full to the public from official sources (websites and/or offices)?

Environmental assessment is a new area which stakeholders should look into in DRC. The lack of skilled human resources and substantial resources prevents such studies from being properly carried out. In view of the lack of regulation on environmental assessments known to the public, there are only a few cases in the oil sector in which the government has involved civil society in this type of assessments.

It is highly likely that the REDD process and the free prior informed consent will result in more environmental impact assessments being carried out prior to any investment project. No progress is currently being made in the area of a land use planning, be it at the micro or macro level. It is a requirement as part of the REDD process, and the GTCR (REDD Climate Working Group, a civil society entity which monitors the REDD process) is advocating such a process, starting with micro zoning. There is also a lack of resources dedicated to this process.

Independent Monitoring of Forest Governance and Operations

Is there an independent monitor, auditor, ombudsman or any other body with an officially recognised role to scrutinise forest governance and operations? Are reports by the independent body available to the public?

REM has been established as an Independent Forest Monitor since December 2010. Following the opening of an office in Kinshasa, monitoring missions started in the Equateur province, mainly in Bumba. The independent monitor is working in collaboration with civil society, forest authorities and the private sector to record violations of the forest law. In accordance with established norms, the independent monitor has to publish its reports. However this can only be done after they have been approved by a review committee including government representatives. This committee has not been set up yet.

Title: Independent Forest Monitor

Organisation: Ministry of Environment Conservation and Tourism

Date: 2010

Source: <http://www.rem.org.uk/CongoB.html>

Forestry Tax Collection and Funding Systems

Is there a regulated fiscal system to collect taxes and redistribute royalties from forest operations, or provide subsidies and funding to support forest operations? Are figures on the amounts collected and distributed available to the public from official sources?

The General Directorate of Administrative and State Revenue, the Bureau of Customs and Excise and the General Directorate of Taxes are entitled to recover various taxes on behalf of the public treasury. Official documents are often held by the authorities. They are not made available to the public.

Since the beginning of 2011, the government has started uploading quarterly reports to the Internet showing a summary of taxes collected from the mining, oil and forest sectors. The forest sector is not part of the Extractive Industries Transparency Initiative (EITI); consequently citizens cannot view the amount of taxes paid by each company, although the Timber Industrial Federation has joined the EITI. There is also no transparency in the relation to royalty redistribution. The Forest Code requires the distribution of 40% of royalties to the provincial level, including 15% to decentralised administrative entities (territorial level). This handover is not transparent because the amounts are not published.

The publication of net tax revenue from the forest sector is a positive step towards forest governance. This measure was required as part of the economic governance matrix developed by the government and the IMF/WB in March 2010.

Title: Forest revenue collected by the Treasury on the initiative of the Ministry of the Environment, Conservation and Tourism

Organisation: MECNT

Date: Trimestrial

Source: <http://www.mecnt.cd/images/DOWN/recectf1trim11.pdf>

Forest Infractions

Is the Forest Authority obliged under the norms to collect information on any infractors of the forest law?
Are lists of infractors available to the public from official sources?

In accordance with the Forest Code, the Ministry of Environment, Conservation and Tourism is in charge of monitoring infractions and collecting related data. It has delegated this task to the Department for Control and Verification and its forest inspectors. The Directorate for Control and Verification struggles to monitor infractions due to a lack of resources and expertise, although they are required to do so by law. Legal proceedings against parties who have committed infractions in the forests are very rare.

Title: Forest Code, sections 75, 76 and 127
Ministerial Decree No. CAB.MIN/MBB/SGA/GPFP/JSK/035/2009 of March 20, 2009, relating to the creation of the Department of Control and Verification.

Organisation: Ministry of Environment, Conservation and Tourism

Date: 29 August 2002
20 March 2009

Source: http://www.mecnt.cd/index.php?option=com_content&view=article&id=146&Itemid=300074

Annual Forest Authority Report

Is there a requirement set out in the norms for the Forest Authority to produce an annual summary of its activities? Is the report available in full to the public from official sources (websites and/or offices)?

Forest authorities are very vague with regard to the drafting and the public availability of annual reports on the forest sector. Stakeholders are not informed of the development of such reports.

- The “priority agenda” requires the regular publication of reports; however no annual report has ever been produced. Civil society has never requested it and there is no debate on this matter.
