

Case study 14

Republic of Congo: current situation with verification and forest control activities

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Informations			
Key facts		Date	Data source
Population	4.2 million	2007	UNFPA 2007
Land area	34.2 million ha,		
Forest cover	65.8 %	2005	FAO 2007
Public forest ownership	100%	2000	FAO 2005
Industrial roundwood production	1,350,000	2003	ITTO 2006
Formal forestry sector employment	6,200	2006	Karsenty 2007
Contribution of forestry sector to GDP	2%	2005	CBFP 2006
Value of forest products exports	109.5 billion FCFA	2005	BEAC 2007
Main international timber markets	China, France and Spain	2006	CBFP 2006
TI corruption perception index	2.2	2006	Transparency International 2007
Human Development index	0.548	2005	UNDP 2007

1. The national forest sector: context and issues

Congo's forest sector was the main engine of the national economy, for a long time, until the discovery of oil. Congo's forests cover about 22,471,000 ha, i.e. 65.8 % of the national territory (FAO 2007). Between 1955 and 1974, logging was the main source of foreign exchange earnings, contributing 85% of government

revenue and 10% of GDP (CBFP 2006; GFW 2007). In the late 1990s, the forestry sector accounted for 9% of export earnings, and 2% of GDP. This drop was function to the political instability and the civil war in the country in the 1990s and to several dysfunctions in the forest sector.

Considering the production potential of the forest sector, estimated at 18,472,000 ha, and 2,860,000 ha



of protection forests, Congolese authorities adopted a new forest legislation in November 2000 (ITTO 2006) to valorise the timber sector. The 2000 Forest Code provides for State and private land ownership. The new text subdivides the permanent forest estate into State forest estates, local community forest estates and forest estates owned by legal persons. The non-permanent forest estate is classified within the public forest estate. According to article 65 of the 2000 Forest Code, authorisation for exploitation of natural forests in the public estate is obtained through signing of a Convention de transformation industrielle (CTI), a Convention d'aménagement et de transformation (CAT) or through issuance of 'Special Permits' and Logging permits in the case of plantations.

Since the enactment of the 2000 Forest Code, there has been an influx of new economic operators into the sector. This influx boosted the production capacity of the country. As such, there was an increase of exports and roundwood production. The latter increased from 630,878 m³ to 1,448,033 m³, between 2000 and 2004 (MEFE 2006). Roundwood exports were estimated at a volume of 1,259,761 m³ in 2005, while sawnwood tripled from 54,302 m³ to 163,075 m³ between 2000 and 2005 (MEFE 2006). Forest tax revenue also increased from 5.046 billion CFAF to 15.384 billion CFAF from 2001 to 2005. With regards to logging operations, close to 10,403,334 ha of forests were allocated in 2006, or 49 forest concessions (MEFE 2006), but as of June 2006, only one forest concession (CIB) had an approved management plan, while two others had their plans signed in 2007. In other words, only three concessions are officially implementing sustainable forest management. However, the national commission is presently treating 16 management plans. Finally, a forest sector review carried out in 2006, reported illegal practices in the formal and informal logging sectors in the country (MEFE 2006). Sanctions of forest crimes generated 387.7 million CFAF paid to the public treasury in 2005.

A partial look at the forest sector in Congo reveals that it will have to face some challenges in the medium-term. First, in the context of the EU's FLEGT project, Congo began the negotiations of Voluntary Partnership Agreements (VPA) with the European Union in June 2008. As such, the forest sector will have to improve its performances in terms of legal and sustainable use of the forests, with the development of C&I to check the legality of Congolese timber in accordance with FLEGT. Also, the Congolese public authorities and international donors have jointly committed to increase the contribution of the forest sector to the economy. This move entails strengthening the forest taxation collection system in force. And finally, as a COMIFAC member state, the country adhered to the implementation of sustainable management and forest conservation, both objectives set up in the COMIFAC's convergence plan. To reach these objectives, the forest sector needs, among other things, an effective forest verification system.

2. Mandate and legal framework for forest control

Article 105 of the November 2000 Forest Code mandates the Ministry of water and forests (MWF) to implement the forest policy. As such, the Ministry is to "inspect and control sustainable management of forests, wildlife and water, and assess activities through a specific body of the MWF". This article is completed by article 106, which instituted a body of agents from the MWF to act as paramilitary forest agents. Article 111 mandates agents of the MWF, police officers and agents of other official services to investigate and report forest crimes. Also, sworn forest administration agents and police officers are authorised to write criminal statements of offence (procès-verbal - PV) when infractions are committed. It is important to indicate that forest administration personnel serving in the central forest administration and in the Minister's cabinet have jurisdiction over the national territory, while personnel from departments only have territorial jurisdiction. Finally, article 114 permits forest administration agents from the MWF to seek support from the police in the exercise of their duties.

At the organizational level of the Ministry of Forest Economy and Environment (MEFE), forest monitoring and control activities are carried out by the central forest administration. The *Direction Générale de l'Economie Forestière* (DGEF) manages the *Direction des Forêts* (DF). The DF carries out inspections of logging areas and tax collection. Another agency within the central forest administration involved in forest inspection is the *Inspection Générale de l'Economie Forestière et de l'Environnement* (IGEFE). It is in charge of evaluation and inspection of respect of policies and regulation. It carries out this duty through the Forest Inspection (FI) and has the power to write statements of offence (PV). Finally, there is the *Service de Contrôle des Produits Forestiers à l'Exportation* (SCPFE), which controls forest product exports. But the latter only exists on paper, because its mission has been contracted to a private firm (SGS).

At the level of the decentralized forest administration, there are regional offices (Directions Départementales) in the 10 administrative units of the country. They report directly to the *Direction Générale de l'Economie Forestière* (DGEF). They carry out inspections of forest sites and write statements of offence (procès-verbal - PV). Other support administrations include the *Direction des Impôts* in charge of tax collection, the customs agency in charge of exports and the department of Justice in case of litigations.

Besides these administrative organs charged with monitoring and control of forest operations, there are other private agency actors:

- i. Remote sensing and GIS monitoring of logging activities: In June 2003, the Ministry of Forest Economy and Global Forest Watch (GFW) and World Resources Institute (WRI) signed the first agreement on monitoring of logging operations and control of the respect of forest legislation. The agreement was extended in March 2006. In essence, GFW and WRI are to provide support to monitoring of logging operations through remote sensing and

GIS, in order to develop a map and statistics database (GFW 2007). The outcome of the collaboration is the publication of an interactive Atlas of the forests of Congo.

- ii. Verification of exports: The SGS carries out verification of exports on contract basis, by issuing attestations with which export duties are calculated and statistics are obtained. However, it should be noted that this public service mission was supposed to be the duty of the Service de Contrôle des Produits Forestiers à l'Exportation, which has yet not been created.
- iii. Independent forest monitoring and control: Independent observation is carried out in Congo by the NGO Resources Extraction Monitoring (REM) and its partner Forests Monitor, as a result of an agreement signed between REM and the Congolese government on April 2007. This first contract was followed by the signing of a Permanent Mission Order on November 2007. The objectives of the mandate are: to provide support to control missions by state agents, to build capacities of the civil society to carry out independent monitoring of the forest sector in the Congo Basin; contribute to legislative, institutional and political reforms in the forest sector in Congo, in order to increase transparency of private sector activities and of forest management related administrative processes. It should be noted that capacity-building is carried out by REM's partner - Forests Monitor. Since the signing of the agreement, REM's and MEFE controllers have been able to carry out only one test field mission in November 2007. The mission report submitted in February 2008 after the field mission was analysed by a 'Reading Committee' which in charge to examine their relevance according to forest legislation provisions. More field missions by the Independent Observer will nonetheless be launched soon.

3. Organisation of forest control and verification

The 2000 Forest Code and its implementing texts lay down several logging control and verification systems. First, at the central forest administration level, the *Inspection Générale de l'Economie Forestière et de l'Environnement* (IGEFE) and the *Direction des Forêts* (DF), are authorized to verify: the legality of timber, inventories and volume, respect of regulations on forest operations, respect of management plans, records, processing, social responsibility agreements (cahiers des charges), export quotas and forest products exports. At local branch level, each of the ten departmental branches in the country has the power to carry out controls on logging permits, production and processing activities, visits to logging sites and controls of records, collection and analysis of data on timber processing and production, respect of social responsibilities, authorizations of special permits, artisanal sawing and forest taxes.

Field control missions are conducted in two ways. At the central forest administration level, IGEFE conducts verification missions independently of other agencies of the Ministry of forests. For instance, its

team conducted two field missions during the 2007 financial year. The *Direction Générale de l'Economie Forestière* (DGEF) sends out verification teams through the *Direction des forêts* (DF). Furthermore, it is reported that the Minister's cabinet and, interestingly, the Presidency of the Republic also permit their staff to carry out regular controls, mainly of issues relating to the respect of social responsibility agreements by forest operators. Regional offices (*Directions Départementales*) conduct more control missions on logging sites than central forest administration agencies. Reports and PVs written during field missions are in principle submitted to the *Direction Générale de l'Economie Forestière* (DGEF) via the *Direction des forêts* (DF). In fact, there is no coordination of control missions by the IGEFE, which is the leading verification organ, and that of departmental branches. Equally, the *Inspection Générale de l'Economie Forestière et de l'Environnement* (IGEFE) does not have information on timber export activities controlled by SGS.

Theoretically, control teams conduct control missions following a methodology, which entails verification of administrative documents and of the legality and planning of logging practices by loggers, to ensure compliance with the 2000 forest legislation. Furthermore, controllers only use legal instruments and original copies of administrative documents during inspections. Regrettably, the available updated forest mapping is not used in a systematic way. Also, forest officials do not have equipment like GPS and computers. There is no computerized forest information management system or central database with data on forest management in the country. This would provide hard evidence for inspectors and other actors in the forest sector. To make up for the absence of a central database, public authorities opted for the Computerized Forest Information Management System (SIGIF)/SIGEF model, which has been under construction for two years, and was being tested at the time of writing.

As noted above, support activities for logging monitoring in the Congo, through remote sensing and updated mapping are now operational after the signing of the MOU between the Ministry of Forests Economy and Global Forest Watch (GFW). The first version of the interactive forestry Atlas of the Congo is available on the internet, and it includes the essential components of the country's wood sector. REM's Independent Observation mandate went operational rather late owing to administrative delays of a procedural nature, especially as there was a 7 month stall between the signing of the protocol agreement in April 2007, the validation of the terms of reference and the issuance of a standing mission order in November 2007. However, the ToRs of the IO indicates a broad spectrum of activities (REM 2007) including, independent observation during field missions, monitoring of mechanisms to control implementation of the forest law and governance in the Congo, formulation of recommendations to correct and improve the application of forest law, and independent observation. With regard to procedures, the IO is authorised to organise joint and independent

missions, publish reports validated by the 'Reading Committee' and inform stakeholders through discussions. It should be noted that the 'Reading Committee' includes the forest director, the inspector general, IO representative, the planning director, the departmental director with territorial jurisdiction, national civil society representative and a donor representative (EU). To achieve the objectives of its mandate, the IO has the power and right to access all sources of information from forest and taxation authorities. The training related component conducted by REM's partner, Forests Monitor, began with the inclusion of two representatives of national NGOs as temporary staff with the IO and the organisation of thematic seminars.

The private audit system carries out certification and legality audits. At present, one concession obtained the FSC certificate in May 2006, 4 companies have certificates legalising their products and two operators are ISO certified.

4. The verification system: an interim assessment

The logging audit system in Congo is based on two essential elements. Firstly, its legitimacy springs from the November 2000 forest code and its subsequent application texts. These legal instruments give general powers to sworn forest administration personnel to carry out concrete and theoretical verification at all levels of the forestry chain. Secondly, the Congolese verification model depends on the internal organs of the Ministry of Forests Economy and Environment, especially the *Direction Générale de l'Economie Forestière* (DGEF), the *Direction des Forêts, the Inspection Générale de l'Economie Forestière et de l'Environnement* (IGEFE) and the SGS - government exports controller. At the decentralised level, regional offices also have power to carry out controls. The government organs are supported by the taxation authorities, customs and even the Presidency of the Republic and the Minister's Office. Lastly, Global Forest Watch (GFW) supports monitoring of concessions through mapping and remote sensing, and REM/Forests Monitor carry out Independent Observation.

In practice, however, impacts of the verification system are still moderate and subject to fluctuations. According to a 2006 report on the forest sector, "notwithstanding its capacity limitations, the Inspection Générale has registered 61 criminal statements of offence, which resulted in payments of up to 258.2 CFAF million, against 40 statements by DGEF that resulted in payments of up to 129.5 million CFAF" (MEFE 2006). The same report noted that Regional Offices did not register any sanctions. Based on such a remark, one can conclude that forest control is practically and effectively conducted by the *Inspection Générale* (IGEFE). Unfortunately, the number of missions carried out by the IGEFE in 2006 and 2007 dropped to only 2 per year, as this organ faces major difficulties that limit its performance. On the one hand, only 30% of the annual budget of 25,499,500 CFAF allocated in 2007 was reportedly used, and on the other, IGEFE is understaffed (5 engineers)

and without appropriate technical equipment and logistics [GPS, computers and vehicles]. Other organs mandated to carry out forest inspections, especially the regional offices, are ineffective. Furthermore, as stated in the 2006 report, the *Directions des forêts* (DF) and the SGS are not really verifying the legality of timber, but are merely carrying out administrative monitoring of products (MEFE 2006).

The Congolese verification system is marked by a plethora of administrative organs involved in forest control. There is thus a duplication of roles by the different state structures. This situation is counterproductive, very conflict-oriented, and therefore void of an institutionalised inclusive platform for permanent discussions to define objectives, methods, procedures and forest control perspectives. Another notable weakness is the absence or delay in launching a Computerized Forest Information Management System (SIGIF)/SIGEF likely to optimise the centralisation of forest management related information. With this in mind, it should equally be noted that there is no national forest control strategy, especially in anticipation of supporting the elaboration and adoption of C&I of timber legality within the FLEGT framework.

The establishment of an IO in such a landscape, with several structures with the same mandate, may be problematic, because there is the risk that the IO may be viewed as just another organ, which does not bring any real added value to other actors already 'active' in the system, but, on the other hand, the presence of the IO may help clarify the roles of the state structures vested with forest inspections, and facilitates their operationalisation. Furthermore, it should be noted that the IO's mandate is quite broad and, especially as it focuses on training national civil society and participation in the Reading Committee, it can also cover issues that are not necessarily covered by existing bodies. The private verification system is still in its development phase, and will likely show its potentials only when the rest of the sector will be better controlled, monitored and regulated.

Conclusion

The forest verification system exists in Congo, governed by the 2000 forest legislation and led by many forest administration organs. Presently, the system falls short of its expected performance and objectives, especially because of lack of technological means and a centralised forest information system. The effective introduction of an Independent Observer feeds prospects that it will enhance the verification dynamic in Congo's forest sector; especially it will train a national civil society to take up forest verification in the medium term.

Two major lessons can be learned from this system. First, the efficiency of a verification system does not depend on the multiplicity of organs, if those organs do not have clearly separated mandates. Second, the presence of an independent observer does not automatically guarantee good results, even if it is a multinational which verifies timber exports.

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