



# Forest Peoples Programme

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The following are comments from Forest Peoples Programme with regard to the Forest Carbon Partnership Facility (FCPF) Emission Reductions Program Document (ER-PD) on the Mai-Ndombe Emission Reduction Program in the Democratic Republic of Congo (dated 8<sup>th</sup> November 2016). Apologies that these comments are somewhat delayed.

We have concerns with regard to the sections "**The Direct Causes of Deforestation and Forest Degradation in Mai-Ndombe** (p. 38-40), and "**The Underlying Causes and Key Trends**" (p.41-42).

It is essential that the programme is be targeted at the correct drivers of deforestation, especially the indirect causes of forest loss, including the issues of insecure tenure, poor governance, policy incoherence. Concerns over the Mai Ndombe emission reduction program have been expressed on several occasions by FPP. In particular, we have focused on risks that that the emission reductions programs will not address the real drivers of deforestation, but rather unfairly blame and place undue restrictions on communities and their forest use activities, and that forest communities at the front lines of forest protection will face unnecessary and unjust limits on their rights and livelihoods and will not have access to the benefits and incentives associated with REDD+.

In its analysis of the direct causes of deforestation in Mai-Ndombe the report places so-called 'slash and burn' agriculture as the number one driver. It then lists fuelwood production (charcoal for Kinshasa), uncontrolled fires, and small scale artisanal logging, before coming on to industrial logging and mining. Although the document does note that logging and logging roads may open up remote forest areas to destructive activities, industrial logging is in some ways framed in the ER-PD as not having a significant impact where it notes: "The forestry sector is currently slowing down and seeing a drop in demand internationally. The DRC is particularly affected as it suffers from a negative image due to frequent campaigning actions." (p.39). The ER-PD should be amended to fully recognise the threats to forests posed by industrial logging and the construction of roads for extractive industries.

In terms of the brief section on the underlying causes, it lists "poverty, the absence of economic and technical alternatives, poor management of natural resources, unregulated land tenure, population growth and increased demand for agricultural products, charcoal and land" but then gets more specific and places two issues as key:

- (1) "Growing demand for agricultural and wood products" to supply Kinshasa; and
- (2) "Requirements for land, population increase and migration", stating that "The demand for slash-and-burn farming land is significant and constitutes the most important driver of deforestation in Mai-Ndombe." (p.42)

The key point here is that although this may be valid in terms of immediate impacts on forests in DRC, in fact the REDD programme is happening in Mai Ndombe precisely because this forest is still reasonably intact. This in itself indicates large areas of the forest occupied and used by local communities are not subject to major deforestation pressures.

In short, it appears that Mai-Ndombe has not been so heavily impacted by major direct drivers of forest loss (industrial logging, palm oil, etc.) and the ER-PD analysis has thus given more attention to local impacts without properly addressing the wider national perspective whereby unsustainable local impacts often derive from larger national drivers (such as industrial logging opening up the forest, etc.).

Where the ER-PD analyses 'slash and burn' (page 38) it seeks to highlight how this activity destroys forest, suggesting that savannah land is a better alternative, saying:

"the average family uses an area of 1 hectare for farming, applying a fallow-slash and burn system on forest land, whereas savanna lands are only marginally cultivated or not at all. This system requires an area of 5 hectares per household on the basis of a 5-year rotation. With an annual population growth rate of 3%, every year means an additional 6,500 agricultural households, each needing 5 hectares of primary forest (or mature secondary forest) to achieve a stable agricultural production system." (p.38)

However, it is our understanding that shifting cultivation carried out on a rotational basis in tropical forest with adequate fallow periods can be sustainable given a stable population. It is a system that has been in place in DRC and other parts of the Congo basin forest for centuries, and helps create biodiversity, rather than undermining it. Where this becomes unsustainable is when you have shortened fallow periods through (a) the likes of industrial logging facilitating access, and/or (b) restrictions on land access that inhibit sustainable rotation of farm fields and fallows over a wide forest area. If you are not having to contend with industrial logging facilitating access and farmers have access to ample forest land for farming grounds, then shifting cultivation on a rotational basis with long-term or medium term fallow periods can be a contributor to biodiversity and sustainability.

Globally, we understand that the two underlying drivers of deforestation are:

(1) increased global consumption and unsustainable trade practices (which happens when technologies make extraction/ consumption easy, but supply chains are not effectively regulated to protect forests and community rights).

(2) Urban expansion and a growing middle class in forest nations and middle income countries, which increases local urban market demands for forest products and agricultural produce stemming from commercial farming.

Those are the issues that need addressing if we are to ensure shifting cultivation continues to benefit and not threaten the forests. Aside from the commitments that Western consumer countries need to make in order to reduce consumption, the way to stem deforestation and land use emissions is to ensure land rights and security for those living in forest areas alongside other measures that tackle to industrial, trade and economic drivers of forest loss and climate change

The section "**Policies and activities that can help conserve or enhance 'carbon stocks'**" (p. 42-47) mentions community level activities, as well as those by companies and conservationists, expanding agriculture into savannah (as an alternative to shifting cultivation). The key relevant parts relate to the Forest and Nature Conservation Project (financed by IDA) supporting the development of Indigenous Pygmy Peoples Development Plans (IPDP). These focus on micro-projects "streamlining

investments in mitigation activities towards Indigenous Pygmy Peoples. This project also facilitated the negotiation of social clauses between forest concessions and communities (according to the Forest Code)” (p. 43).

So, these micro-projects and this negotiation of social clauses is clearly important, and more important there is a focus within the Central African Forest Initiative (CAFI) on land tenure., aiming "to develop and implement in a participatory and transparent manner a land- tenure policy that is equitable - including with regard to gender, vulnerable people, local communities and Indigenous Pygmy Peoples" (p. 46). However, the danger with this is that if it has as its goal that of "limiting the conversion of forest lands”, and if the ER-PD sees shifting cultivation as the prime cause, then will such land tenure reform support community control and security (as is needed to address the underlying drivers of deforestation) or will it further marginalise communities (as is implied by the overall analysis)?

FPP does not accept that an ER-PD programme which relocates community farming from the forest to the savannah will be effective for the climate, nor for local livelihoods and food security. Any such programme would need to prove that farmers being offered relocation are harming the forest and climate, which is not necessarily the case as noted above. In all cases, any relocation plans for community livelihoods under the ER-PD must be subject to the core standard of free, prior and informed consent (FPIC) as agreed by the Government of DRC and international programmes such as UNREDD.

We noted with some concern that the Dedicated Grant Mechanism (p. 46-47) is described "as a special window under the FIP [Forest Investment Program] to provide grants to the Indigenous People and local communities. It is intended to enhance their capacity and support initiatives to strengthen their participation in the FIP and other REDD+ processes. The project will start in 2017 and will be implemented over a five year period for \$US 6 million and comprises 3 components” (p. 46-47). The project includes various components, but for us most crucially "Component 2b (\$US 0.5 million) [which] is aimed at exploring innovative ways to secure indigenous people and local communities forest management activities and to recognize traditional governance systems. This will entail work on both the legal status of the land (protected areas and community forest concession) and on the governance system that will be established for managing users’ rights, drawing on this last aspect on international experiences such as the Indigenous Pygmy Peoples and Community Conserved Areas and Territories (ICCA)” (p.47).

We are pleased to see this in the plan is, but we believe that given its importance, this component strengthening community tenure is not receiving sufficient prominence, and funding (receiving the joint least money of all the components. It may well be the reason for this is from a misjudgement of the wider drivers for deforestation.

In the section "**Setting the Scene: Legal Title and Usage**" (p.64-66) the analysis of the laws and regulatory framework shows some deficiencies. The paper notes that "that many of the laws and statutes on land and land-use have a long history and often tend to remain in force in parallel, at least formally, with new regimes, which are evolving at an ever-growing pace; the result is a legal body that is not always synchronized and complementary to each other and that includes regulatory overlaps (c.f. the different land registries: cadastre foncier, cadastre minier, cadastre agricole, cadastre forestier), and even contradictions. For the legal practitioner, it is all the more important to focus on process and broad stakeholder representation, in order to ascertain tenure, land use and access rights". (p.65) In addition to these points, the regulatory framework pertaining to land tenure and REDD still need to be completed.

In table 8 it is noted that “the program will support the creation of community concessions for the development of small-scale logging under community control.” (p.71). Yet, delays in the adoption and application of laws to achieve the community forestry control make it difficult to ascertain how the program will help achieve that. Also, CSO and relevant stakeholders have emphasised the need to adopt a gradual and sequential approach to awarding concessions to communities. This would prevent external actors, such as foreign logging companies, from taking advantage of communities’ inexperience or lack of capacity, and enable all stakeholders to learn from the challenges and loopholes, as well as building the capacity of communities and local and provincial administrations.

The Mai Ndombe ER Program essentially relies on existing DRC laws to achieve its expected results. However, as we indicated above, there are serious deficiencies and loopholes in the existing framework that will undermine communities’ access to land and resources. The current framework lacks a grievance mechanism to settle land related conflict, etc. The CNREDD safeguards arrangements, and the benefit sharing arrangements still need to be tested;

We would therefore **recommend** that there is:

(a) full recognition of the threats to forests posed by industrial logging and the construction of roads for extractive industries;

(b) a stronger focus on securing Indigenous Peoples and local communities community rights at the national, provincial and local levels, including robust mechanisms to apply and uphold the FPIC standard; and

(c) a stronger focus on maintaining the conditions and respecting the traditional practices that make shifting cultivation a contributor to food security and forest biodiversity, i.e. through ensuring the security of community tenure, as well as through controlling, diminishing and halting the indirect drivers of deforestation we have outlined above.

Please feel free to contact us if you require any further clarification.

Kind regards,