



© Photo Céline FERRE

Bimonthly Newsletter: Issue No.8, September/October 2013



Voluntary Partnership Agreement
Forest Law Enforcement, Governance and Trade
www.apvflegtcongo.info



P.1: Editorial: Legislative Reforms

P.2: The Forest Policy Development Process in the Congo

P.3: The Platform Advocates for Forest Law Reform

P.4: Private Sector Perspective on the Revision of Law 16-2000

Latest News

Share Your Thoughts With Us

Editorial: Legislative Reforms

Dear Readers,

The eighth issue of the Newsletter brings you the latest news on VPA/FLEGT related activities in the Congo. In this issue, Agence française du Développement (AFD) who is supporting the Republic of the Congo in its efforts to revise the Forest Law presents its involvement in the process, the approach used and timescale. The coordinators of the "Supporting Forest Policy Development" project highlight the drivers of forest policy and present a brief project timeline.

Also in this issue, civil society and



the private sector list their key priorities for both processes.

I hope that you will enjoy reading this issue of the Newsletter.

Alfred NKODIA

FLEGT/VPA Coordinator and Independent Observer

AFD's Involvement in the Forest Law Revision Process

The Republic of the Congo's Forest Law was enacted in 2000. Since 2012, Congo has embarked on a process to revise its Forest Law and implementing regulations. The government wanted to consider developments in forest management requirements and, since signing the FLEGT/VPA in 2009, it needed to integrate the changes in forest legislation arising from the implementation of the Agreement and the development of mechanisms to combat climate change, such as REDD+. The development of a new forest management legal framework should be based mainly on the forest policy which is being laid out (with support from FAO) and should incorporate the legality definition pursuant to the FLEGT legality tables resulting from negotiations between the Government of the Congo, the European Union and stakeholders after the signing of the FLEGT/VPA. Since 2012, the Forestry and Sustainable Development Ministry (MEFDD) has brought together its senior officials and initiated consultations with departmental stakeholders in order to

revise its Forest Law. MEFDD has enlisted AFD's support to provide additional technical assistance. The team of technical experts started work on 21 November 2013. Following their formal presentation during a forest policy workshop on 26 November 2013, the experts will start to revise the law making sure that they consult a wide range of stakeholders.

A series of departmental consultations will be conducted to amend the bill. This will be finalised and presented to the relevant Congolese authorities. During the final six months, the technical assistance will focus on drafting the Forest Law's implementing regulations and ensuring follow-up by the various governmental institutions, with help from two technical assistants from the Forest and Economic Diversification Project (PFDE). In 12 months, thanks to this technical assistance, there will be a new law and new implementing regulations which will allow for the effective implementation of the FLEGT/VPA process.



The Forest Policy Development Process in the Republic of the Congo

The paper on economic growth, employment and poverty reduction (PRSP II) approved on 16 June 2013 lays the foundation for accelerated economic growth and is part of the country's vision to become an emerging economy by 2025. The paper is a tool operationalising the National Development Plan and pledges to promote a growth strategy by cluster including the forest and timber industry sector.

This sectorial approach to growth and development gives the country a fresh momentum to issue employment and poverty reduction policies and set strategic choices. In this context, the Government of the Congo has drawn up an energy policy document and initiated a process to develop national environmental policy and forest policy documents.

The national forest policy document should set key strategic directions and include the basic elements to promote a green economy and renewable energies, timber processing and industrialisation, capacity building, biodiversity conservation, the integration of forestry and local timber development, resource renewal, and international conventions on climate change.

By 2025 forest areas will maintain their multifunctional purpose while meeting the following specific goals:

⇒ Ensuring forest ecosystem integrity and sustainable



management;

- ⇒ Meeting the needs of communities for forest products and environmental services;
- ⇒ Ensuring the financial sustainability and security of the forest sector.

Timeline:

- ⇒ Start of the forest policy development process (July 2013)
- ⇒ Conducting a forest sector diagnosis (November 2013)
- ⇒ Setting goals and strategic choices (November 2013)
- ⇒ Drafting the forest policy document (December 2013)

On the Importance of Forest Policy for Revising the Forest Law

The Forest Law consists of the legislation and regulations needed to implement forest policy. The Republic of the Congo has a Forest Law (Law No. 16/2000 dated 20 November 2000) which administers forest management but it does not have a forest policy document shaping management directions.

The Forest Law is being revised to reflect sustainable development principles and current natural resource management requirements and commitments. The development of a forest policy document with FAO support is important for accomplishing PRSP II goals as well as for setting the key directions that will shape the reformed Forest Law. The forest policy development process should be inclusive and bring together stakeholders across the forest sector but also from the other sectors that impact directly or indirectly on forests such as mining or agriculture.

To this end, many consultations are being conducted by a specially recruited team of experts (see page 4).

Stakeholders involved:

- ⇒ Forestry and Sustainable Development Ministry;
- ⇒ Food and Agriculture Organization of the United Nations;
- ⇒ Government agencies;
- ⇒ Local and indigenous communities;
- ⇒ Private and informal sectors;
- ⇒ Civil society;
- ⇒ Donors, such as AFD and the World Bank;
- ⇒ Development partners.

The Platform Advocates for Forest Law Reform

A Continuous Commitment to the Forest Law Revision Process

The Sustainable Forest Management Platform (PGDF) is focused on promoting a sustainable forest management policy in the Congo through good governance and respect for the rights of local communities and indigenous people.

As such it participated in FLEGT/VPA negotiations and implementation and held several workshops and consultation sessions in Brazzaville and other departments with a view to getting the input of civil society on the current forest law revision process. In 2009 the Platform had already contributed to the work

of the initial consultants who had been contracted by MEFD with FAO support to work on the first draft of the Forest Law as part of the reform.

In 2013, a working group set up by PGDF drew up draft articles based on the amendments already proposed to address legal vacuums.

Priorities Identified by Civil Society

The following issues are considered as priorities by the Platform:

1. Right to information as provided by Annex X of the Congo VPA (on information to be made public);
2. Right to consultation and participation: ensure that local communities and indigenous peoples are consulted and are involved in the setting up and management of the local development fund;
3. Right to a conflict management mechanism and system of appeal: establish a conflict management mechanism in each department composed of representatives of all stakeholders;
4. Right to benefit sharing: in all forestry concessions ensure a participative and transparent follow-up process to fulfilling terms and conditions and a legal process for setting up and managing the local development fund;
5. Right to land ownership: ensure that customary tenure rights in forestry concessions and community forestry are legally recognised;
6. Right to forest resource use: ensure that local communities and indigenous people have the right to extract non-timber forest products (NTFPs) for their livelihoods.

The Platform still has work to do before the new Forest Law is adopted. The Platform is currently fighting for its most essential contributions to be taken into account in the future Forest Law through lobbying and advocacy.

In order to facilitate this process, the Platform has established commissions to collectively work on refining its input before forwarding this to the consultants. Its contributions will be officially shared with the consultants both electronically and in hard copy.



Workshop on civil society's contribution to the Forest Law revision process, 31 October – 1 November 2013.

Private Sector Perspective on the Revision of Law 16-2000

The first revised version of Forest Law 16-2000 was presented to private sector companies during September 2012. The final draft is currently being reviewed by the Forestry and Sustainable Development Ministry in Brazzaville. The main issues for the private sector can be summed up as follows:

1. Specify the resource use rights that take precedence in a given area: more and more mining permits are being issued by the Mines and Geology Ministry and are a potential cause of conflicts between sectors (e.g. mining permits vs. forestry concessions);
2. Stop the annual renewal of forestry licenses which should be issued instead only once following the signing of Forest Management Agreements;
3. Maintain the current procedure for calculating and paying stumpage tax based on actual production: area fees should be calculated differently depending on whether concessions are managed or not;
4. Recognise private certification as being complementary to the FLEGT/VPA process;
5. Export taxes on forest products based on FOB prices (Free On Boat) instead of on FOT prices (Free On Truck): FOB prices reflect costs incurred by operators up to the point of shipment including embarkation expenses; FOT prices reflect costs incurred by operators without embarkation expenses. This would mean that operators located further away from ports would be penalised;
6. Removal of the 2% computerisation tax on FOB prices which should be included in the amount paid to the SCPFE (Service de Contrôle des Produits Forestiers à l'Exportation) on export;
7. Moving the Forestry Fund from the Treasury (Finance Ministry) to MEFD: this would allow MEFD to acquire some level of financial autonomy and make the transfer of taxes locally even more transparent (departmental level);
8. Keep the log export rate at 15% of total production;
9. Abrogate Directive 3166 which limits promotion species to 10% of total production since this is inconsistent with the idea of secondary timber processing; diversifying the number of species harvested in a given area (i) increases yields per hectare, (ii) meets new commercial market demands and (iii) reduces logging rates in the forest;
10. Identify which types of impact assessments are required depending on the works that would be carried out and indicate how to realistically validate these assessments;
11. Increase financial penalties imposed by MEFD for proven offences in order to deter uncooperative parties;
12. Specify tree scaling methods in the forest (lack of information in the current law);
13. Change sampling rates used for forest inventories (e.g. up to 5% for non-managed concessions and up to 2.5% for managed concessions).

The private sector has provided its input with the expectation that the next multi-stakeholder consultation workshops will result in a consensual and innovative law between all stakeholders.

This article should not be construed as representing the views of all forestry companies operating in the Republic of the Congo.

Latest news

With the support of AFD, MEFD has initiated a participative process to revise the Forest Law. The experts in charge of this work are currently reviewing the final version of the bill. To help with their diagnosis they will be collecting the views of all stakeholders. They can be contacted by email at the following addresses: Yann Petrucci: y.petrucci@terea.net; Laurent Granier: laurent@ecocy.net; Brice Pongui: ponguilawyer@gmail.com

Share Your Thoughts With Us

FLEGT/VPA National Focal Point for the RoC

Adolphe Ngassemba

+242 05 574 50 40/ 06 999 23 98- angassemba@yahoo.fr

CLFT Coordinator

Alain Ossebi

+242 06 978 67 06/ 05 526 02 11-oss_ba@yahoo.com

For more information please visit our website: www.apvflegtcongo.info



Voluntary Partnership Agreement on Forest Law Enforcement, Governance and Trade

This document was produced with the financial support of the European Union. However, it should not be construed as reflecting the views of the European Union.

