

Industrial logging in the DRC:

24 null and void concessions
need to be immediately
returned to the state



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AFRICA

NOTE: This briefing note pertains exclusively to concessions for which concessionaires failed to obtain approval of their management plan within the legal deadline, or for which they didn't file a management plan at all. The majority of these concession titles that are dealt with in this note appear to have been either largely or wholly inactive for several years. The scope of the note thus excludes the many titles awarded illegally in recent years which, with the titles held by Norsudtimber Group and Industrie Forestière du Congo (IFCO)¹ constitute the bulk of current logging activity. These illegally awarded titles must also be immediately cancelled.

1. Overview



As of January 2019, 24 industrial logging concession contracts in the Democratic Republic of the Congo (DRC), amounting to 4,5 million hectares, are null and void, because their concessionaires failed to obtain approval of their management plan within the legal deadline, or didn't file a management plan at all. The law fixes the deadline at four years after signature of the concession contract, although an additional year can be granted upon request. Since the expiry, in 2016 and 2017, of the deadlines for the concession contracts signed in 2011 and 2012, only nine concessions appear to have been returned to the state.²

¹ Global Witness, *Total Systems Failure. Exposing the Global Secrecy Destroying Forests in the Democratic Republic of Congo* (London: Global Witness, 2018) <https://www.globalwitness.org/documents/19378/Total_Systems_Failure_English_August.pdf>; Global Witness, *Buyers Beware. How European Companies Buying Timber from Industrie Forestière Du Congo Risk Falling Foul of EU Laws* (London: Global Witness, 14 March 2019) <https://www.globalwitness.org/documents/19675/buyers_beware_EN_FINAL_1403.pdf>.

² Concession contracts 001/11, 002/11, 006/11, 012/11, 013/11, 016/11, 017/11, 023/11, 033/11. See: AGEDUFOR, *Situation d'avancement Du Processus d'aménagement Au 31/12/2018* (document available on

For the year 2018, then Environment Minister Amy Ambatobe issued logging permits for at least eight of the 24 concessions which should have been returned to the state in 2016.³ Returning to the state by 1 January 2019 all concessions without a management plan was set as a milestone of a 2016 agreement between the DRC and the Central African Forest Initiative (CAFI), a Norway-led international donor coalition. By agreeing to this extended deadline, CAFI condoned illegal logging and contributed to further undermining the rule of law in the DRC. Worse, three months after the unlawful CAFI deadline expired, 24 concessions without management plan have still not been returned to the state. Greenpeace Africa calls upon the DRC's Minister of Environment and Sustainable Development to immediately issue a decree to do so.

2. Progressive weakening of the legal requirements

The DRC's 2002 Forest Law requires industrial logging companies to elaborate management plans for the concessions granted to them by the State.⁴ A 2005 presidential decree concerning the conversion process of old forest titles into forest concession contracts (*contrat de concession forestière* - CCF) establishes that concession contracts are *automatically* cancelled after four years, if by then they don't have a management plan approved by the forestry administration.⁵

Subsequent ministerial decrees have gradually eroded these requirements. A 2006 decree specifies that logging companies have to file their management plan three months before the end of the four year period, but also provides them with the possibility to obtain a one-year extension of the deadline upon request.⁶ A clause allowing for a one-year extension is included in a 2008 decree fixing the template for CCFs and in all contracts signed since.⁷ A 2015 ministerial decree replacing the 2006 one further weakened the rules. Not only did it change the requirement to have an approved management plan into a requirement to simply having filed one, it also transformed the sanction for failing to do so from automatic cancellation of the concession contract into a mere suspension of annual

request from Greenpeace); *Arrêté Ministériel N° 070/CAB/MIN/EDD/WF/AAN/05/2018 Du 09 Octobre 2018 Portant Reprise Par l'Etat Congolais Des Concessions Forestières 056/14, 033/11, 051/14, 050/14 Concédées Aux Sociétés Forestières Riba Congo, Sicobois et Tala Tina.*

³ This concerns CCF 009/11 (permit 001/2018/TPA/01), CCF 035/11 (permit 006/2018/MND/01), CCF 036/11 (permits 007/2018/MGL/01, 013/2018/MGL/04 and 023/2018/MGL/07), CCF 026/11 and 027/11 (permit 007B/2018/MGL/02), CCF 004/11 (permit 009/2018/EQT/02), CCF 040/11 (permits 010/2018/MND/02 and 019/2018/MND/03) and CCF 061/11 (permit 020/2018/MND/04).

⁴ Art. 76 § 1 of *Loi N° 011/2002 Du 29 Août 2002 Portant Code Forestier, 2002.*

⁵ Art. 19 of *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.*

⁶ Art. 24 of *Arrêté Ministériel N° 036/CAB/MIN/ECN-EF/2006 Du 05 Octobre 2006 Fixant Les Procédures d'élaboration, d'approbation et de Mise En Oeuvre Des Plans d'aménagement Des Concessions Forestières de Production Des Bois d'oeuvre.*

⁷ Annex 1 Art. 10 of *Arrêté Ministériel N° 028/CAB/MIN/ECN-T/27/JEB/08 Du 11 Août 2008 Fixant Les Modèles de Contrat de Concession d'exploitation Des Produits Forestiers et de Cahier Des Charges y Afférent.*

logging permits until the requirements are met.⁸ These rules don't encourage loggers to comply with the obligation to develop a management plan within a reasonable timeframe.

It's unacceptable that concessions for which the concessionaires failed to obtain an approved management plan in a timespan of almost a decade have not been returned to the state. Their contracts were signed by the Environment Minister on the basis of the financial guarantees they presented attesting their ability to carry out all their activities.⁹ Many communities which signed social agreements with the logging companies have not seen any of the benefits that they were falsely promised.

3. Complicity of international donors: Norway and France



The Central African Forest Initiative (CAFI), a Norway-led and mainly Norway-funded donor outfit, and the French Development Agency (AFD) are complicit in undermining the rule of law in the forestry sector and the illegal logging in the DRC.

In April 2016, CAFI, represented by Norway, signed a partnership with the DRC in view of reducing the country's carbon emissions from deforestation and forest degradation (REDD), pledging 200 million USD in funding for the implementation of the country's REDD strategy

⁸ Art. 6 of *Arrêté Ministériel N° 034/CAB/MIN/EDD/03/03/BLN/2015 Du 3 Juillet 2015 Fixant La Procédure d'élaboration, de Vérification, d'approbation, de Mise En Oeuvre et de Suivi Du Plan d'aménagement d'une Concession Forestière de Production de Bois d'oeuvre.*

⁹ Art. 7 b) of *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.*

between 2016 and 2020. For the forestry sector, the partners set the following intermediate milestone:

“Application of the provisions of the Forest Code to all existing industrial forest concessions. Concessions without approved management plan, or at least formally submitted in a transparent manner according to the conditions and deadlines prescribed by the law and regulations in force, will be returned to the State no later than January 1, 2019.”¹⁰

For 33 CCFs signed in 2011, by agreeing to this milestone CAFI effectively grants non-compliant loggers a two-year grace period, in blatant violation of the conditions and deadlines prescribed by DRC law. Already in 2016, together with other international NGOs, Greenpeace pointed out that the Letter of Intent between CAFI and the DRC should be fully compliant with the Forest Code.¹¹ Three months after the unlawful CAFI deadline expired, most forests covered by logging concessions without an approved management plan have still not been returned to the state (see below).

Norway is not the only donor condoning illegalities in the DRC’s logging sector. The EU, Germany, the UK, the Netherlands, South Korea also participate in CAFI, though they have not so far contributed to the fund. France, another CAFI member and contributor, has supported the logging industry in the Congo Basin for more than 20 years. Through its development agency AFD has poured more than 120 million EURO worth of grants and loans to industrial logging companies in order to help them establish so-called sustainable management practices.¹²

In the DRC, between 2011 and 2019, the AFD will have spent about 11 million EURO of French taxpayers’ money on a project called “Support to the Sustainable Management of Forests” (AGEDUFOR). This program, which ends this year, is built around three legs: capacity development in the administration, support to industrial logging companies with the drafting of management plans, and forestry governance.¹³ Several concessions which should have been returned to the state in 2016 and 2017 could count on AGEDUFOR support during the grace period offered by CAFI.

Despite its ineffectiveness and contempt for DRC law, AGEDUFOR offers plenty of business opportunities to companies and consultancies. Companies like the French Forêts Ressources Management (FRM), Terea, Oréade-Brèche, are omnipresent in the sector and appear to live off the public funds spent on it. French development aid for the logging

¹⁰ CAFI and Democratic Republic of the Congo (DRC), *Letter of Intent for the Establishment of a Partnership between the Government of the Democratic Republic of the Congo (DRC) and the Central African Forest Initiative (CAFI) on the Implementation of the National REDD+ Framework Strategy and Investment Plan of the DRC*, 2016 <https://www.regjeringen.no/globalassets/departementene/kld/kos/drc/letterofintent_drc_cafi.pdf>.

¹¹ Letter from Global Witness, Rainforest Foundation Norway, Rainforest Foundation UK, Greenpeace and EIA to Members of the Board of the Central African Forest Initiative, 14 June 2016.

¹² Jean-Marie Samyn, James Gasana, Emmanuel Pousse and Fabien Pousse, *Secteur Forestier Dans Les Pays Du Bassin Du Congo: 20 Ans d’interventions de l’AFD* (September 2011: Agende Française de Développement (AFD)) <<http://www.afd.fr/webdav/site/afd/shared/PUBLICATIONS/RECHERCHE/Evaluations/Evaluations-conjointes/Congo-forets-evaluation-conjointe.pdf>> [accessed 10 August 2017].

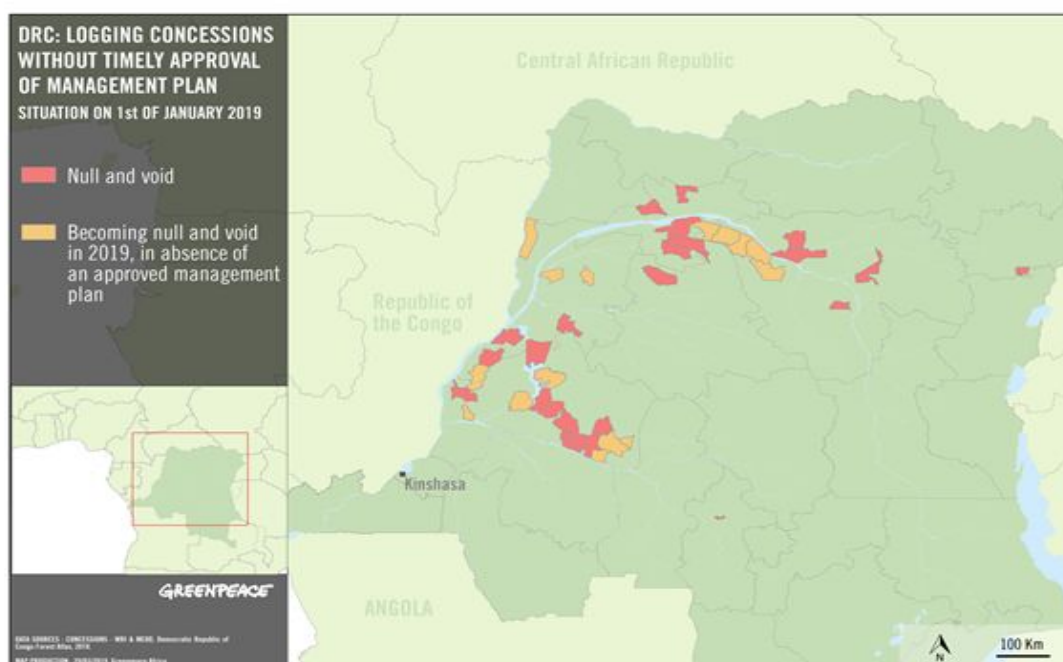
¹³ MEDD and AFD, *AGEDUFOR, Vers Une Gestion Durable Des Forêts de La RDC*, May 2015.

sector seems to be conceived in the first place to benefit France's economic interests at the expense of forests and climate.¹⁴

CAFI has still not abandoned a controversial 18 million USD plan developed by AFD to support an expansion of industrial logging in DRC, despite heavy criticism of the programme and AFD's own acknowledgement of the high risks involved in implementing it. Previous drafts of the AFD program proposed a "bailout plan" for the logging industry. Even though this term has been removed from the the most recent version of the proposal, the support activities for the logging industry remain the same. In coordination with the French Development Agency's AGEDUFOR programme, it will provide support to logging companies and the logging sector, including:

- Assistance to logging companies currently illegally logging without a 25-year management plan to develop a plan to retain their concessions;
- Study and advice on how to increase the profitability of companies including lowering the tax burden of which a proportion is illegal taxation;
- Financial support to the logging industry federation (co-financing by AGEDUFOR);
- Technical support to companies to meet their legal obligations.¹⁵

4. Current state of null and void concessions



¹⁴ Fanny Pigeaud, 'Le Contrat Opaque d'une PME Française Pour La Protection de La Forêt Congolaise', *Mediapart*, 29 May 2017
<<https://www.mediapart.fr/journal/international/280517/le-contrat-opaque-d-une-pme-francaise-pour-la-protection-de-la-foret-congolaise?onglet=full>>.

¹⁵ AFD, *Programme de Gestion Durable des Forêts (PGDF)*. Version 2018-03-22 (Version finale envoyée au FONAREDD).

To date, only nine of the null and void concessions appear to have been returned to the state.¹⁶ Table 1 provides an overview of concessions awarded in 2011 and 2012 that had no duly approved management plan by 1 January 2019. It shows the 24 concessions that are null and void. The area concerned amounts to 4.5 million hectares and should be immediately returned to the State. For concession contracts signed in 2014, the four-plus-one-year deadline expires in the course of 2019. Table 2 shows another 15 concessions that will become null and void in 2019 should they not have an approved management plan, representing another 3 million hectares of forest.

Table 1: null and void concessions at 1 January 2019

#	N° CCF	Allocation date	Concessionnaire	Surface area in hectare
1	003/11	04/08/2011	CFT	84.700
2	004/11	04/08/2011	Bakri Bois Corporation	229.476
3	005/11	04/08/2011	ITB	127.720
4	009/11	04/08/2011	Ifco	278.612
5	010/11	04/08/2011	Safo	242.952
6	011/11	04/08/2011	Maison NBK Service	168.598
7	015/11	04/08/2011	Forabola	183.773
8	019/11	24/10/2011	Enra	60.182
9	020/11	24/10/2011	Scibois	234.862
10	021/11	24/10/2011	Compagnie des Bois	125.465
11	022/11	24/10/2011	Bego Congo	37.942
12	026/11	24/10/2011	Siforco - ceded to Booming Green	291.665
13	027/11	24/10/2011	Siforco - ceded to Booming Green	212.868
14	034/11	24/10/2011	Sodefor	194.235
15	035/11	24/10/2011	Sodefor	260.532
16	036/11	24/10/2011	Forabola	181.820
17	037/11	24/10/2011	Sodefor	181.820
18	038/11	24/10/2011	Sodefor	177.364
19	039/11	21/10/2011	Sodefor	120.288
20	040/11	24/10/2011	Siforco	194.641

¹⁶ See note 2.

21	042/11	24/11/2011	Sodefor	383.255
22	043/11	24/10/2011	Forabola	164.861
23	045/11	24/10/2011	Sodefor	222.574
24	048/12	27/04/2012	La Forestière	185.171
TOTAL				4.545.376

Table 2: concessions that will become null and void in 2019, if they miss the deadline

#	N° CCF	Attribution date	Concessionnaire	Surface area in hectare
1	049/14	25/04/2014	Maison NBK Service	79.730
2	052/14	25/04/2014	Somicongo	294.014
3	052b/14	15/05/2014	Sedaf - ceded to Booming Green	207.978
4	053/14	15/05/2014	Siforco - ceded to Booming Green	252.034
5	054/14	15/05/2014	Siforco - ceded to Booming Green	212.157
6	055/14	26/06/2014	SCTP	121.214
7	057/14	10/07/2014	Forabola	107.421
8	058/14	10/07/2014	Forabola	284.323
9	059/14	10/07/2014	Sodefor	288.404
10	060/14	10/07/2014	Forabola	161.845
11	061/14	10/07/2014	Sodefor	239.858
12	062/14	10/07/2014	Sodefor	73.074
13	063/14	10/07/2014	Sodefor	287.309
14	064/14	10/07/2014	Sodefor	262.760
15	065/14	10/07/2014	Sodefor	225v102
TOTAL				3.097.223

5. Recommendations

The DRC's Minister of Environment and Sustainable development should:

- immediately sign a decree returning the titles listed to the State and initiate legal action to sanction all companies and officials involved in the violation of the law.

CAFI should:

- condition further collaboration with the DRC Ministry of Environment (MEDD) on the immediate return of all concessions without management plans, as well as all other illegal concessions, and make a public statement to this effect;
- abandon plans to fund the AFD's "sustainable forest management programme."

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