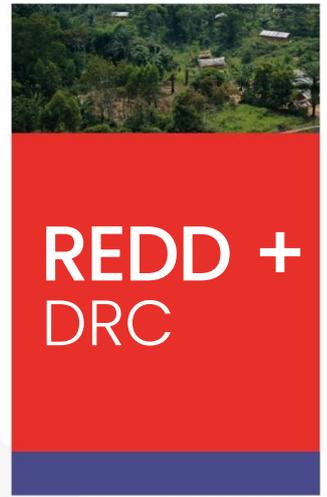


Analysis of the legal and institutional challenges in the implementation of REDD+ in the DRC

**REDD +
DRC**





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Acronyms and abbreviations

AWF	African Wildlife Foundation
CAFI	Central Africa Forest Initiative
CARPE	Central Africa Regional Program for the Environment
CDB	Convention on Biological Diversity
COMIFAC	Central African Forests Commission
COP	Conference of the Parties
COVID	Corona Virus Disease
DCVI	Control and Internal Audit Department
ETD	Decentralized Territorial Entity
FAO	Food and Agriculture Organization of the United Nations
FONAREDD	National REDD Fund
G20	Group of 20
G8	Group of 8
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
GLOBE	Global Organization of Legislators for a Balanced Environment
ICCN	Congolese Institute for Nature Conservation
LAW	Letter of Intent
MECNT	Ministry of Environment, Nature Conservation and Tourism
MEDD	Ministry of Environment and Sustainable Development
NGO	Non-governmental organization
UN	United Nations
PANI	Ivory National Action Plan
GDP	Gross Domestic Product
PNFoCo	National Forest and Nature Conservation Program
UNEP	United Nations Environment Programme
DRC	Democratic Republic of Congo

REDD	Reducing Emissions from Deforestation and Forest Degradation
ROM	Methodological Guidance Report
IUCN	International Union for Conservation of Nature
USD	United States Dollars
WRI	World Resources Institute
WWF	World Wildlife Fund

About COGEDEF

COGEDEF DRC

The Council for Sustainable Forest Management and Development (COGEDEF) is a Non-Governmental Development Organization (NGDO/NPO) created in 2009 by development

professionals with the main objective of promoting good environmental governance and improving the living conditions of local communities.

General context of the study

1.1. Introduction

The Democratic Republic of Congo (DRC) has been engaged in the Reducing Emissions from Deforestation and Forest Degradation (REDD+) process since 2009¹. Since November 2012, its Government has validated a National REDD+ Framework Strategy, aiming to stabilize forest cover at 63.5% by 2030, and to maintain it thereafter². Numerous efforts have been made to identify the drivers of deforestation and forest degradation, as well as the reforms of the legal and institutional framework that are necessary to achieve these objectives. Several projects have been implemented and many more are underway. They test the strategic options that have been negotiated by REDD+ stakeholders to achieve the formulation and implementation of a national REDD+ strategy that takes into account all the situations on the national territory. The revision of the national REDD+ framework strategy, planned for the year 2022, aims to make the most of opportunities and provide solutions to challenges observed in the implementation of REDD+ in the DRC between 2009 and 2020³.

The current framework strategy promotes sustainable land management and use in order to not only fight in an integrated manner against the various drivers of deforestation but also to effectively preserve its forest cover, while ensuring economic growth, increased income and improved living conditions for its population, particularly the poorest and most

vulnerable⁴. Based on seven (7) pillars⁵, including agriculture, energy, forests, governance, demography, land use planning and land tenure, the REDD+ strategy has been operationally defined in a REDD+ Investment Plan that sets the programmatic framework. The said Investment Plan was first validated in September 2013 and then updated in 2015 covering the period 2016-2020. On April 22, 2016, a Letter of Intent (LOI) was signed between the Government of the DRC and the Central African Forest Initiative (CAFI) in which the latter committed to finance the REDD+ Investment Plan (2016-2020) up to USD 200 million, in two tranches, including USD 190 million for the National REDD+ Fund (FONAREDD). A first tranche of 120 M USD and a second of 80 M USD subject to an independent verification of the achievement of intermediate milestones⁶.

Based on the report of the Trust Fund for Strengthening Forest Governance (2005), the REDD process should help to resolve certain governance problems in the forestry sector, including the lack of forest control capacity, a non-transparent system for allocating logging titles, the difficulty of detecting and punishing infractions even on the scale of small-scale logging, non-transparent taxation (parallel fiscality and "harassment") and a low or ineffective collection rate, non-transparent or non-existent transfers of funds from the central administration to ETDs, insufficient consultation

¹ Min Envi, 2009 REDD+ potential of DRC

²<https://www.cafi.org/fr/pays-partenaires/democratic-republic-congo>

³ <https://www2.slideshare.net/CIFOR/les-progrs-et-limpact-de-la-redd-en-rdc>

⁴ Min Envir, 2018; Forest reference emission level for reducing emissions from deforestation in the Democratic Republic of the Congo submission to the United Nations Framework Convention on Climate Change

⁵ Ministry of the Environment, National REDD+ Framework Strategy of the Democratic Republic of Congo

⁶ Ministry of Environment, 2015. REDD+ Investment Plan (2015-2020)

of stakeholders in the development of the fund framework resulting from the restitution to ETDs of part of forest revenues for community investments, lack of transparency in terms of information on the use of funds specific to the forestry sector (reforestation fund, future restitution of part of forest tax revenues).

A report commissioned by IUCN/CARPE (2013)⁷⁷ on the forest governance framework in the DRC also states that the country's forestry legislation includes provisions that are conducive to good governance, particularly with regard to community access to forest resources, and also the existence of opportunities for stakeholders to report any concerns about the forest administration and its management of the forests. On the other hand, with regard to law enforcement, the report assesses several points negatively including, among others, the following three (3) aspects that received very low scores and therefore require significant improvements: i) Public information by the authorities indicating that the authorities rarely, if ever, announce policy, program, legislative and project proposals in a clear and timely manner. ii) Transparency in the awarding of forestry contracts, which indicates that forestry contracting systems are never open or transparent; iii) Evaluation of forestry officials. There is no regular performance evaluation of forestry staff in the Ministry in charge of forests.

The Greenpeace report (2019)⁸⁸ shows that, as of January 2019, more than 20 industrial forest concession contracts in the Democratic Republic of Congo (DRC), covering more than 4 million hectares, have not obtained approval of their management plans within the legal timeframe, or have never filed a management plan but continue to operate quietly. Indeed, experience shows that it is not enough to have relevant laws, codes, and regulations in place for them to be respected at the different levels of the administration as well as by private actors. Indeed, a great deal of explanation, involvement and mobilization must be done, particularly at the national level, especially in the unstable political context, with a high level of administrative turnover, to encourage better application of the law, particularly with regard to the commitments made by the country in general.

The government must be able to account for the fulfilment of international commitments and take corrective action if contrary measures have been taken; one of the strongest tools against non-compliance is widespread communication.

The GLOBE DRC national chapter would therefore like to analyse and define the policy reforms to be introduced to properly establish the national REDD+ process

1.2. Objective of the mission

1.2.1. Overall objective

As specified in the terms of reference (Annex 1), the overall objective of this study is to analyse and assess the evolution of the general governance framework of the Reducing Emissions from Deforestation and Forest Degradation (REDD+) process. In the broadest

sense, this study aims to diagnose in a broad and participatory manner the problems of governance in the forestry sector and define the necessary policy reforms to be initiated to establish the REDD+ process and the fight against climate change in DRC.

⁷⁷ Edouard G, 2013: Analysis of the forest governance framework in the Democratic Republic of Congo in the context of REDD+: Baseline diagnosis and intervention proposals.

⁸⁸ <https://www.greenpeace.org/africa/fr/communiqués-de-presse/7387/les-concessions-forestieres-illegales-doivent-etre-urgently-annoncements-greenpeace-africa/>

1.2.2. Objectives

This study has the following objectives:

- Analyse globally the main legal and institutional issues, including those related to nature conservation and gender mainstreaming and the Cancun safeguards in the implementation of REDD+ in the DRC.
- Propose relevant legislative responses, as well as a roadmap of actions to

be implemented to reverse the trend of poor governance in the DRC.

- Identify the current baseline on the use of environmental economic accounting data in the forest sector as a public policy tool.

Methodological approach

As proposed in the Methodological Orientation Report (MOR), the methodological approach developed throughout this study was highly participatory. The consultant team proceeded to collect and share information among the stakeholders for a better appropriation of the study results. The exchanges between the stakeholders allowed not only to feel the realities on the ground but also and specially to identify the different problems existing in the field of sustainable management of natural resources in the DRC.

2.1. Data collection

2.1.1. Literature review and analysis

During this phase the research team collected and collated all available information from different documents and/or reports at different levels and wrote the synthesis of information on forest governance and protected area management in the DRC. As a result, the assessment team analysed more than 50 documents, in English and French (see Annex 2 for a list of documents consulted), including international and regional conventions and agreements, selected DRC laws and regulations, articles, agency reports and project documents.

2.1.2. Individual and group interviews

Given the situation in COVID 19, most stakeholders were either out of the country or were reluctant to be interviewed, so the team proceeded with interviews and focus groups.

It should be recalled that the study took place in a context characterised by the Covid pandemic, which did not facilitate the organization of certain interviews, particularly in person. In addition, most of the resource persons were either absent from the country or were reluctant to conduct face-to-face interviews. Nevertheless, arrangements were made to

Overall, the methodology included three phases, namely:

- Data collection ;
- Data processing and analysis;
- The writing and presentation of the report.

In addition to the documents mentioned above, the team also analysed the various national and international legal texts in order to identify their limitations and propose possible solutions. It should be noted that this documentary analysis phase was essential insofar as it allowed the collection of existing information necessary for the drafting of this report

conduct some interviews remotely (telephone, Skype, Zoom).

- Individual interviews
- Individual in-depth interviews were conducted either through physical contact (face-to-face) or remotely with selected international stakeholders, including international NGOs (TRAFFIC, AWF, WWF and WRI). Also included in this list are the Ministry of Environment and Sustainable Development (MEDD), in-

cluding the National REDD+ Co-ordination, the DDD, the DIAF, the Cellule de Contrôle et de Vérification Interne (CCVI) and the Institut Congolais pour la Conservation de Nature (ICCN) (Appendix 4).

- Focus group interviews

Three group meetings were held with civil society organizations and networks working in

the environmental sector, with a maximum of 15 participants. *The first group* was composed of representatives of environmental media organizations. *The second* group was composed of representatives of environmental civil society organizations and networks, and the third group was composed of women's environmental associations. Based on the interview guide validated in the ROM, some exchanges were recorded and documented.

2.2. Limitations and challenges

In general, the mission went well; however, it faced two major challenges that are worth

noting given their impact on the evaluation process:

2.2.1. Meeting restrictions due to Covid-19. Health challenge and risk related to the Covid-19 pandemic

The city of Kinshasa is considered as

The health situation, particularly in Kinshasa (considered the epicentre of the Covid-19 pandemic), and barrier measures were perceived as threats that could impede the progress of

field activities. Considering this situation and to move the evaluation process forward, the consultant's team was flexible and conducted some interviews by phone, Skype, Google meet, Zoom and WhatsApp. This increased the time and cost of collecting all the data.

2.2.2 Unavailability of some stakeholders for interviews

Many of the project stakeholders are still outside the country, including several UN agencies and some international NGOs. For example, the national deputies were on parliamentary leave from January to March and June to September 2020 and since their return, not all of them have

been available for interviews. It should also be noted that some stakeholders did not respond to emails sent to them for interviews, and several attempts to contact them went unheeded.

Analysis of the Forest Governance and Nature Conservation Framework

3.1 Legal Framework

There is an important legal arsenal in the field of forestry both nationally and internationally

3.1.1. At the international level

The Democratic Republic of Congo has ratified many treaties related to the environment and logging, with the aim of conserving nature and sustainable exploitation. However, several stakeholders believe that the DRC is not a good student in the respect of these conventions and treaties to which it is signatory.

For example, the DRC has ratified the World Heritage Convention, which is an international treaty between member states of the United Nations Educational, Scientific and Cultural Organization (UNESCO). It was adopted on November 16, 1972. Currently, 193 countries (the "States Parties") have ratified the Convention, including Canada in 1976. Under the Convention, States Parties are required to report regularly to the World Heritage Committee on the state of conservation of their World Heritage sites. The Convention also encourages States Parties to strengthen public appreciation of World Heritage properties and to enhance their protection through education and information programs⁹. However, it has been noted since

2018 that some foreign companies have obtained oil exploration rights in world heritage sites, including the Salonga and Virunga national parks in the DRC¹⁰. This is the case, for example, of the Guernsey-owned oil company CoMiCo, which had obtained approval in 2018 for a contract signed in 2007 at the time of a previous oil legislation. One of the three oil blocks awarded to CoMiCo encroaches on the Salonga National Park in the DRC.¹¹ According to an article published by WWF¹², citing the report of the inter-ministerial meeting obtained on June 26, 2018, the state confirmed its intention to consider the partial decommissioning of the two parks and gave authorization to the Ministry of Hydrocarbons to set up two commissions to initiate the process. Some stakeholders also believe that the DRC would be insolvent in the payment of its contributions, this is the case for the delays noted in the payment of its dues to COMIFAC.

The list of some of the treaties and conventions signed by the DRC is included in Annex II.

⁹ <https://www.pc.gc.ca/fr/culture/spm-whs/a-propos-about>

¹⁰ <https://whc.unesco.org/fr/soc/3814>

¹¹ <https://www.globalwitness.org/en/press-releases/les-droits-p%C3%A9troliers-dans-le-parc-national-de-la-salonga-would-be-null-and-done-r%C3%A9v%C3%A8the-analysis-of-global-witness/>

¹² <https://wwf.panda.org/?330674/Les-Parcs-nationaux-de-la-Salonga-et-des-Virunga-en-RDC-deux-sites-du-World-Heritage-Threats-by-Production-Petroleum>

3.1.2. At the national level

At the national level, the DRC has an important regulatory framework for nature conservation and sustainable forest management.

- Constitution of the D.R.C. of February 18, 2006, as amended and completed to date.

The constitution devotes at least five articles which state on the one hand, the principle of protection and conservation of the environment and on the other hand their mode of enjoyment in particular the article 53 which stipulates that "every person has the right to a healthy environment and favourable to his / her integrity". It has the duty to defend it. Article 54, paragraph 2 in turn specifies that "any pollution or destruction resulting from an economic activity shall give rise to compensation and/or reparation". While article 58 adds that "all Congolese have the right to enjoy the national

wealth", the State has the right to redistribute equitably and to guarantee the right to development, being even the right of every Congolese to enjoy the common heritage of humanity. The State has the duty to facilitate its enjoyment.

The constitutional provisions take on their full meaning in light of the conditions under which they are exercised by their holders.

- Law n° 011/2002 of August 29, 2002, on the Forestry Code

In this law establishing the forestry code, as in other countries, we find the major recent advances in contemporary forestry law. This law deals with ten points, including general provisions in which the various terms used by the legislator are explained forests, timber forest products, conservation, deforestation, forest inventory, etc., while the second point deals with the status of forests. Here it emerges that the State is the sole owner of the forest. The promulgation of this law marks an essential step

in the sustainable management of forest resources in general and genetic resources. This law responds to the 1992 Rio Declaration, the 1999 Yaoundé Declaration as well as the strategic axes of the COMIFAC Convergence Plan. It aims to promote a rational and sustainable management of forest resources which is essentially based on three pillars, namely social, economic, and environmental. The relevant innovations highlighted are the following:

1. The division of forests according to priority vocations.
2. Pre-allocation of public consultations.
3. The establishment of a process for the adjudication of forest concessions.
4. The introduction of two new concepts in forest management: inventory and forest management.
5. Pre-allocation of a significant proportion of forestry tax funds to forestry administrative services to enable them to carry out forestry restoration, inventory, and management work.
6. The possibility offered to local communities to have their own forests that they can manage on their own behalf with the technical support of the forestry administration.

7. The introduction of a forestry tax system that guarantees sustainable forest management and reconciles the objectives of developing the forestry industry and increasing forestry revenues.
8. Retrocession of surface taxes to the provinces and territories.
9. The maintenance of traditional rights within production forests.

- Other regulatory texts governing the forestry sector include

- Ordinance n°85-211 of August 30, 1985 creating the Fonds de Reconstitution du Capital Forestier.
- Decree n°05/116 of October 24, 2005, fixing the modalities of the old forest titles in forest concession contracts and carrying extension of the moratorium as regards the granting of forest exploitation titles.
- Decree n°012/DECNT/CCE/81 of February 18, 1981, on the creation and organization of the National Reforestation Service.
- Ministerial order n° CAB/MIN/AF.F-E-T/039/2001 of November 7, 2001 on the creation and organization of a public service called "Centre de Promotion du Bois", abbreviated as "C.P.B".
- Inter-ministerial Order No. CAB/MIN/ECO-FIN. & BUD/AF.F-E-T/0187/02 of April 20, 2002, modifying the tax rates for forestry and wildlife ;
- Ministerial Order No. CAB/MIN/AF.F-E-T/194/MAS/02 of May 14, 2002 suspending the granting of forestry allowances ;
- Ministerial Order n°CAB /MIN/AF.F-E-T/259/2002 of October 3, 2002 on the composition, organization and functioning of the provincial forestry advisory councils;
- Ministerial Order n°CAB/MIN/AF.F-E-T/260/2002 of October 3, 2002 establishing the procedure for forestry transactions ;
- Ministerial Order n°CAB/MIN/AF.F-E-T/269/2002 of October 3, 2002 on the organization and functioning of the forestry framework ;
- Ministerial Order No. CAB/MIN/AF.F-E-T/262/2002 of October 3, 2002 establishing the procedure for drawing up a forest management plan ;
- Ministerial order n° CAB/MIN/AF.F-E-T/276/2002 of November 02, 2002 determining the protected forest species;
- Ministerial Order n°CAB/MIN/AF.F-E-T/277/2002 of November 5, 2002 regulating the uniform and distinctive insignia of the ranks of sworn forestry inspectors and agents;
- Order No. 014/CAB/MIN/ENV/2004 of April 29, 2004, on the implementation of Law No. 32-002 of May 28, 1982, on hunting regulations.

3.1.3. Weakness of the legal framework

Despite several years of effort, some of the Forest Code's implementing legislation is still lacking.¹³ Indeed, according to several sources including analyses by CODELT (Mpoyi, 2012) and

the Independent Observatory (Granier, 2012), the main ills from which the legal framework for forest governance in the DRC suffers, and which limit its effectiveness are, among others:

- Lack of an effective and operational monitoring system.
- The lack of a shared vision of the forestry reform process between the three levels of forest governance (central, provincial, and local), which has resulted in conflicts of competences, particularly over the area fee (the main forest resource) between the central government and the provinces.
- Inconsistencies in the system for issuing forest access and resource exploitation permits, resulting from: the application of an illegal regulatory text (Order 011/CAB/MIN/ECN-EF of April 12, 2007), which provides for the allocation of ACIBO timber cutting permits and the authorization of purchase, sale, and export, in violation of the Forest Code, Order 035 of 2006 and Order 105 of June 17, 2009, supplementing the first.
- The non-effectiveness, in certain areas, of the application of the law on decentralization, leading to conflicts of jurisdiction between the national and provincial governments.
- Conflicts of attribution between the Minister in charge of forests and the provincial governors: the Minister continues to attribute artisanal logging permits in place of the provincial governors (see Order 035 and Order 105 mentioned above).¹⁴

It should be noted that despite the existing legal framework (laws, decrees, orders) is quite complete, dealing with all the problems related to a rational physical and material protection and able to impose a sound management of these resources, there appears no political will to ensure its effective implementation.

Also, some sectoral actors noted that since its promulgation in 2002, the Forestry Code is outdated and does not consider emerging issues such as climate change, REDD, payment for environmental services, etc. Therefore, its revision is well due.

3.2 Institutional framework

It should be noted that the interviews did not provide much information on the institutional framework for natural resource management in

the DRC. The following information, far from being exhaustive, was obtained mainly from existing documents.

¹³ Analysis of the forest governance framework in the Democratic Republic of Congo in the context of REDD+: Basic diagnosis and intervention proposals, Edouard G. BONKOUNGOU Consultant, January 2013

¹⁴ Same as

3.2.1. Sectoral ministries

Since colonial times, the forestry sector has never had a specific ministry. On the contrary, it is often, if not always, attached to other sectors such as agriculture, environment, land affairs, rural development, and tourism. Currently, the forestry sector is administered within the Ministry of Environment and Sustainable Development (MEDD).

The General Secretariat for the Environment and Nature Conservation is responsible for the management of the forest estate, wildlife, and control and enforcement of forestry legislation¹⁵.

In March 2009, following an institutional review, the Ministry adopted a new organizational chart that divides the ESD-SG into eleven directorates and three specialized units. Of these fourteen structures, only four are involved, in one way or another, in the direct management of the forestry sector. These are: the Directorate of Nature Conservation, the Directorate of Forest Inventory and Management, the Directorate of Forest Management, the Directorate of Reforestation and Horticulture¹⁶.

In addition to the Ministry of the Environment and Sustainable Development (MEDD), two public institutions under the supervision of the MEDD also contribute to the sustainable management of natural resources and forest management. These are :

- The Congolese Institute for Nature Conservation (ICCN), which is responsible for

the management of the network of protected areas (ex and in situ), and which employs a staff of about 1,800¹⁷;

- The National Forest Fund (FFN), whose mission is to finance reforestation, inventory, and management operations as well as studies related to sustainable development¹⁸. However, the fact that this Fund is a public institution does not allow the forestry sector to benefit effectively and in a timely manner from the financial resources placed under its management. It has a staff of 66 people.

In addition to these institutions, the DRC has other institutions that at different levels can contribute to sustainable forest management and nature conservation. This is the case of :

- All border agencies (PNC, DGDA, DGM and OCC) that can potentially collaborate on wildlife crime and other illegal trafficking issues. The DGDA, for example, has intelligence units at certain exit/entry points that can potentially work on wildlife trafficking.
- The Environmental Committee of the National Assembly can play an important role in initiating and enacting legislation. They also provide important political support to conservation actors at the national level.

3.2.2. Other actors

Other players in the sector include:

- Environmental civil society: increasingly dynamic, organized in networks

and working groups including NRN, GCTR; CRON etc. Once revitalized and empowered, these networks and working groups can play a catalytic role in the sector and serve as a

¹⁵ Document de politique forestière en République Démocratique du Congo, 2006.

¹⁶ Op cita, 2019

¹⁷ <https://www.iccnrdc.org/>

¹⁸ Decree No. 09/24 of 21/05/2009 on the creation, organization and operation of the National Forestry Fund, abbreviated as "F.F.N.

valuable interface between local community and government.

- The network of international NGOs and bilateral partners including the World Wildlife Fund (WWF), African Wildlife Foundation (AWF), Wildlife Conservation

Society (WCS), not to mention USAID, GIZ, AFD, and United Nations agencies such as UNDP and FAO. The DRC is therefore a major 'environmental action' stage, a country where it is necessary to be and an important asset for conservation.

3.2.3. Institution of consultation and coordination

- The National REDD+ Coordination (CN-REDD): The Reducing Emissions from Deforestation and Forest Degradation (REDD+) mechanism was launched in the DRC in January 2009, with the first joint mission of the United Nations REDD+ Organization (ONUREDD) and the World Bank's Forest Carbon Partnership Facility (FCPF) in Kinshasa¹⁹. This REDD+ process is under the leadership of the Ministry of Environment and Sustainable Development through the Directorate of Sustainable Development in accordance with its attributions. In 2009, the Prime Minister created *the National Coordination-REDD*, under the supervision of the Ministry of Environment and Sustainable Development through the Directorate of Sustainable Development and plays an important role in driving the REDD+ process^{20, 21}
- The National REDD+ Fund: it was designed as a tool for cross-sectoral coordination, mobilization of funding and monitoring of the fiduciary implementation of projects related to Reducing Emissions from Deforestation and Forest Degradation (REDD+) as well as mitigation of climate change effects²²
- The Congolese Environment Agency (ACE): the ACE is a public establishment of a technical and scientific nature, created by Decree No. 14/030 of November 18, 2014, to assess the environmental and social impact of projects in the Democratic Republic of Congo²³. The ACE is present in 16 provinces out of the twenty-six that comprise the DRC. It comprises about one hundred inspectors and OPJs with limited jurisdiction with the aim of enforcing and respecting the law in this area.

3.2.4. Institutional problems

Despite a rich stakeholder picture, the evaluation team identified the following issues:

- The level of coordination between the various institutions in charge of forests is very low, if not non-existent. This observation was confirmed in a report by the Observatory for Sustainable Environmental Management,

which notes, for example, the lack of circulation of statistical information on timber production between the Directorate of Forest Management (DGF) and the General Directorate of Judicial and State Administrative Revenue and Participation (DGRAD), for the purposes of collecting forestry taxes and fees²⁴.

¹⁹ Patrick Kipalu & Joëlle Mukungu, Forest Peoples Programme - DRC

²⁰ The Political Economy of the REDD+ Process in the DRC, Judicaël Fétiveau and Augustin Mpoyi

²¹ Decree n°09/40 of November 26, 2009, on the creation, composition and organization of the implementation structure of the REDD+ process

²² <http://www.fonaredd-rdc.org/presentation-du-fonaredd/>

²³ <https://www.ace-rdc.cd/?fbclid=IwAR3oI5MOCNOQfWxUMdVGDrlNicXe6XEy8avTKZKlJkwajleCupXhWYfJQg8>

²⁴ https://www.forestlegality.org/sites/default/files/country_documents/REM_RDC_legislation.pdf

- Conflict of roles between ICCN and the Direction de Contrôle et Vérification Interne (DCVI). Indeed, the law on nature conservation authorizes ICCN to enforce the law up to 50 kilometres outside protected areas; these roles are no longer played by DCVI, which causes a conflict between these two national institutions.
- Lack of political will within the forestry sector to prevail over other interests (e.g., mining or agro-industry).

This principle of decentralization is reflected in the introduction of a new institution: the provincial ministry. The constitution also establishes a division of powers between the province and the central government: first, it states that the regulation of ²⁵the forest regime is a matter of shared competence between the province and the central government. ²⁶It then goes on to state that the forestry regime is the exclusive responsibility of the central government, and finally that the ²⁷application of national forestry legislation is the exclusive responsibility of the provincial government. The

- Lack of real delegation of authority at the provincial and local levels, which undermines the decentralization process and local resource management efforts.
- The impact of decentralization on forest management, as the new Congolese constitution adopted on 18 February 2006 enshrines the principle of broad decentralization of administrative functions to the level of provinces with legal personality

constitution clearly contradicts the 2002 forestry law. The constitution clearly contradicts the 2002 forestry law, and no text has been issued to clarify the scope of the provisions of this new law, or to spell out how it is to be applied in the area governed by the forestry law.

The resulting jurisdictional conflicts paralyze administrative action and are a serious obstacle to improved governance.

3.3 Policy Framework

It should be noted that the DRC has undertaken enormous efforts to improve the policy

- The development of legislation and national programs for the implementation of multilateral agreements, notably the promulgation of the forestry code in 2002.
- The development and implementation of the Priority Agenda for the Recovery of the Forestry Sector in 2003.
- The drafting of the National Forest and Nature Conservation Program (PNFoCo) document in 2003, consolidated in 2009.

framework for natural resource management, namely ²⁸

- The development of the MECN-T annual roadmap in 2010.
- Development of the national REDD plan in November 2010.
- The development of a draft national forest policy document in 2011.
- The promulgation of Law No. 11/009 of July 9, 2011, on the fundamental principles

²⁵ The regulations that the provincial power can formulate will remain valid only on the provincial territory (promulgation of edicts, ...)

²⁶ Art 202, item 27 Constitutions

²⁷ Art 204, item 20 Constitutions

²⁸ National Environment, Forest, Water and Biodiversity Program-2 generation, MEDD, 2012

of environmental protection, which serves as the basis for all sector-specific laws.

- The development of the REDD+ development framework strategy in December 2012.
- The integration and development of principles allowing the consideration of environmental impact studies in development projects likely to affect the environment directly or indirectly.
- Consideration of the environmental liabilities of the mining, petroleum, forestry, metallurgical, chemical and textile industries, etc., characterized by the damage caused to the environment, in particular the reduction

All these documents, once implemented, should improve natural resource management and contribute to the development of local communities. However, the sector suffers from

of biological diversity, the pollution of the soil, air and water, the reduction of soil fertility, desertification, the depletion of natural and fishing resources, and the deterioration of natural and cultural heritage.

- The definition of major orientations in the field of environmental protection.
- The prevention of risks and the fight against all forms of pollution and environmental damage.
- The drafting of three national communications on climate change.
- Development of the Integrated Communication Plan (ICP) for REDD.

low attention from political authorities and the financing of conservation and/or sustainable natural resource management activities depends on 90% external funding.

3.3.1 Political opportunities

The following items were identified as opportunities by interviewees:

- The size and diversity of the country provide the opportunity to explore different approaches.
- The potential of rural populations and civil society remains untapped.
- Forestry reform underway on forest policy development.
- An ongoing process of decentralization.
- The opportunity to revise the forestry code that corresponds to the government's

3.3.2. Political constraints

- Potential capture of forest profits by elites (including militias) due to poor

vision and current realities on forestry management and environmental protection.

- The potential availability of funding from the National REDD Fund. Once properly channelled, these funds can spur development at the local level.
- The zoning of the national territory and the development of a land use plan that allows for a better allocation and appropriate use of land at the national level.
- A good regulation of the forestry exploitation - artisanal and industrial. governance and limited government control in some areas of the country.
- Lack of available funding due to political instability and poor governance.

- Absence of national zoning and land use plans.

- Capacity building and rejuvenation of the forestry administration

A Forests Monitor study (Hoaré, 2010) proposed the following SWOT analysis of the DRC in relation to the country's sustainable forest

management objective. The following points were identified:

- A poor record of governance (including widespread corruption, lack of transparency and accountability, failure to enforce laws).
- The limited human, technical and financial capacities of the State.
- Limited capacity of civil society and rural communities (in many cases with weak or dysfunctional institutions).
- Political instability and conflict in some parts of the country, including illegal logging and poaching by armed groups.

- Incomplete legal framework, including lack of clarity on land tenure.
- Increasing pressure on land due to demands for mining, forestry, and agro-industrial concessions.
- Communication problems due to the size of the country and a lack of infrastructure.
- No banking services in rural areas and limited access to finance (e.g. micro-finance)

3.3.3. The challenges

The challenge in DRC is to ensure that the above opportunities are realized while the threats are minimized. Furthermore, the report of the study on the Trust Fund for Strengthening Forest Sector Governance in the Post-Conflict Situation

(Democratic Republic of Congo, 2005), as well as the terms of reference for this study, indicate that the forest sector in the DRC suffers from several significant governance deficits, including

- The system for allocating logging titles is not transparent because, despite the moratorium on the allocation of logging titles.
- The difficulty in detecting and sanctioning infractions by the inspectors of the MEDD's Internal Control and Verification Unit.
- Non-transparent taxation (parafiscal and "hassle") and inefficient collection; - non-transparent transfers of funds from central government to DTEs.
- Insufficient stakeholder consultation in the development of the legislative/regulatory framework, in the

allocation of concessions and (in the future) in the use of funds from the return of part of the forest revenues to the ETDs for community investments.

- A lack of transparency in terms of information on the use of funds specific to the forestry sector (reforestation fund, future restitution of part of the revenue from forestry taxation).
- Lack of specific regulations on REDD+.
- Failure to sign social clauses and to obtain the free, informed, and prior consent of the communities.

3.4. Nature Conservation

3.4.1 Policy framework

The will expressed by the DRC to increase to at least 15% of its total area the part reserved for classified forests through its vast network of PAs representative of its biodiversity and ecosystems (legal objective), was reinforced during the Conference of the Parties (COP) to the Convention on Biological Diversity (CBD) held in October 2010 in Nagoya, Japan, where the Congolese Government lifted the option to raise this area to 17% (political commitment)²⁹. In

- *The 2nd generation National Environment, Forest, Water and Biodiversity Program* (PNEFEB-2; MECNT, 2013), developed in 2013, constitutes the overall strategic framework for intervention in the environment, forest, water resources and biodiversity sectors for the period 2014-2020. It has set 4 priorities in biodiversity, namely: i) expansion of the network of protected areas, ii) participatory management of biological resources, iii) enhancement of biodiversity and iv) strengthening of transboundary biodiversity³⁰ management mechanisms.
- *The National Biodiversity Strategy and Action Plan* (NBSAP; MECNT, 2014), developed in 1999, was first revised in 2002 (2002 - 2010) and again in 2013. The development of this latest version is still ongoing. Among the priority areas of intervention identified in it are: (i) integrating biodiversity into all relevant national priority sectors; (ii) improving the management of existing protected areas and expanding their network; (iii) safeguarding endangered species of fauna and flora and increasing funding for biodiversity.
- *The National REDD+ Framework Strategy* (MECNT, 2012), validated by the Council of Ministers in November 2012, recognizes the importance of protected areas

order to implement this commitment, the ICCN has made the process of extension of its network of protected areas, one of its priority programs for the coming decade. To ensure the protection of its biodiversity, several strategic and programmatic tools concerning nature conservation and protected areas have been developed in the DRC over the last ten years. The main tools are presented below :

as a legal category of the forest domain and their role in the conservation of forest carbon stocks. The strategy also emphasizes the need to consolidate and expand the national network of protected areas and mentions the need to promote participatory and community-based management of natural resources as well as the economic valuation of these areas (ecotourism, REDD+ projects, etc.).

- *The National Strategy for Biodiversity Conservation in DRC's protected areas* (SNCB; ICCN, 2012). This strategy places particular emphasis on the process of expanding the protected area network, sustainable financing mechanisms, climate change (mitigation and adaptation), communication, access to resources and equitable sharing of benefits, and integrates *ex situ* protected areas. Structured around 9 programs, the SNCB also organizes the management tools mobilized by ICCN at both the general management and protected area levels.
- *The National Strategy for Community Conservation in Protected Areas* aims to increase the involvement of local and indigenous populations in maintaining the integrity of protected areas, to enhance the environmental services provided by protected areas for the benefit of these same

²⁹ National Strategy on Biodiversity Conservation in Protected Areas of the DRC, September 2012

³⁰ National Environment, Forests, Water and Biodiversity Program 2nd generation, MECNT, 2013

actors, and to promote conservation-development activities to contribute to their well-being.

Other strategies, declined in action programs, target the conservation of certain emblematic

- The strategy and action plan for the survival of great apes in the DRC (MECNT & IUCN, 2014),
- The Bonobo Conservation Strategy 2012 -2022 (IUCN & ICCN, 2012),
- The 2012-2022 action plan for the conservation of Grauer's gorillas and chimpanzees in eastern DRC (Maldonado *et al.* 2012),

species, including within protected areas. These are:

- Species Conservation Status and Action Plan 2010 - 2020 for the Schweinfurth Chimpanzee (Plumptre *et al.* 2010),
- Review of the status and conservation strategy of Okapi (Quinn *et al.* in press)
- National Ivory Action Plan (NIAP) 2018-2019³¹.

3.4.2 Legal framework

International Level

The DRC is a signatory to several international and sub-regional conventions relating to the

environment and nature conservation (Table 1), which are part of the internal legal framework³²

Table 1: International and sub regional legal texts on conservation

Conventions	Effective Date	Year of ratification
African Convention on the Conservation of Nature and Natural Resources (Algiers Convention)	June 16, 1969	1976
African Convention on the Conservation of Nature and Natural Resources (revised version, Maputo Convention)	Adopted in 2003	Signed in 2008
Convention on International Trade in Endangered Species (CITES)	July 1, 1975	1976
World Heritage Convention	December 17, 1974	1975
Ramsar Convention	December 21, 1975	1996

³¹ ³¹ PANI DRC (2018-2019), available at: https://CITES.org/sites/default/files/common/rog/niaps/RDC-PANI%20ACTUALISEpost*SC69%2018-2019.pdf

³² ³² Legal and institutional framework of the conservation sector and protected area management in DRC, Codelt, October 2015

Bonn Convention on Migratory Species	November 1, ^{er} 1983	1990
Convention on Biological Diversity (CBD)	December 29, 1993	1994
United Nations Framework Convention on Climate Change (UNCC)	March 21, 1994	1995
Convention to Combat Desertification	December 25, 1996	1997

Regional Level

- The International Conference on the Great Lakes Countries (ICGLR) of September 2006, recognizes the need for extradition of all crimes punishable by imprisonment of at least six months. A joint commission of inquiry to facilitate investigations, prosecutions, and information sharing between states has been established to support the protocol.
- COMIFAC (the Central African Forest Commission) was born out of the commitments made in March 1999 in the "Yaoundé Declaration" by the Heads of State

of Central Africa. It brings together ten member countries of the sub-region that share a common natural heritage. The institution is committed to ensuring that the voice of Central Africa is better heard, and its positions defended in forums where forestry and environmental issues are debated. COMIFAC also works daily to ensure that Central African countries adopt and implement harmonized forestry and environmental policies for the conservation and sustainable management of forest resources.

The Nature Conservancy has a rich and varied legal framework that incorporates different provisions for nature conservation as well as institutions specific to nature conservation and protected areas.

The DRC has a legislative framework that has been assessed by the CITES National Legislation

Project as "generally expected to meet CITES implementation requirements" (Category 1). Overall, the DRC has a solid legal basis for the sustainable management of natural resources as well as in the fight against wildlife crime. The main legislative texts relating to wildlife management and wildlife crime enforcement are described below:

- Law No. 82/002 of May 28, 1982, on the regulation of hunting, Ministerial Order No. 014 / CAB / MIN / ENV / 2004 of April 29, 2004, on enforcement measures for the above law governing hunting, and Inter-ministerial Order No. 004 / CAB / MIN / ECN-T / 2010 of April 26, 2010 on the tax for hunting wild animals provide a legal basis for the hunting and sale of wildlife in the DRC. The regulations specify the hunting seasons, the

wild species that can be hunted, provide a definition of illegal hunting, and identify the documents needed for the legal hunting and sale of wildlife (bushmeat), etc.

- Law 011/2002 of 28 August 2002 on the forestry code, Decree No. 14/018 of 02 August 2014 and Ministerial Decree No. 025 / CAB / MIN / ECN-DD / CJ / 00 / RBM / 2016 of 09 February 2016 provide a legal basis for the

establishment and management of the community forest concession, including community wildlife management.

- Ministerial Decree No. 056 / CAB / MIN / AFF-ECN / 01/00 of March 28, 2000 on CITES and Ministerial Decree No. 020 / CAB / MIN / ECN-EF / 2006 of May 20, 2006 on the list of protected animal species in the DRC provide a basis for the implementation of CITES in the country
- Ministerial Order No. CAB/MIN/AFF.ENV.DT/124/SS/2001 of March 16, 2001, establishing the harvesting periods for grey parrots in the Democratic Republic of Congo³³.
- Order No. 14/CAB/MIN/ENV/2004 of April 29, 2004, on the implementation of Law No. 82-002 of May 28, 1982, on hunting regulations.
- Ministerial Order No. 020/CAB/MIN/ECN-EF/2006 of May 20, 2006, approving the list of protected animal species in the Democratic Republic of Congo.
- Ministerial Order No. 102 / CAB / MIN / ECN-T / 15 / JEB / 09 of June 16, 2009, sets out the rules and formalities for the application of forestry regulations, and its Article 4 - specifically on wildlife control outside protected areas by the MEDD.
- Law No. 14/003 of February 11, 2014, on nature conservation is one of the most important legislative documents in the DRC. The law is very explicit and clearly prohibits the hunting, possession, purchase, sale, transport and display of fully protected species and their products and by-products in

In addition, there are legislative provisions in the DRC that are being applied or have the potential to be applied in support of enacted legislation

- The Military Penal Code can be applied in cases of poaching with military

public places. The law also clearly assigns responsibility for protected areas to ICCN and other areas to MEDD. The law also clearly assigns to ICCN the role of the country's CITES Management Authority responsible for enforcement and management of seized wildlife specimens, including elephant ivory. If properly enforced, this law has the potential to have the strongest deterrent effect of any wildlife law in the entire Central African region. Article 79 for example of the law imposes prison sentences of five to ten years and fines of twenty to one hundred million Congolese francs (~US\$100,000) for certain wildlife crimes (TRAFFIC 2017). By the UN definition, Law No. 14/003 clearly recognizes wildlife crime as a serious crime in the DRC.

- Ministerial Order No. 021 / CAB / MIN / EDD / AAN / WF / 05/2017 of August 31, 2017, transferring the responsibility of the CITES Management Authority from the MEDD to the ICCN, the Institut Congolais pour le Conservation de la Nature became the CITES DRC Management Authority. It should be recalled that until that date, ICCN was the scientific authority for CITES DRC in accordance with Article 8 of Order n°056 CAB/MIN/AFF- ECNT/F/01/00 of March 28, 2000. As such, ICCN is responsible for the day-to-day management of CITES in the DRC, including the issuance of permits and certificates on behalf of the DRC in accordance with the provisions of Articles III to VI of CITES³³.
- The ordinance n°20/017 of March 27, 2020, fixing the attributions of the Ministries; the conservation of the nature is entrusted to the Ministry of the Environment and Sustainable ³⁴Development.

to combat wildlife crime and contribute to sustainable biodiversity management, including:

weapons or, in the case of aggravated poaching, cases of terrorism, war, wildlife

³³ Traffic report: DRC elephant ivory stocks what management system to put in place, May 2020. Traffic, page 55

³⁴ Ordinance n°20/017 of March 27, 2020, fixing the attributions of the Ministries

trafficking and even civil disputes. The Code imposes penalties of up to 20 years' imprisonment and even the death penalty for the most serious cases (Article 169 of Law No. 024/2002 of November 18, 2002).

- The Congolese Penal Code also criminalizes various forms of corruption by

The Congolese Criminal Code and Law No. 04/016 of July 19, 2004, on money laundering and the financing of terrorism allow for a formal request for mutual legal assistance and/or extradition of a person for the purpose of criminal prosecution to another country. It

3.4.3. Civil society engagement

Civil society organizations (CSOs) play a key role in the sustainable management of natural resources in DRC. In fact, a significant amount of project success in the country can be directly linked to their involvement and/or support. NGOs are the main initiators, implementers, and funders of many projects in DRC. In situations where government agencies do not have the capacity to work with international donors,

3.4.3.1. Forces

NGOs in the DRC catalyse the promotion and financing of sustainable forest management and nature conservation. For example, according to the Institut Congolais pour la Conservation de la Nature (ICCN), NGOs (via donors) provide about 90% of the funding for targeted PA management, while the DRC government provides only 2-5%. There is strong representation of various international NGOs in DRC (at least nine to ten key players in environmental management).

3.4.3.2 Weaknesses

NGO projects are 100% dependent on donor funding which is a problem for the sustainability of project results. Once a project is completed,

public officials, including abuse of power. The latter offense can be punished by imprisonment for up to 15 years.

- Law No. 04/016 of July 19, 2004, on money laundering and the financing of terrorism can potentially be applied to strengthen wildlife crime cases.

should be noted that the DRC has signed several extradition treaties, notably with *Portugal, Spain, France, Great Britain, Austria, the Netherlands, Greece, Italy, Switzerland, Mexico, India*, etc.

NGOs play an intermediary role, channelling donor support to government agencies (e.g., ICCN) and ensuring accountability to donors for funds received. NGOs are currently the best sources of information, have a good sense of who can and cannot be trusted, and are best placed to provide follow-up (such as on-the-job mentoring), post-training, and capacity building sessions.

NGOs enjoy a high level of trust from the U.S. government and other international government agencies in the DRC. They have credibility and an advanced financial management system.

Finally, NGOs can advocate for greater transparency of government agencies and can work to hold governments accountable for the enforcement of wildlife and other laws.

most often nothing is done afterwards due to a lack of ownership of actions and resources.

Current capacity-building projects for NGOs, international organizations (IOs), and government agencies in the DRC lack institutionalization and again do not support sustainability.

There is often rivalry and even bipolarization among NGOs for donor funding and sometimes duplication of efforts due to lack of information sharing.

The problem of taking into account the gender dimension and the Cancun safeguards in the implementation of REDD+ in the DRC

4.1 Background and brief overview of REDD+ implementation in DRC

Since January 2009, the DRC has been involved in the preparation process for the future international REDD+ financial mechanism with the support of the United Nations (UN-REDD Program) and the World Bank (FCPF). It was the first Central African country to obtain, in March 2010, the validation of its REDD+ Readiness Plan (R-PP), which was internationally acclaimed for its participatory nature and its high level of ambition. This R-PP set the objective for the country to enter the investment phase by early 2013. Thanks to this ambitious R-PP and a particularly dynamic preparation process, the DRC has positioned itself as a major REDD+ player at the international level. As a result, the DRC was selected as one of the eight pilot countries for the Forest Investment Program (FIP) and was the first to have its investment plan validated in June 2011, securing \$60 million to launch the implementation of REDD+ in the country³⁵.

Based on seven (7) pillars, the REDD strategy has been operationalized in a REDD+ Investment Plan that sets the programmatic framework. The said Investment Plan was first validated in September 2013 and then updated in 2015 covering the period 2016-2020. On April 22, 2016, the Government of the DRC signed a Letter of Intent (LOI) with the Central African Forest Initiative (CAFI) in which the latter committed to financing the REDD+ Investment Plan (2016-2020) for USD 200 million, in two tranches, including USD 190 million for the National REDD+ Fund (FONAREDD). A first tranche of 120 M USD and a second of 80 M USD subject to an independent verification of the achievement of intermediate milestones³⁶.

4.2 Legal and institutional aspects of REDD

4.2.1 On the political level

The Democratic Republic of Congo has ratified many of the treaties related to the environment and logging, with the aim of conserving nature and sustainable exploitation, however several stakeholders feel that the DRC does not have a good track record in abiding by these conventions and treaties to which it is signatory.

To be more specific, the DRC is a signatory to 28 international environmental conventions. The 28 conventions have been ratified and are now part of the DRC's internal legal framework, even if, for their implementation, they require other measures (particularly legislative, regulatory, or institutional) to be taken by the Congolese

³⁵ https://redd.unfccc.int/uploads/3262_1_strategie-cadre_nationale_redd_de_la_rdc_1-body_infography1.pdf

³⁶ Ministry of Environment, 2015. REDD+ Investment Plan (2015-2020)

state³⁷. Thanks to an ambitious REDD+ Readiness Plan (R-PP) and a particularly dynamic readiness process, the DRC has positioned itself as a major player in REDD+ at the international ³⁸level. Studies on the causes of deforestation in the DRC conducted under the national coordination of REDD+ in 2012 led to the identification of direct causes. The direct causes of deforestation are: slash and burn agriculture, artisanal wood

exploitation, wood energy and charcoal production and finally mining. And the underlying causes are: population growth, institutional aspects (political decisions, civil wars, bad governance), creation of infrastructures and urbanization and finally economic aspects (crisis, unemployment, poverty)³⁹.

4.2.2 On the national level

The DRC has an important regulatory framework for nature conservation and sustainable forest management.

Law n° 011/2002 of August 29, 2002, on the forestry code.

In this law establishing the forestry code, as in other countries, we find the major recent advances in contemporary forestry law. It aims to promote rational and sustainable management of forest resources, which is essentially based on three pillars: social, economic, and environmental.

Although not clearly addressing REDD+ and climate change, the forest code likely applies to REDD+ investments. However, it is still not clear

what type of forest concession (industrial, community, conservation) it refers to and hence the different obligations that may apply to a REDD+ investment. Depending on the type of concession, the rights of local and indigenous populations may be completely different. It was recommended during the interviews/interviews that the forest policy being developed take REDD+ into account as a strategic axis of the National Forest Policy.

Other legal texts governing the REDD+ process including sustainable forest management:

- Decree n°09/40 of November 26, 2009, on the creation, composition, and organization of the REDD+ process implementation structure⁴⁰. This decree establishes the following institutions:

A national REDD committee, a guidance and decision-making body, involving all stakeholders, including civil society and representatives of indigenous and local communities;

An interdepartmental committee, a planning and coordination body for cross-cutting issues;

A national REDD coordination in charge of coordinating day-to-day activities, including the implementation of the UN-REDD and FCPF programs;

-A scientific committee, made up of both national and foreign experts, which the Minister in charge of the environment can call

³⁷ Contexte de la REDD+ en République -causes-agents et institutions, Occasional Paper CIFOR and CODELT,2013

³⁸ REDD+ Investment Plan, Ministry of Environment and Sustainable Development, November 2015

³⁹ https://cd.chm-cbd.net/implementation/redd-en-republique-democratique-du-congo/etude-sur-la-redd-en-rdc/quantitative-study-causes-dd_field-data_gtcr_final.pdf

⁴⁰ Implementation Decree n°09/40 of November 26, 2009, on the creation, composition, and organization of the REDD+ process implementation structure

upon to provide scientific and technical advice on the REDD process.

- Law n°11/009 of July 9, 2011, on the fundamental principles of environmental protection⁴¹, this law provides in its articles 21, 22, 23 and 24 an obligation for any project leader to conduct an environmental and social impact assessment before the implementation of the project. The environmental and social management frameworks developed for the implementation of REDD projects can serve as an interim framework while waiting for the finalization of the development of the implementation measures of this law⁴².

4.2.3 Weaknesses of the legal framework

Although the existing legal context (law, decree, order) is quite complete, it addresses all the problems related to the sustainable management of natural resources and is fit for a sound management of these resources, there is no political will to ensure its effective application.

In addition to the aspects mentioned above, some stakeholders also added some important weaknesses of the REDD+ process, including

- The lack of a benchmark for carbon price, the initial REDD+ benchmark comparison mechanism. It was estimated that the DRC had 40 gigatons of carbon with an average price of 5 dollars per ton, however the price compensation mechanism is not yet set internationally
- The nationally determined contribution (NDC) was developed and submitted its first

4.3. REDD institutional framework

The Reducing Emissions from Deforestation and Forest Degradation (REDD+) mechanism was launched in the DRC in January 2009, with the

- The Ministerial Order No.004/CAB/MIN/ECN-T/012of 15
- The February regulation setting out the REDD+ project registration procedure outlines the requirements for obtaining registration and the obligations that project holders must fulfil to maintain national registration. It is important to note that this text only covers REDD+ projects and not activities.
- Law No. 14/003 of February 11, 2014, on nature conservation sets the frameworks, already several investors want to engage in conservation (Terra Congo) in Mai-Ndombe in the sale of carbon credits.

report before COP 21 but there is an opening in terms of the National REDD Fund. However, there is a problem with finalizing tools such as benefit-sharing mechanisms, the complaints management mechanism, and the REDD+ project registration platform (National Registry of REDD projects in DRC).

It should also be noted that according to some interviewees, NC REDD was budgetary in the sense that it used up all the budget before finalizing the tools. For example, the pilot mechanism with the Mai-Ndombe ERPD, which would have developed tools at the local level and extrapolated them to the national level, was not able to do so due to a lack of budget. These tools are in the drawers. The same is true of its benefit-sharing plan, which does not meet with the approval of all stakeholders.

first joint mission of the United Nations REDD+ Organization (UN-REDD) and the World Bank's Forest Carbon Partnership Facility (FCPF) in

⁴¹ Law n°11/009 of July 9, 2011 on the fundamental principles of environmental protection

⁴² Strategic environmental and social assessment of the REDD+ process, Ministry of Environment and Nature Conservation

Kinshasa⁴³. This REDD+ process is under the leadership of the Ministry of Environment and Sustainable Development through the Directorate of Sustainable Development in accordance with its attributions. In 2009, the Prime Minister created *the National Coordination-REDD*, under the supervision of the Ministry of Environment and Sustainable Development through the Directorate of Sustainable Development and plays an important role in driving the REDD+ process⁴⁴⁴⁵.

National REDD+ Fund

The National REDD Fund has been designed as a tool for cross-sectoral coordination, mobilization of funding and monitoring of fiduciary implementation of projects related to Reducing Emissions from Deforestation and Forest Degradation (REDD+) and climate change mitigation.⁴⁶ The fund will facilitate the strategic use of contributions through enhanced coordination, increased national ownership, and efficient allocation focused on delivering results while respecting social and environmental⁴⁷⁴⁸ safeguards.

Two basic texts describe FONAREDD's objectives: the National REDD+ Strategy (2012) and the REDD Investment Plan. The National Strategy aims to achieve a general objective of stabilizing deforestation by the year 2030. The Investment Plan, estimated at 1078 million dollars for the period 2016-2020⁴⁹, sets out operational ways to achieve this stabilization objective by identifying activities, sectoral projects, policies, and reforms to be implemented to address the various drivers of deforestation (support for the development of private and peasant agriculture in the savannah, fight against illegal logging, energy consumption less dependent on the forest ...). All these objectives are gathered in *the "Integrated REDD Projects (PIREDD)"*. The Investment Plan provides

For its implementation at the domestic level, several intergovernmental initiatives and technical and financial partners and donors have emerged in recent years to finance and develop REDD+ programs with a particular focus on the readiness and investment phase:

for a PIREDD for each new province of the Democratic Republic of Congo that has one.

The implementation of REDD+ involves several sectors. Since the drivers of deforestation cover a multitude of sectors, it is difficult for the DRC to set up a multi-actor and multi-sectoral governance framework so that REDD+ policies and measures are driven at the highest decision-making level and are effectively coordinated. The governance structure of the Fund, established by Prime Ministerial Decree, is ensured by three main bodies:

- The FONAREDD Steering Committee, chaired by the Ministry of Finance (as the National Coordination Entity), is the body that guides, decides and supervises the Fund's activities. It sets strategic directions, approves REDD+ program proposals and ensures the overall performance of the Fund. It is composed of six members of the Government at the ministerial level, and partners including CAFI, the UN system representative, civil society, and the private sector.
- The Technical Committee, led by the Ministry of the Environment, ensures

⁴³ Patrick Kipalu & Joëlle Mukungu (undated ???), Forest Peoples Programme - DRC

⁴⁴ The Political Economy of the REDD+ Process in the DRC, Judicaël Fétiveau and Augustin Mpyoi

⁴⁵ Decree n°09/40 of November 26, 2009 on the creation, composition and organization of the implementation structure of the REDD+ process

⁴⁶ <http://www.fonaredd-rdc.org/presentation-du-fonaredd/>

⁴⁷ National REDD Fund, Annual Report, Ministry of Finance, Technical Committee for Monitoring and Evaluation of Reforms 2018

⁴⁸ <http://www.fonaredd-rdc.org/presentation-du-fonaredd/>

⁴⁹ Id.

quality control and compliance with fixed REDD+ criteria. It evaluates all strategic orientations and REDD+ program proposals submitted to the Fund and proposes its recommendations to the Steering Committee.

- The Executive Secretariat is attached to the Technical Commission for Monitoring and Evaluation of Reforms of the Ministry of Finance. It is empowered to ensure the project ownership or the

direct management of the funds under project handed over to FONAREDD, in application of the procedures agreed with the donors and the Government and in accordance with the FONAREDD Operation Manual and all FONAREDD reference documents. It ensures the day-to-day coordination of the Fund's activities and monitors compliance with the rules and procedures set out in the Operations Manual.

4.4 Legal and institutional issues of REDD

At the political level

- *Conflict in the positioning of NC-REDD:* At the implementation level, some donors, considering that REDD+ is cross-cutting, believe that REDD+ should be housed at the Prime Minister's Office so that NC-REDD can involve all sectoral ministries, considering its position in the Government. For others, REDD+ should be housed in the Ministry of Finance. Unfortunately, the MEDD does not have the same view of things, the Ministry in charge is rather proud of its results and this lead is following the mandate given to it by the authority.
- *A process largely driven by international expertise,* this poses a serious problem for its appropriation at all levels, the national must be taken into account in decision-making.
- *Political control over the different phases of REDD+:* this leads to a lack of collaboration between the different structures involved in the implementation of the REDD+ process and consequently blocks the functioning of the National Coordination-REDD: REDD+ is piloted by the Ministry of Environment and Sustainable Development but the funds allocated for the implementation of the National REDD Strategy are managed by the Ministry of Finance For the proper implementation of the REDD+ process in the DRC, the Prime Minister must
 - organize a dialogue between the stakeholders in the process;
- *Finalize with the various sectoral policy development processes:* Considering the national REDD+ strategy, major sectoral reforms are crucial for the success of the process due to the cross-cutting nature of REDD+. Indeed, the following sectors will need special attention: i) sectors affecting land use, including land tenure, agriculture, land use planning, rural development, mining, and hydrocarbons; ii) sectors directly affecting the use of timber resources, including energy, economy, industry, etc.; iii) sectors affecting the use of forest resources, including forestry, agriculture, and forestry. All these sectoral reforms will have two objectives: i) to harmonise sectoral policy, legislative, regulatory, and institutional frameworks, so as to integrate the concerns of all sectors and to place the D.R. Congo's commitment to the climate at the centre of policies; ii) to put in place operational mechanisms for collaboration in order to deal with cross-cutting issues in an efficient manner.
- *The REDD+ process in DRC has escaped the administration* (Minister of Environment and Sustainable Development) which is the main beneficiary of the project and the non-

appropriation of the project by the nationals;

- *Low ownership of the REDD+ process at the national level* and more specifically within the Ministry of Environment and Sustainable Development;
- *The policy plays the games of the donors on the choice of project intervention area* to the benefit of their interest, it adheres to the vision of the donor and does not

influence in any way the financing of REDD+ at the country level;

- *Donors and financial and technical partners have the lead on the REDD+ process*, national actors are not involved in the different phases of the process (design and planning);
- *The PIREDD does not benefit the objectives of sustainable development*, the population does not see the impact on the ground.

On the legal front

- Its legal framework does not consider the gender dimension.
- REDD cannot bypass the Ministry of Environment given its place in forest management.
- Provide the National REDD Fund with an appropriate legal framework, as it

operates under the Technical Committee for Monitoring and Evaluation of Reforms (CTR);

- Reorganise the validation workshop for the REDD+ approval decree, taking into account the concerns of the various REDD+ actors for its effective implementation.

On the financial side

The REDD+ process in the DRC is more than 90% funded by technical and financial partners. With the support of the following donors and agencies: the United Nations agencies associated with the UN-REDD program (UNDP, FAO, UNEP), with the World Bank (FCPF, FIP) with the impetus of Norway and many technical and financial partners.

During the interviews, it was noted that REDD+ funding is more managed by donors who benefit at the expense of the country or nationals. For some resource persons, the Congolese government should not continue with such a process because it is a failure. This process costs many millions of dollars for the country, but the result is not known: the case of PIREDD.

4.5. Consideration of the gender dimension in REDD+ in DRC

The gender issue in natural resource management, particularly in REDD+, has made it possible to understand that socio-cultural inequalities, values, taboos, conceptions, interests, and social positions are all blocking

factors that prevent conservation and development from ⁵⁰being achieved.

In the context of REDD+, several gaps related to land tenure have been highlighted. First, the two

⁵⁰ National workshop on gender mainstreaming in forest governance, 2016 edition, MEDD, Kinshasa

texts creating REDD+ (*Decree No. 09/40 of 26/11/2009, establishing, composing and organizing the structure for the implementation of the REDD+ process and Ministerial Order No. 004/012 of February 15, 2012 setting the approval procedure for REDD+ projects*); then a large part of the studies and analyses conducted (Mpoyi, 2012a, 2012b and 2011; Globe, 2013; Bonkougou.E.G.⁵¹, 2013) to inform the ER-PIN, R-

PP, FPIC⁵², etc. have revealed that the country does not have specific provisions to ensure gender equality in the preparation and implementation of REDD+; and these tools have not made in-depth analyses on the consideration of gender in REDD+. However, it should be noted that the issue of gender in REDD+ has been raised in various strategic tools, namely

The final R-PP REDD+ Readiness Proposal calls for the integration of gender throughout the REDD+ readiness process and mentions a Gender Thematic Coordination Group (GCT) to address women's participation in the REDD+ process. The Gender TAG was charged with ensuring that gender dimensions were integrated throughout the REDD+ readiness process, including in community-based forest management and the distribution of carbon benefits (MECNT, 2010). The TAG could have been responsible for gender mainstreaming throughout the REDD+ mechanism, but due to lack of resources the group was disbanded.

The National Framework Strategy is the basic document for awareness and discussion aimed at concretely launching the investment phase of REDD+. It was developed based on discussions in 30 Thematic Coordination Groups, including the gender group for REDD+, coordinated by CNREDD during the REDD+ readiness phase. The Framework Strategy emphasizes taking into account gender inequalities, particularly in access to education and decision-making, due to cultural and socio-economic barriers. This is justified by the fact that forests are an

essential resource for the survival of millions of Congolese, a large proportion of whom are women, and by the important role of women in the economy. It formulates various proposals for taking gender into account in REDD+, including taking the gender approach into account in the definition of the national wood-energy strategy and the development of alternative energies; the development of a national population control program; and the development of indicators for monitoring the implementation of REDD+⁵⁴⁵³;

In the REDD+ Communication Plan, gender appears in the matrix "Identification and analysis of behavioural problems", in a section entitled "Women and forests". Women's excessive workload related to field work and firewood collection, their lack of autonomy, their low influence in decision making, their lack of access to land ownership, are cited in this section (MECNT, 2013b);

The ERPD is the design document for the Mai-Ndombe abatement program. According to this document, one of the objectives of the program is to

⁵¹ Bonkougou, E.G. (2013). Analysis of the forest governance framework in the Democratic Republic of Congo in the context of REDD+: Baseline diagnosis and intervention proposals.

⁵² Mpoyi, A.M. (2011). Study on the legal framework for REDD+. Globe International, Globe Legislators' Forest Initiative (GLFI) Program Study Report.

Mpoyi, A.M. (2012a). The importance of a legal framework for REDD+: benchmarks for legislative reform. Globe International Study Report, Globe Legislators' Forest Initiative (GLFI) Program.

Mpoyi, A.M. (2012b). The legal framework for forest management in the DRC. State of play: summary and

perspectives. Paper presented at the national workshop on forest governance in the DRC, 6-7 November 2012, Kinshasa.

⁵³ Jagger, P., Lawlor, K., Brockhaus, M., Gebara, M. F., Sonwa, D. J., & Resosudarmo, I. A. P. (2013). REDD+ safeguards in national policy discourses and pilot projects. *REDD Analysis*, 355.

strengthen and enforce legal and customary rights to lands, territories and resources. Another objective is to strengthen the level and quality of participation of communities and indigenous peoples (by gender) in decision-making and monitoring processes. To achieve the objectives, the program will put in place enabling pillars, one of which is the initiation of family planning, which plans to reach 20% of women of childbearing age (sensitization of men and women, provision of contraceptives, monitoring and evaluation);

Finally, the final report of the Participatory Self-Assessment of REDD+ readiness in the DRC highlights the lack of consideration of gender in the development of the national REDD+ strategy, i.e., in the 7 pillars - Agriculture, Energy, Forestry and Governance. It also highlights the low inclusion of women and the need to improve their participation as well as that of youth, local communities and Indigenous Peoples in the REDD+ process.

However, the study found that several advances have been made in integrating gender into the REDD+ process, including

- A roadmap produced by the NC-REDD on gender mainstreaming.
- Gender has been taken into account in the revision of the REDD+ approval order and its annexes, which is currently being validated.
- The note of the Minister of the Environment on taking into account the gender dimension in REDD+ and community⁵⁴forestry;
- The signature of the decree on the creation, functioning and organization of the Gender and Environment⁵⁵Working Group;

4.5.1. Under-representation of women in REDD+ governance structures

Interviews with experts from the National REDD+ Coordination and environmental civil society showed that women are underrepresented in REDD+ governance structures, both at the national and provincial levels.

For example, of the 283 experts and non-experts consulted during the REDD+ readiness process, only 46 were women. In addition, representatives of the main women's groups, the MEDD gender focal point, and gender

experts consulted for this study stated that they had not been involved in the REDD+ readiness phase, particularly with regard to the development of the Decree, the Order, FPIC, and the standards. This shows the lack of understanding of gender mainstreaming and the equitable participation of men and women in REDD+ decision-making processes. This highlights the need to have quotas of women/organizations present in national REDD+ governance structures

Table 1 List of Experts consulted by NC REDD

⁵⁴ Circular note N°006/CAB/MIN/ECN_DD/05/00/RBM/2016 of July 20 on taking into account the gender concept in community forestry.

⁵⁵ Ministerial Order n°059/CAB/MIN/EDD/AAN/TNT/02/2018 of July 31, 2018, on the creation, organization and functioning of the Gender and Environment Working Group

Structure	Nombre de personnes		Personnes présentes	
	Invitées	Présentes	Hommes	Femmes
Comité National REDD+	14	12	12	-
Ministères différents	45	17	16	1
Porteurs de projets REDD+	33	18	13	5
Partenaires techniques et financiers	62	17	13	4
Comité Technique de suivi de Réformes (CTR)	30	25	21	4
Société civile	33	22	19	3
REPALÉF	40	32	26	6
Parties prenantes de la Province de Bandundu	30	28	22	6
Atelier national de validation	80	102	88	14
Personnes ressources	24	10	7	3
Total	391	283	237	46

Source: *Final report of the Participatory Self-Assessment of REDD+ Readiness in DRC (March 2015)*.

4.5.2. Participation, consultation and decision-making

The group discussions highlighted a lack of consultation and involvement of women in decision-making processes. According to one group of women consulted, this was due to the fact that there were criteria for participation in meetings or working groups on the REDD+ process or activities. In fact, men were sufficiently informed, whereas among women, the notion of gender was not well understood and sometimes they are not sufficiently informed, or men refuse them access to meetings. We can assume a causal link between the absence of a women's platform and the low level of consultation of women.

Such exchanges could become "ideal" frameworks that would allow women to fully express themselves, share their concerns and bring information up to the decision-making level. At the national level, the process of gender mainstreaming is slow, but the frameworks of dialogue (civil society) are beginning to recognize the importance of women's role in decision-making processes and their participation and consultation, and NGOs in the field are encouraging more equitable participation of men and women.

4.5.3 Customary constraints

Customary constraints remain an obstacle to women's involvement in decision-making bodies on natural resource⁵⁶ management, including REDD+. It will take time and numerous awareness-raising efforts to establish the necessary dialogue in a sustainable manner and to promote the necessary

sustainable, equitable and inclusive development. It will take time and many efforts to raise awareness about the importance of women's participation in areas where their marginalization is strongly rooted in custom⁵⁷.

4.5.4. Lack of inter-institutional synergy and common methodologies

It has been pointed out by some experts involved in the process for several years that the integration of gender in REDD+ is not done in a

harmonized way in the institutions. Each structure does it in its own way and the results are not shared with the public.

4.5.5. Gender considerations disappear during project planning and implementation

This is partly due to the lack of mandates, but also due to the lack of understanding and capacity to integrate gender in a strategic and

practical sense. Implementing partners are often not trained in these aspects.

The Cancun safeguards

⁵⁶ National workshop on gender mainstreaming in forest governance, 2018 edition, May 10, 2018, MEDD, Kinshasa

⁵⁷ Id.

4.6.1 Introduction and specification

The concept of applying social and environmental safeguards to mitigation actions under the UNFCCC is most striking in the discussions and decisions on REDD+. In Cancun (COP 16, 2010), Parties agreed that a set of such safeguards would be promoted and supported when REDD+ activities are undertaken.⁵⁸ In Durban the following year, the Conference of the Parties (COP) agreed that developing country Parties should provide a summary of information on how they address and respect safeguards throughout the implementation of

- Comply with the standards of democratic governance enshrined in national laws and regulations and international agreements ratified by the Democratic Republic of Congo, particularly those related to human rights, preservation of local knowledge, transparent management of the REDD+ process and effective participation of stakeholders in this process, in particular local communities, and indigenous peoples.
- To contribute to a sustainable development policy in accordance with national development strategies, national forestry programs and commitments under international conventions and agreements.

These provisions should be complemented by the ministerial order of February 15, 2012, setting the approval procedure for REDD+ projects in the DRC. To simplify this report and avoid repetition, information related to democratic governance standards as well as those related to

REDD+ activities, and periodically include this summary in their national communications and other channels agreed by the COP⁵⁹. The Convention makes several references to the protection of social and environmental concerns when taking mitigation actions. These provisions have a broad scope, covering all sectors, including land use and forestry⁶⁰. Thus, in the context of the safeguards, the DRC had made the following commitments as a REDD+ project leader, the DRC has solemnly committed to:

- Protect natural forest from degradation and/or conversion to other land uses including forest plantations.
- Maintain and enhance the multiple functions of the forest such as the preservation of biodiversity and ecosystem services by taking concrete actions that enhance social and environmental benefits.
- Minimize adverse impacts on non-forest ecosystem services and biodiversity by taking concrete actions that are consistent with the preservation of biological diversity and that aim to reduce emissions displacement.

sustainable development policy in general, including the promotion of laws related to nature conservation and sustainable forest management, has been presented in the previous sections.

4.6.2 Taking into account the Cancun Safeguards

⁵⁸ Decision 1/CP.16, Appendix I, paragraph 2

⁵⁹ Decision 12/CP.17, paragraphs 3 and 4.

⁶⁰ Iversen P., Lee D., and Rocha M., (2014) Understanding land use in the UNFCCC.

Although most interviewees were more superficial about what exactly was done at the national level, the evaluation team found the

- Despite a robust legal framework supporting nature conservation and sustainable forest management, very few dedicated legal texts have been promulgated since this commitment was made. The few texts that have

To this list, we can add the law on local community forests enacted in 2014. As we have pointed out in the previous paragraphs, some texts have not yet been implemented. This is the case for the framework law on nature conservation and the law on fundamental principles on the environment.

On the institutions and institutional mechanisms applicable to the national safeguards framework:

As highlighted in the previous paragraphs (point 4.3 and 4.4), the REDD+ process is overseen by the Ministry of Environment and Sustainable Development (MEDD) through the National REDD+ Coordination (CN REDD). The team also noted strong participation by numerous

- The Participation, Transparency and Risk Management Matrix exists, but it has never been made aware of and popularized so that each stakeholder can rely on its guidelines to carry out monitoring and evaluation work in the implementation of projects and programs.
- The absence of a national REDD+ registry and an operational safeguards information system is a huge block in the work of verifying and evaluating the

following in the consideration of the Cancun safeguards at the national level:

been promulgated are listed below, namely: Ministerial Order No. 004/CAB/MIN/ECN-T/012 of February 15, 2012, setting the approval procedure for REDD+ projects and Law No. 14/003 of February 11, 2014, on nature conservation.

technical and financial partners, including civil society and United Nations organizations (UNDP). However, the team did not identify the existence of a system in place that would show who, within the government, ministries, or agencies, and among non-state actors, is responsible for the application of safeguards (that recognises, protects, and promotes the applicable legal framework). It was pointed out that the responsibility lies with the national REDD+ coordination, but that it has no means of functioning because all funding is managed by FONAREDD.

In parallel to these observations, the environmental civil society of the DRC, grouped within the Civil Society Working Group on Climate and REDD (GTCR) recently made the following observations on the consideration of safeguards⁶¹:

implementation of SESA in all programs and projects.

- Field experiences clearly show that SESAs are not implemented and respected in the different REDD+ activities/actions at national, provincial, and local levels.
- Despite the consideration of CANCUN safeguards in the various national documents committing to REDD+ in the DRC, there is still a large gap

⁶¹ <https://www.gtcr-rdc.org/le-respect-des-sauvegardes-de-cancun-gtcr-reformule-les-recommandations-a-lintention-des-les-programmes-cafi-en-rdc/> accessed June 2021

for their effective implementation in REDD+ projects and programs.

- The existence of certain tools that could facilitate the monitoring and evaluation of these safeguards; their feasibility is not really integrated into the various REDD+ programs and projects.

The team finds these findings to be well founded as part of the reporting requirements of the Cancun National Safeguards Summary.

However, it should also be noted that the DRC has developed and approved National REDD+

- Principle 1: REDD+ activities should protect natural forests, enhance environmental services, and strengthen biodiversity conservation.
- Principle 2: REDD+ activities must promote transparency and good governance.
- Principle 3: REDD+ activities minimize loss and damage, provide for redress, and establish mechanisms for fair and equitable redress of any loss and/or damage suffered by communities and other stakeholders
- Principle 4: Economic and social benefits generated by REDD+ activities

With its 22 criteria and at least 57 indicators and means of verification, these national standards are expected to contribute to the preservation of DRC's forest resources and contribute to local development. For example, indicators C4 a and b state that (a) conservation and management actions of local communities and indigenous peoples are identified prior to the implementation of REDD+ activities; and (b) local good forest resource management practices are encouraged/supported.

- Although the consideration of the Cancun safeguard in the investment program and REDD+ has been effective in building our national REDD framework strategy, there are also issues that remain unresolved.

Standards (Annex 3) based on 7 principles, each of which is an expression of the commitments made by the DRC. These principles are as follows:

are shared equitably and proportionately by interested stakeholders

- Principle 5: REDD+ activities promote the emergence of new economic opportunities to contribute to the sustainable development of local communities and indigenous peoples
- Principle 6: REDD+ activities must ensure the effective and efficient participation of all stakeholders, including local and indigenous communities in their local specificities
- Principle 7: REDD+ activities must respect the human rights, labour rights, and land and natural resource rights of affected riparian communities

However, some experts contacted for this study questioned the status of certain tools developed under these national standards. This is the case for the *National Guidelines Framework on Free, Prior and Informed Consent (FPIC) in the context of REDD*: developed in 2015 but not approved until now. Similarly, as pointed out by the civil society statement above, some thought there would be opportunities with the National REDD Fund but noted that there would be a problem in finalizing tools such as the benefit-sharing mechanism, the

complaints management mechanism, and the REDD+ project registration platform (National Registry of REDD projects in DRC).

It should be noted that these test tools exist at the local level (PIRED Mai Ndombe) but should be scaled up to the national level.

4.6.3 Other progress made by the DRC in the context of safeguards.

- Land use planning

After independence, the reflection on the long term and on the territory was practically non-existent with the migration of the attributions and the administration of the territory planning which knew an unstable structural course and were the object of shuttles between several ministries without however forgetting the lack of qualification and motivation for the personnel of these institutions aggravated by the absence of a legal, regulatory and institutional framework of appropriate dialogue. Its legal framework is mainly constituted by the decree of June 20, 1957 and was the main source of law. This text organized land use planning on both urban and rural land. Its provisions applied to both forest and non-forest lands (Mpoyi et al., 2013).

There was no policy, law or even a consensual charter on land use planning. Sectoral legislation was developed mostly without cross-sectoral consultation, inconsistent with various sectoral ministries that were given jurisdiction over land use. The result was numerous conflicts in the use

of space and resources, for example between types of activities (mining, agriculture, forestry, etc.) and scales of activities (industrial or intensive exploitation versus artisanal or food production). These overlaps in the allocation of land use lead, in part, to the creation of a new system of land use.

Thus, since 2016, the Democratic Republic of Congo has launched the process of land use planning reform with funding from the FONAREDD and the CAFI fund to provide the DRC with the various tools of land use planning, namely: National Land Use Planning Policy, the TA law, National Land Use Planning Schemes, and the Methodological Guide. At this stage (i) the policy has been approved by the Council of Ministers, (ii) the draft law on Land Use Planning has been approved by the Council of Ministers and sent to the National Assembly for adoption and promulgation by the Head of State. And the process is underway for the elaboration of the National Development Plan, the diagnostic report of which has been shared with the different actors for enrichment.

- Forestry sector

In a context marked by poverty and dependence on the forest for a major part of the Congolese population, it is becoming imperative and urgent for the DRC to develop a policy whose motivation is to strengthen the role of the forestry sector in poverty reduction while managing forest resources sustainably. The Ministry of the Environment launched the elaboration of the National Forestry Policy in March 2020, with the objective of providing the DRC with a National Forestry Policy by the end

of the year 2020. Although the work has been launched, the actual activities have not effectively evolved due to several challenges, including (i) the lack of consensus among the different stakeholders around the approach to develop the National Forestry Policy, and (ii) the lack of partners or donors to financially support the process including the different meetings, the participation fees of consultants and experts etc.

- Land sector

The DRC has been engaged in the land reform process since 2012. This process is currently supported by the Central African Forest Initiative (CAFI) through the National REDD+ Fund (FONAREDD) and executed by UN-Habitat/GLTN. The expected results of this reform include the development of the National Land Policy and a revised land law and its implementation measures. A consensual roadmap for the land reform was adopted and was later translated into a "Programming

Document", which is considered as an instrument for technical planning, implementation, monitoring and evaluation of the land ⁶²reform process.

Unfortunately, about 10 years later, the process of developing the Land Policy is still in the consultation phase with stakeholders in all 26 provinces.

- Forest landscape restoration

The DRC has committed to restoring 8 million hectares of degraded land under the Bonn Challenge Initiative, and has specified in its CPDN to plant about 3 million hectares of forest by 2025 as part of afforestation and reforestation programs ⁶³

The country is currently working on developing a map of degraded lands and identifying priority sites for forest landscape restoration, applying the Restoration Opportunity Assessment Methodology (ROAM).

- The government's commitment to reduce degradation and deforestation

In 2012, the DRC adopted a National REDD+ Strategy, which presents a vision of how a country can achieve its long-term development goals through a green economy. The strategy aims to stabilize forest cover on two-thirds of the national area until 2030 and to maintain it thereafter. ⁶⁴

The DRC considers the environment and the fight against climate change as one of the strategic areas of its national policy. In its Growth and Poverty Reduction Strategy Paper for the period 2011-2015, environmental

protection and the fight against climate change constitute one of the four pillars of development, the other three being: strengthening governance and peace; diversifying the economy and accelerating economic growth and the promotion of employment; improving access to basic social services and strengthening human capital. The DRC has submitted its Nationally Determined Contributions (NDCs) to the UNFCCC for mitigation, with specific emission reduction targets, including reducing deforestation, promoting reforestation and improving agricultural practices.

⁶² <https://www.forestpeoples.org/fr/legal-human-rights-rights-land-natural-resources/rapport/2017/rdc-reforme-land-and-protection>

⁶³ <https://www.forestcarbonpartnership.org/system/files/documents/DRC%202020pager%20on%20green%20development%20english.pdf>

⁶⁴ Op cit consulted on November 28, 2020

Relevant legislative responses and roadmap to reverse current trends

5.1 Legislative responses and relevant policy reforms

5.1.1. Forestry and nature conservation

As stated in the previous paragraphs (points I and II of this report), overall, the DRC has a solid legal basis for the sustainable management of

natural resources as well as in the fight against wildlife crime.

5.1.2. Constraints

Despite all these political, legal and strategic advances for nature conservation, although the nature conservation sector and sustainable forest management occupy a prominent place in the DRC's National Strategic Development Plan, it should be noted that the absence of a

clear national policy on biodiversity conservation does not allow for the effective implementation of related strategies⁶⁵. It has a negative impact on the application of legislation in this area and on the various indispensable supports that ICCN needs.

Institutional constraints

The lack of inter-institutional collaboration on the ground in the granting of titles for the exploitation of natural resources and the overlapping of competences does not facilitate the conservation of biodiversity⁶⁶. This situation also does not allow for solidarity between

institutions that can guarantee an environment conducive to the conservation of biodiversity. In addition, there are many violations of the law even by some state services (hence the absolute need to integrate other sectors - forestry, mining, military - in conservation).

Security constraints

Without the improvement of security conditions in and/or outside of PAs, the various conservation strategies will not be able to satisfactorily achieve their objectives, particularly in eastern DRC where security

conditions are increasingly precarious. Consequently, there is a risk of paralyzing the momentum of international solidarity in favor of nature conservation in DRC.⁶⁷

Legal constraints

⁶⁵ National Strategy on Biodiversity Conservation in Protected Areas, September 2012

⁶⁷ National Strategy on Biodiversity Conservation in Protected Areas, ICCN, September 2012

⁶⁶ Legal and institutional framework of the conservation sector and protected areas management in DRC, Codelt, October 2015

With regard to the legal and regulatory provisions, it is noted that they are deficient and that some of them pose problems of applicability. The law on nature conservation, for example, as a solution to the legislation of the

- The law has provided for implementing regulations that have not yet been adopted, although with the support of technical and financial partners, 6 implementing regulations have been developed and technically validated since 2019, pending political validation by the Council of Ministers and signature by the Prime Minister⁶⁸. This situation makes its application very

Political constraints

- the absence of a clear national policy on biodiversity conservation, which does not allow for the efficient implementation of related strategies. In principle, the policy precedes the law, because it constitutes the vision of the State in each sector, a vision that will be translated into law.

-The lack of a national policy negatively affects the implementation of legislation. In most cases, the country has good laws and regulations. However, the lack of political will means that the sector does not have the various essential supports it needs.

- the timid involvement of political-administrative, military, and customary authorities to counter all threats. This is reflected in weak inter-institutional collaboration and the absence of synergy in government action to ensure coordination of sectoral initiatives conducive to sound biodiversity conservation.

- the absence of substantial budgets to provide the structures in charge of conservation management with the means for

1969 ordinance, has enshrined several principles and innovations that can facilitate the sound management of the nature conservation sector and protected areas. However, the following observations are made:

difficult throughout the country and in protected ⁶⁹areas.

- The lack of knowledge of this law among the population (decision-makers, administrations, judicial bodies, civil society, and others)⁷⁰.
- The low level of popularization and awareness of this law.

implementation. The management of the sector is for the moment ensured in a context of extreme external financial dependence. The public funds, coming either from the annexed budget of the State, remain relatively marginal. But the recurrent needs, both in terms of investments and operations, are such that traditional project aid will remain the main source of funding for the sector for a long time to come.⁷¹

- the absence of an environmental education policy. The integrity of PAs and the basis of biodiversity conservation and their maintenance require that it be supported not only by a good surveillance strategy, but also by the exemplary punishment of harmful acts. However, the absence of a policy of continuous training of judicial actors on wildlife crime, particularly magistrates, eco-guards, OPJs with general jurisdiction, etc., is a serious constraint. It is necessary, as a priority, to focus efforts on this training to counter inappropriate threats, but which are effective and always potential,

⁶⁸ Roadmap for the process of developing implementing measures for Law No. 14/003 of February 11, 2014, on nature conservation, ICCN, June 2016

⁶⁹ National Strategy on Biodiversity Conservation in Protected Areas, ICCN, September 2012

⁷⁰ Mission report on the public consultation on the process of developing implementing measures for law n°14/003 of February 11, 2014, on nature conservation, Lubumbashi, ICCN, May 2018

⁷¹ Legal and institutional framework of the conservation sector and protected areas management in DRC, Codelt, October 2015

through the enlightened punishment of their perpetrators⁷².

5.2 Roadmap for improving forest governance

5.2.1. Introduction

As can be seen, the study covered many areas, some of which do not fit within the focus areas of the GLOBE country chapter. Thus, for the sake of simplicity, we have only considered in this roadmap those actions that can be carried out by GLOBE DRC or that it can influence.

⁷² Same as

Table 2 : Two-Year Roadmap

DOMAINS	TIMING	ACTIONS	ORGANIZATION	RESOURCES	ESTIMATED BUDGET (USD)
FORESTS AND CONSERVATION	1-24 m.	Advocate at the level of the Prime Minister to facilitate the political validation of six texts of application of law No. 14/003 of February 11, 2014, submitted by the MEDD to the Council of Ministers	National Assembly, CN-REDD, FONAREED, international and national NGOs, TFPs, civil society, indigenous peoples' organizations, private sector	UNEP, FONAREED, other TFPs, CAFI	50 000,00
		Encourage inter-institutional and inter-ministerial collaboration in the management of natural resources, including all departments involved	The PNC, ICCN, CCIV, provincial control offices, ANR, DGDA and CENAREF, MEDD, MIN Agri; Mines and Hydrocarbons, RIVA, Civil Society.	UNEP, FONAREED, Other PTFs, CAFI, USAID	300, 000
		Revision of the forestry code	National Assembly, CN-REDD, FONAREED, international and national NGOs, technical and financial partners, civil society, indigenous peoples' organizations	UNEP, FONAREED, other TFPs, CAFI	150 000,00
REDD +	1-24 months	Facilitate the integration of REDD+ into other sectoral laws and policies (land use planning, forestry and land tenure, agriculture)	National Assembly, CN-REDD, FONAREED, international and national NGOs, TFPs, Civil Society, Indigenous Peoples' Organization, Prime Minister's Office	UNEP, FONAREED, other TFPs, UNDP, CAFI	300 000,00
TAKING INTO ACCOUNT OF GENDER		Identify a Gender Focal Point at the level of the National Globe Chapter and/or the Environmental Commission of the National Assembly and Senate	National Assembly, Senate, Collectif 24	UNEP	0,00

		Develop a gender action plan and a roadmap of gender activities	National Assembly, Senate, Collectif 24	Ministry of Gender, Family and Children, PTF, FONAREDD	50 000, 00
		Providing the DRC with a legislative framework to criminalize gender-based violence	National Assembly, Senate, Collectif 24, Civil Society, Ministry of Gender	UNEP, PTF	200 000,00
		Conduct another study on the analysis of capacity building needs of conservation actors in the DRC, including in the provinces and ETDs	GLOBE, Collectif 24, UNEP	UNEP	200 000,00
CAPACITY BUILDING AND LOBBYING	0-6 months	Advocacy at the level of the Parliament and the Government of the DRC so that the MEDD and the ICCN are provided with substantial financial means for the conservation of nature in and ex situ	GLOBE, MEDD, ICCN, CN-REDD		23 000,00
		Advocacy at the level of the Parliament and the Presidency of the DRC for the adoption of the draft law and the promulgation of the law on the Territorial Development	GLOBE, Ministry of Territorial Development	PTF, FONAREDD, UNDP and other TFPs	36 000,00
		Creation of the Gender and Environment Thematic Group within the Environment and Natural Resources Commission	GLOBE, MEDD, ICCN, CN-REDD, National Assembly		75 000,00
		Organize capacity building sessions at the National Assembly on REDD+, nature conservation and gender, land use planning reform (issues, challenges, and perspectives)	GLOBE, MEDD, ICCN, CN-REDD, Ministry of Territorial Development		75 000,00
Total budget					1 109 000,00

Conclusion and general recommendations

The objectives of this study were to globally analyse the main legal and institutional issues, including those related to nature conservation and gender mainstreaming and the Cancun safeguards in the implementation of REDD+ in the DRC; to propose relevant legislative responses, as well as a roadmap of actions to be implemented to reverse the trend related to poor governance in the DRC; to identify the

current baseline on the use of environmental economic accounting data in the forest sector as a public policy tool.

It should therefore be recalled that the following main problems have been identified and detailed in this report

Main legal and institutional issues

Although the existing legal framework (laws, decrees, orders) is quite complete and deals with all the problems related to a rational physical and material protection and is fit for a sound management of these resources, there is no political will to guarantee its effective application.

At the legal and institutional level, the main problems identified include

- The outdated nature of the Forestry Code, which does not consider emerging issues such as climate change, REDD, payment for environmental services, etc., and therefore its revision is more than necessary
- The low level of coordination, or even the lack of it, between the various institutions in charge of forests is very low, if not non-existent: for example, the DGF and the DGRDA
- Conflicting roles between ICCN and the Internal Control and Audit Directorate (ICAD)
- Lack of political will within the forestry sector to prevail over other interests (e.g., mining or agro-industry);
- Lack of effective delegation of authority at the provincial and local levels, which undermines the decentralization process and local resource management efforts;
- The non-application of the principles of decentralization on forest management

Main issues related to nature conservation

There are several and diverse constraints related to nature conservation, including:

Institutional constraints: The lack of inter-institutional collaboration in the field and the overlapping of competences do not facilitate biodiversity conservation. This situation is reflected in the lack of solidarity between institutions that can guarantee an environment conducive to biodiversity conservation.

- Security constraints: Improving security conditions inside and/or outside of PAs is a necessary condition to guarantee the achievement of biodiversity conservation objectives. The persistence of insecurity could paralyze the momentum of international solidarity in favor of nature conservation in DRC.

- Legal constraints: the legal and regulatory provisions are incomplete; some of them pose problems of applicability. The laws exist but the enforcement measures are lacking. This is the case, for example, of the law on nature conservation, which was seen as a solution to

the legislation of the 1969 ordinance and which enshrined several principles and innovations that can facilitate the sound management of the nature conservation sector and protected areas.

- Economic constraints: The difficult economic situation that has persisted since the 1980s does not allow the Congolese government to assume its responsibilities in terms of nature conservation, nor does it allow ICCN to generate its own resources to accomplish its mission.

- Political constraints: the absence of a clear national policy on biodiversity conservation; the absence of a national policy has a negative impact on the application of legislation; the timid involvement of political-administrative, military, and customary authorities to counter all threats; the absence of substantial budgets to provide the structures in charge of conservation management with the means of implementation; the absence of an environmental education policy.

Main problems related to gender mainstreaming

Even though the legislative and policy framework pays special attention to reducing all forms of inequality between men and women, the applicability of all these provisions is still problematic. While some laws are far from being implemented in practice, other laws are still in conflict with the gender equality paradigm, such as Art. 444 of the revised family code. In addition, the DRC lacks a legislative framework to criminalize domestic violence, including marital rape, and to guarantee services to victims⁷³. The implementation of the different strategies at the level of the Ministry in charge

of gender issues has been difficult due to insufficient financial and technical resources, as well as insufficient communication and cooperation between the national and provincial levels. It is therefore often not possible to implement the action plans of all these strategies without the support of international donors. Thus, the impact of all these legislative measures and strategies developed is not felt or measured. For civil society, this is due to the simple fact that there is no serious political will

⁷³ United States Department of State, DRC 2017 Human Rights Report, pp. 39-40; Human Rights Committee, Concluding observations on the fourth periodic report of the DRC, UN doc. CCPR/C/COD/CO/4, 30 November 2017, paras. 17, 18.

Main recommendations

Based on the observations detailed below, we recommend to GLOBE DRC and to all Members of Parliament of the DRC the following

1. In the field of sustainable forest management

- To serve as a bridge between the international community and the Congolese population, by raising awareness of the threats to forest resources.
- Initiate and launch the capacity building program through short-term training of its member networks, particularly national deputies and senators on issues related to the environment and nature conservation, including REDD. This will allow them to have a basic knowledge that will enable them to legislate in their field of activity.
- Initiate and support the revision of the forestry code. This is more than necessary because this revision will not only allow to consider the different emerging themes such as climate change, REDD, transhumance, but also will position the DRC on the international scene in the field of sustainable forest management promotion.
- To serve as an important institutional anchor and thus federate all stakeholders working in the field of conservation and sustainable management of forests in the DRC including public institutions.

2. In the field of nature conservation

GLOBE as a network of parliamentarians was to assist the country in addressing the capacity constraints and gaps identified above:

- Take the lead in initiating a national law reinforcing or modifying Law 014 on nature conservation in the DRC around PAs); the main causes and routes used for wildlife trafficking. The same is true for collaboration between states in the pursuit of traffickers across national borders. GLOBE could use the network of parliamentarians to facilitate this process.
- Encourage inter-institutional and inter-ministerial collaboration in the management of natural resources, including all services involved in the application of the wildlife and plant law (PNC, ICCN, CCVI, provincial control offices, ANR, DGDA and CENAREF).
- Advocate at the National Assembly and Senate level to pass a law reducing the national demand for bushmeat and increase national awareness of the negative impact of wildlife crime on national biodiversity and the economy.
- Advocate at the level of the Prime Minister to facilitate the political validation of six texts of application of Law No. 14/003 of February 11, 2014, submitted either through the MEDD to the Council of Ministers and pursue signature, or through a meeting between the GLOBE national chapter with the Prime Minister's office to explain the importance of these texts in the DRC.
- Seize the opportunity offered by the obsolescence of the laws n ° 82/002 of May 28, 1982, bearing regulation of hunting, Ministerial Order n ° 014 / CAB / MIN / ENV / 2004 of April 29, 2004, bearing measures of application of the law on hunting mentioned, update this law based on new threats on protected areas.
- To lobby the Parliament and the Government of the DRC so that the MEDD and the ICCN are endowed with substantial financial means for the conservation of nature in and ex situ.

- Organize days of exchange and reflection around the issue of protected areas and the fight against wildlife crime.

3. In the area of gender mainstreaming

- Support the establishment of a Gender Focal Point at the level of the GLOBE National Chapter and/or the Environmental Committee of the National Assembly and Senate, which will not only be responsible for monitoring and alerting members to these issues but will also serve to ensure the reduction of all forms of inequality between men and women, and the applicability of all existing provisions at the country level in relation to this issue.
- Seize the opportunity to provide the DRC with a legislative framework to criminalize domestic violence, including marital rape, and guarantee services to victims. This action would help the Ministry of Justice, which is experiencing difficulties due to insufficient financial and technical resources, as well as communication and cooperation between the national and provincial levels. communication and cooperation between the national and provincial levels.

4. in the legal and institutional field

- Get involved in the adoption of various laws that are being drafted or transmitted to parliament by sensitizing parliamentarians on their needs for sustainable forest management and the implementation of REDD+.
- Initiate awareness and information sessions on the various reforms underway and REDD+ in DRC.
- Bring the Land Use Planning (LUP) process to the level of the National Assembly because LUP tools will strengthen REDD+ as one of the pillars of the National REDD Framework Strategy.
- Advocate for the functioning of NC-REDD at the international and national level by providing it with material, technical and financial means.
- Lobby for the finalization of the land reform to get REDD+ off the ground.

As readers can see, there are several capacity-building issues for stakeholders at all levels in DRC. However, the study did not address this aspect, so we suggest that the project management team conduct another study on the

analysis of the capacity building needs of the actors in the conservation and sustainable management of forests in the DRC, including the administration, parliament, the National Assembly, and civil society.

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Annexes

Appendix 1. Data Collection Tool

TOOL	DESCRIPTION
Legal Framework Assessment Questionnaire	<p>Questions for interviews with technical and financial partners, international NGOs etc.</p> <ol style="list-style-type: none"> 1. Contextual factors <ul style="list-style-type: none"> • What is the general context of REDD, forest management and nature conservation in DRC? • What are the political factors affecting the implementation of REDD+ in DRC? • Has the government taken any significant steps in the implementation of REDD in the last ten years? 2. Political trends : <ul style="list-style-type: none"> • What do you see as the main legal and institutional issues, including those related to nature conservation, that are encountered in the implementation of this process? • What do you think are the priority issues that need to be addressed to ensure the REDD+ process? Or support nature conservation in the DRC. • What are the concrete policy and/or legal (legislative) priorities to address the priority issues? • Do you have any ideas on environmental economic accounting in the forestry sector in the DRC?
Evaluation questionnaire taking into account gender aspects	<ol style="list-style-type: none"> 1. Gender roles and responsibilities <ul style="list-style-type: none"> • What are the roles and responsibilities of women and men, girls and boys in the REDD+ process? • Do gender roles cause or lead to gender inequalities in access to services? • Do gender roles influence the way decisions are made? 2. Access to and control of assets, resources and opportunities <ul style="list-style-type: none"> • Who has access and who controls the process, to what level? • Do men and women have the same access to information? 3. Decision-making and power relations <ul style="list-style-type: none"> • Which decisions are in women's control, and which are in men's control? At what level? • Are women actively participating in formal decision-making structures, including at the provincial (jurisdictional) or national level? 4. Participation and leadership <ul style="list-style-type: none"> • Are communication channels available and used by both women and men? • At the community level, what are the barriers to women's leadership?

Environmental Civil Society In- terview Guide	<ul style="list-style-type: none">• What is your overall assessment of the REDD+ process in DRC?• Are there any institutional or governance problems with REDD that you deplore? If so, which ones?• What are the priority issues that the government or parliament can address to improve sustainable forest management and nature conservation in DRC, and REDD+?• Are there any laws, decrees or strategies that the government needs to enact very quickly in the area of forestry, REDD or nature conservation?• What is your level of involvement in the REDD+ process or in the field of nature conservation or sustainable forest management in general in DRC?
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Annex 2. List of conventions signed by the DRC

N°	Name	Country or city and date of adoption	Date of signature and/or ratification	Focal point structure within the Department
1	Treaty banning nuclear tests in the atmosphere, outer space and water	Moscow (Russia) August 5, 1963	February 3, 1965	DEHPE
2	African Convention on the Conservation of Nature and Natural Resources	Algiers 15 September 1968	October 9, 1969	ICCN
3	Convention on the prohibition of the development, production and stockpiling of bacteriological and toxin weapons and on their destruction	Washington April 10, 1972	September 10, 1972	DEHPE
4	International Plant Protection Convention	Rome (Italy) December 6 1951	September 16, 1972	DEHPE
5	Convention on the Prevention of Marine Pollution by Dumping of Wastes	London (United Kingdom) 9 December 1972	September 16, 1975	DEHPE
6	Convention on the Prevention of Marine Pollution by Dumping of Wastes	London (United Kingdom) December 29, 1972	October 16, 1975	DEHPE
7	Convention for the Protection of the World Cultural and Natural Heritage	Paris (France) 23 November 1972	December 17, 1975	ICCN
8	Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)	Washington, D.C. (USA) March 3, 1973	October 18, 1976	ICCN
9	African Convention on the Conservation of Nature and Natural Resources	Algiers (Algeria) 15 September 1968	November 13, 1976	DCN
9	Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques	Geneva (Switzerland) 28 February 1978	February 28, 1978	DEHPE
10	Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency	Vienna (Austria) 26 September 1986	September 30, 1986	DEHPE
11	United Nations Convention on the Law of the Sea	Montego Bay (Jamaica) December 10, 1982	February 17, 1989	DRE

12	Convention on the Conservation of Migratory Species of Wild Animals	Bonn (Germany), 23 June 1979	September 01, 1990	ICCN
13	Convention for the Protection of the Ozone Layer	Vienna (Austria) 22 March 1985	September 15, 1990	DEHPE
14	International Tropical Timber Agreement (ITTA)/International Tropical Timber Organization (ITTO)	Geneva (Switzerland) 18 November 1992	November 20, 1992	DIAF
15	Convention on Wetlands of International Importance especially as Waterfowl Habitat or "Ramsar"	Ramsar (Iran) 2 February 1971	September 15, 1994	DRE
16	Basel Convention on the Transboundary Movement of Hazardous Wastes and their Management	Bamako, Mali, March 22, 1989	September 15, 1994	DEHPE
17	Montreal Protocol on Substances that Deplete the Ozone Layer	Montreal (Canada) 23 March 1985	September 15, 1994	DEHPE
18	Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal	Basel Switzerland) March 22, 1989	September 15, 1994	DEH
19	Convention on the Ban on the Import into Africa of Hazardous Wastes and on the Control of Transboundary Movement and Management of Hazardous Wastes within Africa	Bamako (Mali)	September 15, 1994	DEHPE
20	Convention on Biological Diversity (CBD)	Rio de Janeiro (Brazil) June 4, 1992	December 8, 1994	DDD
21	United Nations Framework Convention on Climate Change	Rio de Janeiro (Brazil) June 4, 1992	December 8, 1994	DDD
22	Convention on Persistent Organic Pollutants (POPs)/ Chemicals	Stockholm (Sweden), 23 March 2005	March 25, 2005	DEHPE
23	Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade	Rotterdam (Netherlands) 11 September 1998	March 25, 2005	DEHPE
24	Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer.	Washington, D.C. (USA) June 29, 1990	March 25, 2005	DEHPE
25	Strategic Approach to Integrated Chemicals Management (SAICM) including Polychlorinated Biphenyls (PCBs), Mercury and Lead.	Dubai (Dubai) Fe- bruary 2006	March 30, 2009	DEHPE

26	Phytosanitary Convention for Africa	Kinshasa, September 13 1967	September 13, 1975	DGF
27	Mechanisms for Forestry Programs	*	*	DGF
28	World Conservation Union (IUCN)	1992	2005	ICCN
29	African Eurasian Migratory Waterbird Agreement (AEWA)	*	*	ICCN
30	Conference on Central African Dense and Moist Forest Ecosystems	Brazzaville (Republic of Congo) 1996	2005	DIAF
31	Treaty establishing the Central African Forest Commission (COMIFAC)	Brazzaville (Republic of Congo), February 5, 2005	2009	National Coordination of the COMIFAC
32	Nile Basin Initiative (NBI)	Dar es Salaam (Tanzania) 1999	*	DRE
33	Convention on Combating Desertification and Drought (CCD)	September 12, 1997	*	DDD
34	Climate Change Protocol	Kyoto (Japan) February 16 2005	*	DDD
35	Global Environment Facility (GEF)	*	*	DDD
36	United Nations Environment Programme (UNEP)	*	*	DEHPE
37	Abidjan Convention	*	*	DEHPE
38	Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies	London (UK) Moscow (Russia) Washington (USA) May 4, 1967	*	*
39	Convention on Pollution Control and Biodiversity Protection of Lake Tanganyika	*	*	DEHPE
40	Chemical Information Exchange Network (CEIN)	*	*	DANTIC
41	Protocol on Biosafety	Cartagena (Tunisia)	*	DDD
42	Regional Environmental Information Management Program (PRGIE)	*	*	DANTIC

Source: PNFE II.

43	International Agency for the Development of Environmental Information (ADIE)	*	*	DANTIC
44	SADC Regional Environmental Education Program	*	*	DANTIC
45	International Committee of the Congo-Oubangui and Sangha Basin (CICOS)	*	*	DRE
46	Central African Protected Areas Network (RAPAC)	*	*	ICCN

Annex 3. National REDD+ standards in DRC

Criteria	Indicators	Auditors
Principle 1: REDD+ activities should protect natural forests, enhance environmental services, and strengthen biodiversity conservation.		
C1: Social and environmental impact assessments, including displacement and reversal risks, and site management plans are completed prior to implementation of REDD+ activities	<ul style="list-style-type: none"> - The reference area and potential leakage area of the program/project are clearly identified; - The resource inventory of the program/project area and the leakage area is undertaken, using a methodology defined in collaboration with all stakeholders; - Social and environmental impact assessments include the direct and indirect impacts of activities on environmental services and HCFs; - The social and environmental impact studies are done at the scale of the reference area and the potential for leakage; - Social and environmental impact studies make recommendations to avoid inversion emissions. 	<ul style="list-style-type: none"> - EIA reports from independent experts, technical reports from specialized services of the MEDD and AT& Decentralization, - Multi-stakeholder consultation reports on EIA findings, - Technical reports on REDD+ activity planning processes, - Local & Provincial Interactive TA Maps - Minutes of meetings of designated TA authorities, - Annual reports of the networks of civil society organizations involved in the process/program, - Guidebook on participatory environmental planning published by MEDD - Map of the project area
C2: REDD+ activities do not result in the conversion of natural forests to other uses	<ul style="list-style-type: none"> - Existing natural forest areas in the program and leakage area are protected; - A management plan specifying measures to be taken to reverse or mitigate threats to natural ecosystems in the program area and the escape area is published. 	<ul style="list-style-type: none"> - Annual operating reports of RACs, LDCs - Reports of the specialized services of the MEDD in charge of environmental management and protected areas, - Annual reports MEDD/ SNSF - Household survey reports from civil society organization networks in the environment & energy sector, - Collection of laws related to the sector
C3: REDD+ activities contribute to the maintenance of ecosystem services and forest biodiversity	<ul style="list-style-type: none"> - Biodiversity and ecosystem services impacted by the REDD+ activity are identified, prioritized, and mapped; - Stakeholders define the specific measures to preserve biodiversity and environmental services in a management plan. 	<ul style="list-style-type: none"> - Annual operating reports of RACs, LDCs - Reports of the specialized services of the MEDD in charge of environmental management and protected areas, - Annual reports MEDD/ SNSF - Household survey reports from civil society organization networks in the environment & energy sector - Collection of laws related to the sector
C4: REDD+ activities promote effective forest conservation activities	<ul style="list-style-type: none"> - The conservation and management actions of local communities and indigenous peoples are 	

sustainable forest management and reforestation	<p>identified before the implementation of REDD+ activities;</p> <ul style="list-style-type: none"> - Local good forest management practices are encouraged/supported; - Natural forest conservation, sustainable forest management and reforestation areas are increasing. 	
C5: REDD+ activities reduce the expansion of agriculture on the forest and stabilize the farms	<ul style="list-style-type: none"> - Agriculture in the forest is decreasing; - Savannah agriculture is increasing; - The length of time the plots are under cultivation is increased. 	<ul style="list-style-type: none"> - Annual reports MEDD/ SNSF - Household survey reports from civil society organization networks in the REDD+ environment sector - Reports of the specialized services of agriculture - Local Development Committee Reports & CARG of ETDs, - Reports of independent missions on REDD+ green development - Collection of laws related to the sector
Principle 2: REDD+ activities must promote transparency and good governance.		
C6: Implementation of REDD+ activities is in line with transparent management mechanisms/procedures (internal and external financial monitoring and verification of activities)	<ul style="list-style-type: none"> - Basic information about financial management systems for REDD+ activities is shared and accessible on the Ministry of Environment and Finance website. - Financial audit reports of REDD+ activities are published annually on the national registry 	<ul style="list-style-type: none"> - Reports of independent investigations, internal and external evaluations of REDD+ governance - Statutory reports of the specialized services of the MEDD -- Annual multi-stakeholder public & private sector self-assessment reports on REDD+ governance - MEDD internal and external auditors' reports on REDD+ activities, - Collections of case law from courts and tribunals - Casebook of mechanisms in place for the management of complaints and appeals - Annual reports of the "Agency of the Environment Authority -- Reports from independent governance satisfaction surveys across REDD+ programs (e.g., SIS) - Annual reports of the designated independent observer - Annual report of the designated complaint monitoring and appeal structure - Annual operating reports of CARGs, CLDs, other local mechanisms developed
C7: Implementation of REDD+ activities is consistent with the needs of national monitoring mechanisms	-Adequate information on REDD+ activities is made public	<ul style="list-style-type: none"> - Reports of independent investigations, internal and external evaluations of REDD+ governance

<p>guaranteeing the availability and circulation of relevant information to all interested stakeholders</p>	<ul style="list-style-type: none"> - The means of disseminating information are identified, prioritized, used, and evaluated regularly. - Rights holders and stakeholders are accountable for their obligations and provide all relevant information through their representatives. 	<ul style="list-style-type: none"> - Statutory reports of the specialized services of the MEDD - Annual multi-stakeholder public & private sector self-assessment reports on REDD+ governance - MEDD internal and external auditors' reports on REDD+ activities, - Collections of case law from courts and tribunals - Casebook of mechanisms in place for the management of complaints and appeals - Annual reports of the "Agency of the Environment Authority - Reports from independent governance satisfaction surveys across REDD+ programs (e.g., SIS) - Annual reports of the designated independent observer - Annual report of the designated complaint monitoring and appeal structure - Annual operating reports of CARGs, CLDs, other local mechanisms developed
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Principle 3: REDD+ activities minimize loss and damage, provide for redress, and establish mechanisms for fair and equitable redress of any loss and/or damage suffered by communities and other stakeholders

<p>C8: In case of complaints related to the implementation of REDD+ activities, stakeholders can refer to a prevention and redress mechanism for loss and/or damage</p>	<p>The REDD+ working documents describe how prevention and remediation will be addressed in the implementation of</p>	
<p>C9: Available channels and forums for redress are independent, effective and legally recognized</p>	<p>A law on the complaints and appeals process is published and its implementation monitored on the ground</p>	
<p>C10: Avenues and forums for redress are readily available to all stakeholders and are based on traditional and customary mechanisms</p>	<p>REDD+ activity holders collaborate with local, traditional and consensual mechanisms for conflict transformation, complaint management and recourse by favouring concerted responses.</p>	

Principle 4: Economic and social benefits generated by REDD+ activities are shared equitably and proportionately by interested stakeholders

<p>C11: REDD+ activities follow the REDD+ benefit sharing mechanism, which ensures equitable sharing of net benefits, including risks and costs</p>	<ul style="list-style-type: none"> - Clear laws, policies and guidelines regarding benefit sharing are issued by the Ministry of Environment, - Revenues generated are defined according to their nature prior to the implementation of the programs; 	<ul style="list-style-type: none"> - Reports of independent investigations, internal and external evaluations of REDD+ governance - Statutory reports of the specialized services of the MEDD - Annual multi-stakeholder public & private sector self-assessment reports on REDD+ governance
	<ul style="list-style-type: none"> - The benefits, costs and risks of activities are identified during program design and implementation for each relevant rights holder and stakeholder group. - Relevant rights holders and stakeholders participate in defining the distribution mechanism. - The relevant rights holders and stakeholders determine the form and way in which benefits will be distributed. 	<ul style="list-style-type: none"> - MEDD internal and external auditors' reports on REDD+ activities, - Collections of case law from courts and tribunals - Casebook of mechanisms in place for the management of complaints and appeals - Annual reports of the "Agency of the Environment Authority - Reports from independent governance satisfaction surveys across REDD+ programs (e.g., SIS) - Annual reports of the designated independent observer - Annual report of the designated complaint monitoring and appeal structure - Annual operating reports of CARGs, CLDs, other local mechanisms developed
<p>Principle 5: REDD+ activities promote the emergence of new economic opportunities to contribute to the sustainable development of local communities and indigenous peoples</p>		

<p>C12: REDD+ activities contribute to reducing the vulnerability of vulnerable and/or disadvantaged households and population groups</p>	<ul style="list-style-type: none"> - Vulnerable groups are identified prior to the start of activities. - Decisions on the management of REDD+ activities are made with the participation of all identified vulnerable groups. - Gender aspects are taken into account in the activities, and involve women in the decision-making and empowerment processes; youth are taken into consideration, especially in the areas of training and job creation. - Older people are identified, and their strategic needs and interests are taken into account by the various stakeholders. 	<ul style="list-style-type: none"> - Annual Human Development Reports of the DRC and UNDP - Annual reports of the specialized services of the Plan at the national and provincial levels - Annual monitoring review reports for harmonized non-carbon REDD+ indicators, - Periodic MISC reports in DRC - Annual review reports of provincial and national labor and welfare mutilitors - Periodic national reports from labor and civil society organizations of the Household Economic Needs Basket (HENB) surveys - Annual reports of the actors supporting the programs of vulnerable people and 3^{ème} age - Provincial and National Tax Services Audit Directories - Collection from REDD+ holders of annual certificates from tax services, - Annual reports of the structures/consultants designated for the independent observatory, monitoring of complaints and appeals. - MEDD National Registrar's Report
<p>C13: REDD+ activities contribute to the improvement</p>	<p>- The livelihoods of local communities and</p>	<p>-Annual Human Development Reports of the DRC and UNDP</p>

<p>long-term livelihoods and well-being of local communities and indigenous peoples</p>	<p>of Indigenous Peoples are defined before the launch of REDD+ activities.</p> <ul style="list-style-type: none"> - Basic infrastructure (schools, markets, feeder roads, drinking water, etc.) and the natural habitat are improved. - Access to savings and capital is improved. - Formal jobs, rural jobs and alternative income generating activities are generated/created. - Access to health and education is improved. 	<ul style="list-style-type: none"> - Annual reports of the specialized services of the Plan at the national and provincial levels - Annual review reports for monitoring harmonized non-carbon REDD+ indicators, - Periodic MISC reports in DRC - Annual review reports of provincial and national labor and welfare mutilitors - Periodic national reports from labor and civil society organizations of the Household Economic Needs Basket (HENB) surveys - Annual reports of the actors supporting the programs for vulnerable people and the elderly - Provincial and National Tax Services Audit Directories - Collection from REDD+ holders of annual certificates from tax services, - Annual reports of the structures/consultants designated for the independent observatory, monitoring of complaints and appeals - MEDD National Registrar's Report
<p>Principle 6: REDD+ activities must ensure the effective and efficient participation of all stakeholders, including local and indigenous communities in their local specificities</p>		
<p>C14: a participatory planning process is developed and respected for all forms of land use in the areas where REDD+ activities are implemented and throughout their duration.</p>	<ul style="list-style-type: none"> - Local and indigenous communities with legal and customary rights in the program area /and the potential leakage area are identified; - REDD+ activities ensure that local and indigenous communities are informed and consulted on the reference and escape zones. - The information and consultation procedures set out in the laws and other legal texts are taken into account by all stakeholders. - The evaluation of the implementation of laws and legal texts related to information and consultation (FPIC) is carried out at a frequency previously defined and agreed upon by the stakeholders 	<ul style="list-style-type: none"> - EIA reports from independent experts, - Technical reports of the specialized services of the MEDD and AT& Decentralization, - Multi-stakeholder consultation reports on EIA findings, - Technical reports on REDD+ activity planning processes, - Local & Provincial Interactive TA Maps - Minutes of meetings of designated TA authorities, - Annual reports of the networks of civil society organizations involved in the process/program, - Guidebook on participatory environmental planning published by MEDD
<p>C15: REDD+ activities are implemented in a way that ensures consultation, participation and</p>	<p>-Rights holders and duty bearers, as well as stakeholder groups,</p>	<p>-Reports of independent investigations, internal and external evaluations of</p>

<p>the ownership of all stakeholders, at the different levels of implementation</p>	<p>identify their mutual rights and interests.</p> <ul style="list-style-type: none"> - Mechanisms for informing and consulting affected local and indigenous communities are defined prior to the implementation of programs. 	<p>REDD+ governance</p> <ul style="list-style-type: none"> -Statutory reports of the specialized services of the MEDD -Annual multi-stakeholder public & private sector self-assessment reports on REDD+ governance -MEDD internal and external auditors' reports on REDD+ activities, <ul style="list-style-type: none"> - Collections of case law from courts and tribunals - Casebook of mechanisms in place for the management of complaints and appeals -Annual reports of the "Agency of the Environment Authority -Reports from independent governance satisfaction surveys across REDD+ programs (e.g, SIS) -Annual reports of the designated independent observer -Annual report of the designated complaint monitoring and appeal structure -Annual operating reports of CARGs, CLDs, other local mechanisms developed
<p>C16: REDD+ activities work to strengthen the cohesion and stability of riparian communities in their areas of implementation and/or influence, while respecting their cultural specificities</p>	<p>C16.a Internal decision-making mechanisms in local and indigenous communities are known and documented;</p> <p>C16.b The platforms operate in a manner that is agreed upon by all stakeholders in the project area, including local and indigenous communities</p> <p>C16.c The platforms are functional, sustainable and representative of all social categories</p>	<ul style="list-style-type: none"> - Description of internal decision-making mechanisms - Basic platform documents - Consultation report for the formation of the platforms - Other platform work support - Activity report of the platforms <p>Presence of all social categories in the platforms</p> <ul style="list-style-type: none"> - Activity report of the platforms - Consent form for platform membership

<p>C17: Implementation of REDD+ activities complies with national guidelines on Free, Prior and Informed Consent (FPIC) of affected local and indigenous communities</p>	<p>C17.a FPIC law is published and its application is integrated into all REDD+ activities</p> <p>C17.b Local and indigenous communities have given their free, prior and informed consent, in writing or by traditional methods, for the management plan, including the consideration of their concerns.</p>	<ul style="list-style-type: none"> - Mention of the FPIC methodological guide in working documents of the REDD+ activity - Paragraphs in the development plan on the taking, frequency and manner of the FPIC request - Minutes, briefing materials or other documentation of the communication session - Paragraph of the consent form - Written, photo or video consent documenting traditional community consent methods
<p>Principle 7: REDD+ activities must respect the human rights, labor rights, and land and natural resource rights of affected riparian communities</p>		
<p>C18: REDD+ activities are implemented in a manner that respects the customary and legal rights to lands and resources of local communities and indigenous peoples</p>	<p>C18.a The legal and customary rights of each local or indigenous community are identified, recorded, mapped and documented;</p> <p>C18.b The identification, census and mapping are not subject to any conflict between local and indigenous communities, nor between the manager and these communities;</p> <p>C18.c Local and indigenous communities acknowledge in writing or by traditional methods that their customary and legal rights are documented and respected by the manager.</p>	<ul style="list-style-type: none"> - Land management reports from independent experts - Technical reports of the specialized services of the MEDD, land affairs, AT& Decentralization - Multi-stakeholder consultation reports on land issues - Technical reports on REDD+ activity planning processes - Local & Provincial Interactive Maps of TA, Land Titles - Minutes of meetings of designated land management authorities, - Annual reports of the networks of civil society organizations involved in the process/program - Annual reports on the operation of the CARGs, CLDs and other local land management mechanisms developed - ETD Annual Reports
<p>C19: REDD+ activities do not lead to involuntary resettlement of local communities and</p>	<p>C19.a Involuntary relocation is one of the clauses of the</p>	<ul style="list-style-type: none"> - Annual Human Development Reports of the DRC and UNDP,

indigenous peoples	the social and environmental impact study	<ul style="list-style-type: none"> -Annual reports of the specialized services of the Plan at the national and provincial levels, Annual monitoring review reports for harmonized non-carbon REDD+ indicators, -Periodic MISC reports in DRC, -Annual review reports of the provincial and national labor and social welfare mutuals, -Periodic national reports from trade unions and civil society of the Household Economic Needs Basket (HENB) surveys, Annual reports of the actors supporting the programs of vulnerable people and 3^{ème} age. -Provincial and national tax audit directories, -Collection from REDD+ holders of annual certificates from tax services, -Annual reports of the structures/consultants designated for the independent observatory, monitoring of complaints and appeals, -MEDD National Registrar's Report,
C20: REDD+ activities are implemented with respect to workers' rights	C20.a REDD+ programs receive annual certificates of good fiscal behavior and compliance with labor laws (social and labor standards) in the DRC.	<ul style="list-style-type: none"> -Annual Human Development Reports of the DRC and UNDP, -Annual reports of the specialized services of the Plan at the national and provincial levels, Annual monitoring review reports for harmonized non-carbon REDD+ indicators, -Periodic MISC reports in DRC, -Annual review reports of the provincial and national labor and social welfare mutuals,

		<p>-Periodic national reports from trade unions and civil society of the Household Economic Needs Basket (HENB) surveys,</p> <p>Annual reports of the actors supporting the programs of vulnerable people and 3^{ème} age.</p> <p>-Provincial and national tax audit directories,</p> <p>-Collection from REDD+ holders of annual certificates from tax services,</p> <p>-Annual reports of the structures/consultants designated for the independent observatory, monitoring of complaints and appeals,</p> <p>-MEDD National Registrar's Report,</p>
<p>C21: REDD+ activities preserve and respect archaeological and cultural sites and the endogenous knowledge of local communities and indigenous peoples</p>	<p>C21.a Archaeological and cultural sites are listed prior to project registration;</p> <p>C21.b Traditional practices are listed prior to project registration:</p> <p>C21.c Monitoring and control of compliance with these sites is organized by the administration or specialized non-governmental organizations.</p>	<p>-Annual Human Development Reports of the DRC and UNDP,</p> <p>-Annual reports of the specialized services of the Plan at the national and provincial levels,</p> <p>Annual monitoring review reports for harmonized non-carbon REDD+ indicators,</p> <p>-Periodic MISC reports in DRC,</p> <p>-Annual review reports of the provincial and national labor and social welfare mutuals,</p> <p>-Periodic national reports from trade unions and civil society of the Household Economic Needs Basket (HENB) surveys,</p> <p>Annual reports of the actors supporting the programs of vulnerable people and 3^{ème} age.</p> <p>-Provincial and national tax audit directories,</p> <p>-Collection from REDD+ holders of annual certificates for services</p>

		<p>fiscal,</p> <ul style="list-style-type: none"> -Annual reports of the structures/consultants designated for the independent observatory, monitoring of complaints and appeals, -MEDD National Registrar's Report,
<p>C22: REDD+ activities lead to the securing of the land on which they are carried out</p>	<p>C22.a Land and customary administrations formally recognize the rights holders of the lands where REDD+ activities are carried out;</p> <p>C22.b The contract between rights holders and the program/project manager regarding REDD+ investments is formalized and registered in the land and customary administrations of the intervention area.</p>	<ul style="list-style-type: none"> - Land management reports from independent experts, -Technical reports of the specialized services of the MEDD, land affairs, AT& Decentralization, -Reports of multi-stakeholder consultations on land issues, -Technical reports on REDD+ activity planning processes, -Interactive local & provincial maps of TA, real estate title registries, -Minutes of meetings of designated land management authorities, -Annual reports of the networks of civil society organizations involved in the process/program, --Annual reports on the operation of the CARGs, CLDs and other local land management mechanisms, -ETD Annual Reports,



G L O B E

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