

CHAPTER 7: CONCLUSIONS & RECOMMENDATIONS

Main recommendations by Congolese civil society:

- There should be an analysis of what is happening in the field in DRC, (this has been taken on as a challenge by Congolese civil society itself and a report on logging titles in DRC has recently been published)
- Capacity strengthening for indigenous peoples and local communities should take place before the development of any project or forest rights allocation affecting an area
- Ensuring genuine consultation with indigenous peoples and forest communities before policies are made and implemented
- Preparation of local development plans, including the participation of all groups of local people, before the arrival of any forest exploitant.
- Demands for an environmental impact assessment should be met, which includes the option of refusing a project permission to go ahead, before the realisation of any development project that may affect the forest
- Strict control of any logging operations should be realised, particularly as concerns their social impacts and obligations and systematic and meaningful sanction of logging companies that do not respect the law or their obligations
- Legislation protecting the rights of indigenous peoples should be developed
- The area of forest assigned to industrial scale timber production should be reduced and that under community management increased

- Transparency on the part of donors, governments and forestry companies in all their operations should be increased

Main recommendations drawn from the text of the report:

Chapter 1: Towards better governance

None of the global or regional political process concerning forests are taking the radical approach required to tackle the problems presented by the industrial forest logging concessions system as it is being applied today. In fact, the regional processes with the greatest potential to have an impact, such as COMIFAC, appear to be rushing to cement in place the very system that has failed to deliver on so many stated policy objectives.

The most significant failure is that forest-dependent communities have been almost totally excluded from decision-making processes. This is more than ironic; as the international "policy dialogue" on forests has given greater recognition to the important role of multiple "stakeholders", so actual "rights-holders" in the Congo Basin region have mostly been completely ignored. This is a reflection of the fact that regional forest policy has been shaped by government agencies (which include some of those widely recognised as suffering from endemic corruption), the timber trade (widely recognised to be mired in illegal and unsustainable practices), international agencies such as the World Bank (largely supporting an out-dated "binary" model of forest management consisting of industrial timber exploitation and strictly protected areas) and international conservation organisations (who have a poor track record in recognising the needs of local communities).

In fact, the Congo Basin lags far behind other regions of the world regarding the distinct body of law affirming indigenous peoples' individual

and collective rights that has emerged and been consolidated in recent years. The African Commission on Human and Peoples' Rights, for example, has taken some important first steps with regard to indigenous peoples in Africa. Zoning, in the way it is currently implemented, is potentially creating future legal and social conflict by ignoring pre-existing forest use and management patterns that are far more complex and nuanced than "logging", "conservation" and "community use".

Mapping forest use-rights will take time, and rights will vary from area to area and from group to group. This work must be done however, to avoid further cases such as that successfully brought against the Nicaraguan government, which was found to have violated the rights of local people when it granted logging concessions to a foreign company without either consulting or obtaining consent from the communities concerned.⁴¹⁰

Recommendations

A thorough assessment needs to be undertaken of the compliance, or otherwise, of the forest policies and practices of the Congo Basin region with international and regional agreements concerning the protection of the environment and human rights/indigenous peoples' rights.

Those participating in and financing international processes relating to forests, including the international donor community, should acknowledge that the industrial forest logging concessions system has failed to deliver policy objectives in countries with poor governance. Support should be provided for alternatives to this model.

To prevent any increase in conflict resulting from forestry activities, future land use planning should include a painstaking process of mapping and understanding the forest use

rights of the communities that depend on the forest for their survival. These rights should be recognised within national legislative frameworks and respected.

Forest communities should be facilitated in negotiations concerning forest use with other interested parties.

Chapter 2: Conflict, post-conflict and forest exploitation

It is clear that the existing international forums in which forests are being discussed, and in particular those focusing on the trade aspects, have failed to take concerted, rapid and systematic action to stop "conflict timber" being traded internationally. The moratorium imposed on timber from Liberia is to be applauded. However, in spite of the obvious need, the necessary research has not been undertaken nor the systems put in place to replicate this effort in other areas. DRC is a case in point.

Accepted definitions for "conflict timber" are required. These should give consideration to the scale and nature of the conflict, to address:

- "Chronic" conflict situations such as those where forest use rights and land rights are contested or where forest exploitation is financing failed states; and
- "Acute" conflict where open armed conflict or corrupt regimes are being financed by logging operations.

Recommendations

A definition of conflict timber should be agreed on and used to apply trade sanctions through the appropriate UN institutions, FLEG-T Voluntary Partnership Agreements and other

⁴¹⁰ Mayagna (Sumo) Awas Tingni Community v. Nicaragua

relevant trade forums. Mechanisms and processes for monitoring, reporting, allocating responsibility and enforcement should be identified.

Timber originating from logging concessions in countries experiencing ongoing conflict or from those that can be classified as "failed states" should be subject to the same sanctions as "conflict timber". These should be maintained for the lifetime of the concession(s) concerned, including where concessions are subsequently sold or otherwise transferred. To help bring a stop to ongoing rights abuses and to deny further support to illegitimate governments these sanctions should be applied retrospectively.

To stop ongoing social conflict, detailed mechanisms for the inclusion of local and indigenous peoples should be designed and implemented. Allocations of commercial forest use rights should be redefined where these are in conflict with pre-existing rights recognised in international, national and customary laws.

Chapter 3: Evaluation of the impact of industrial logging concessions

The legacy of the industrial forest concession system in those countries where it has been in operation for many years provides a stark warning for countries such as DRC. Cambodia, for example, now has the third highest rate of primary forest destruction in the world. In Cameroon, illegal logging is rampant, environmental destruction and damage widespread, and forest-dependent communities are slipping into deeper poverty rather than becoming richer.

It is clear that in a number of countries the introduction of the industrial logging concession system into a weak governance environment has provoked conflict and undermined legal and

democratic processes. Where there is a neo-patrimonial model of government there is a strong propensity to use public functions for private gains, and so valuable public assets such as logging concessions tend to become "currency" in systems of patronage and outright corruption. Therefore, in such an environment, the industrial logging concession system can perpetuate weak governance and undermine development, rather than support it.

It can be argued that legal mechanisms and administrative procedures do exist to address some of the problems highlighted in this report. The fact is, however, that these are simply not implemented. Over 10 years of reform in Cameroon and in other developing countries have failed to deliver on policy objectives, in large part because there has not been sufficient consideration of the weak governance context within which forestry operates.

Recommendations:

Alternative forest models should be further developed, factoring into economic projections the functions and role of forests in climate, soil, water and other ecological services, and the benefits to those living in and around forests.

Policy makers and development aid partners should publicly recognise that bad governance is a debilitating factor in forestry "reform", and should use incentives and disincentives, such as conditionality in aid, to bring about reform. Conditionality by international agencies should be clearly described and its application monitored. Reform should include establishing functional mechanisms for the independent financial scrutiny of companies and government counterparts. Structurally, the authority for forest management, regulation and monitoring should be separated. These authorities must pay living wages and provide incentives and

protection mechanisms for those entrusted with these responsibilities.

Lessons need to be learnt from other countries as to the design and function of forestry institutions; those that serve principally to allocate, administer or support industrial logging concessions are unlikely to contribute towards developmental or environmental objectives. Where such institutions already exist they should be dismantled, and replaced with those that will promote pro-poor, pro-environmental models of forestry.

To support the application of forest-related law, public access to texts and legal process should be increased. Development of law and its enforcement should be consistent, promoting policy objectives of poverty alleviation, respect for the rights of local peoples, and protection of the environment.

International law enforcement initiatives should seek and implement means of tracking and sanctioning rogue companies operating in the forest sector.

The allocation of production forest concessions should not be justified by the existence of protected areas.

Chapter 4: Social sustainability of forestry models

Current logging policies and practices have led to the exclusion of different groups, especially Pygmy peoples, from forest-related decision-making processes. There is a need to re-think forest policy and law in order to recognise the rights of local people and to facilitate the local capture of benefits. The forest zoning process proposed in DRC should learn lessons from previous zoning processes (such as in Cameroon), and how these have either promoted or hindered local peoples rights over the forest.

The availability of non-timber forest products (NTFPs) can be severely degraded during and after logging operations, including bushmeat and those from tree species which are also valuable for their timber. This, together with the influx of employees from outside, can have severe impacts on local livelihoods, cultures and customs. These phenomena also have severe implications for the health of communities, including the spread of HIV-AIDS and malaria. Thus, the environment created by the industrial logging of tropical forests is dangerous for local people and employees alike.

The needs and concerns of local communities are given little attention by either logging companies or the governments which are supposed to regulate them. These broader impacts, including those on health, are not taken into account in decisions to expand timber operations.

Recommendations

To prevent further conflict the moratorium on the allocation of new concessions and logging in DRC should be continued until the government has sufficient information and capacity for effective monitoring and enforcement.

The rights of Pygmies should be recognised independently of their Bantu neighbours, and these rights should be respected in forest management decisions.

There should be rigorous enforcement of existing laws relating to consultation, health and employment, including the suspension of all logging operations that do not have a management plan or that have not conducted an environmental and social impact assessment. This should be supported by providing communities with the right of appeal to legal authorities on all aspects of forest-related decision-making and implementation.

In order to guide policy reform, further research should be conducted on: the distribution of forest communities, especially Pygmies; on current conflicts arising from logging concessions; and on the ecology and management of key non-timber forest products, especially those that are also timber species. The social costs of any existing or proposed forest management systems should be incorporated into calculations of the perceived economic benefits.

Substantial support and training to indigenous organisations is required in order to build an effective indigenous system of representation and communication.

Chapter 5: Economic sustainability

There is evidence that the large-scale industrial timber concession "model", as operated in the tropics, is inherently anti-poor; it has failed to contribute to the sustainable development of countries where it has operated for many years. In fact, where this model has been employed, development indicators have largely declined.

The failure of the model to deliver economic benefits may be due to an imbalance in power between the logging companies and the government, the latter having a limited ability to enforce concession agreements or to collect and redistribute the appropriate revenues in a correct manner. Therefore in many cases, the concession model is simply not suited to the political environment in which it is supposed to operate.

Many international forestry institutions are not properly equipped or inclined to develop more pro-poor forestry initiatives, such as community forestry, that incorporate property rights allocation at the community level.

Recommendations

The industrial forest logging concessions system should be publicly recognised by international development agencies and research institutes as a barrier to the development of "pro-poor" forest policies in countries with weak governance.

A fundamental review of the structural economic problems associated with the industrial forest logging concessions model should be undertaken and applied to the development of alternative forest policies and laws, especially in the DRC.

The international donor community should contribute to the development of alternative forest management models applicable to DRC and other developing countries.

Chapter 6: The impact of industrial logging on ecological diversity

Although industrial logging in tropical moist forests is usually undertaken on a "selective" basis, there is much scientific evidence to show that it directly causes serious and possibly irreversible ecological impacts. Indirect impacts – such as widespread, large-scale bushmeat hunting and in-migration of settlers and farmers – can have even greater impacts.

Unfortunately, the broad application of technical solutions to reduce the ecological impact of industrial forest logging concessions in the Congo Basin is unlikely to occur in practice. The lack of enforcement of environmental regulations means that the best available techniques are not being implemented.

Despite the indisputable benefits of the full suite of "low impact" logging methods where industrial scale logging might be appropriate,

their application is insufficient. Low impact logging often has been reduced to purely civil engineering issues (road/track optimisation, heavy plant adaptation) without any real effort to integrate ecological or social considerations.

Even though forest policy, in the form of national forest programmes or national agricultural programmes, might address ecological stability on paper, in reality ecological objectives are sacrificed for short-term financial gain. This situation is repeated all over the world and until the policy imbalance is corrected, shifting away from those that favour purely economic interests, it seems futile to hope that sustainable ecological practices will ever see the light of day.

Recommendations

To increase the quality of forest management, responsibility for logging activities should be dissociated from forest management activities. The State could demand financial security before logging begins, which could then be used to enrich the forest if the operator does not meet his obligations. Environmental regulations should be enforced and, where breached, sanctions should also be applied.

Incentives should be provided for local people to continue their traditional forest management practices by recognising their land rights, while simultaneously addressing development issues through alternative routes than industrial logging.

Where industrial logging is being considered, land-use mapping should be undertaken prior to any concession allocation, using community-based mapping techniques and leading to legal demarcation and recognition of traditional land-use practices and tenure regimes, and ensuring free prior and informed consent for communities.

The existing laws and contractual procedures that provide technical solutions to many of the

known problems should be enforced.

The international donor community and ecological research institutes should encourage research on the ecology of the main commercial tropical timber species and on the functioning of whole rainforest ecosystems.