

A critical analysis of the safeguards framework of the Mai Ndombe PIREDD project

August 2017

Main findings of this assessment

- Taken together, the safeguards **do not function as a coherent whole**. The framework has inconsistencies and gaps within it, and the way in which the various documents are formulated make it very hard for anyone to easily understand the process and the obligations and rights of all concerned.
- The **roles and responsibilities** of the institutions referred to in the documents are often very unclear; these need to be clarified and a coherent overall institutional framework established.
- Whilst the issue of the **capacity** of the various institutions tasked with implementing the safeguards is mentioned in several of the documents, there is very little in the way of convincing proposals to ensure that the necessary capacity is assessed and built before programmes are initiated. The safeguards risk failing or lagging well behind programme implementation because of this.
- The safeguards framework needs to be directly linked to the **complaints mechanism**, which has yet to be established. The safeguards plans need implicitly to integrate this mechanism, and hence the safeguards should only be approved alongside the complaints mechanism.
- Proper safeguarding of community interests rests heavily on the application of **Free Prior and Informed Consent**. However, a weak (World Bank-derived) definition of this is used, and the processes and institutions for ensuring it is properly exercised are poorly described.
- The frameworks appear to **overlook key factors and developments within the proposed project area** – such as oil exploration, the presence of many artisanal loggers, and the possible expansion of industrial logging (as currently proposed under an AFD-promoted project) – that could have major direct and indirect environmental and social impacts.
- The processes for **monitoring and evaluation** of the safeguards – and the institutions responsible for implementing them, including the World Bank – including any sanctions or redress mechanisms in the event of failure, are very poorly defined.

Overall conclusion of this briefing

The safeguard plans as they currently stand are seriously flawed, inadequate to ensure proper protection against harm, and need substantial re-working, clarification and improvement. Field programmes within the framework of PIREDD should not proceed until the issues set out in this briefing have been resolved, and the necessary capacity of the institutions required to implement the safeguards has been assured.

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1. Background

The DRC government has prepared a series of documents that outline its approach to meeting the World Bank's safeguards in relation to the implementation of the Mai Ndombe Integrated REDD programme (PIREDD) and the negotiation of an Emissions Reduction Purchase Agreement (ERPA).

According to the Environmental and Social Management Framework (ESMF) document, the PIREDD programme for Mai Ndombe will include:

- Capacity strengthening for local authorities and government agencies responsible for implementing the project and for forest control activities
- Capacity strengthening for local communities, targeting 600 of them close to transport routes. This includes re-establishing local committees and organisations, mapping land and developing "simple management plans" which will be put into action via payment for environmental services
- Development of agriculture and animal husbandry in savannah areas, which includes 5,000 hectares of acacia and oil palm plantations
- Development of 10,000 hectares of perennial crops in forest zones
- Technical support on agriculture, including provision of improved seeds and training
- Improvement of transport routes: physical works on roads and rivers as well as action on bribery and corruption on the same routes
- Specific support to indigenous peoples
- Family planning advice to 180,000 households in Mai Ndombe district

The safeguard documents include:

- The environmental and social management framework ('[ESMF](#)')¹
- Indigenous peoples plan ('[PFPA](#)')²
- Physical cultural resources management framework ('[GCRCP](#)')³
- Resettlement action plan ('[RAP](#)')⁴
- Process framework ('[PF](#)')⁵

Together, the documents are supposed to present the framework that safeguards the environment, people and cultural resources in the area affected by the PIREDD programme against possible negative impacts. They should serve as a coherent whole. Unfortunately, they don't: the framework has inconsistencies and gaps within it and the way in which the various documents are formulated make it very hard for anyone to easily understand the process and the obligations and rights of all concerned.

Starting with an overview of the general problems with the documents, this briefing then considers each of the safeguard papers in turn.

1 CADRE DE GESTION ENVIRONNEMENTALE ET SOCIALE DU PGAPF AVEC EXTENSION A LA ZONE D'INTERVENTION DU PIREDD MAI NDOMBE

2 PLAN EN FAVEUR DES POPULATIONS AUTOCHTONES

3 CADRE DE GESTION DES RESSOURCES CULTURELLES PHYSIQUES DU PGAPF AVEC EXTENSION DANS LA ZONE D'INTERVENTION DU PIREDD/MAI-NDOMBE

4 CADRE DE POLITIQUE DE REINSTALLATION DU PGAPF AVEC EXTENSION A LA ZONE D'INTERVENTION DU PIREDD MAI NDOMBE

5 CADRE FONCTIONNEL DU PGAPF AVEC EXTENSION A LA ZONE D'INTERVENTION DU PIREDD MAI NDOMBE

2. Overview of the safeguards

2.1 Presentation and accessibility

The five different documents laying out the safeguards framework are confusing and impenetrable. Although each one has a summary at the start, that summary does not make the rights and obligations of actors clear and it does not lay out the framework that it is supposed to present in a simple manner. Several of the documents miss essential information: for example, the Process Framework contains no information on who is eligible for compensation and how the decisions are taken. The ESMF contains insufficient guidance on consultation and consent.

This incoherence and these gaps mean that any interested party, be they project developers, local communities, persons or organisations responsible for monitoring and oversight or potential partners and funders, would not be able to understand and make use of the framework documents in order to ascertain whether a project meets all the required safeguards.

Several documents include annexes of information that are not referred to anywhere in the main text. In some cases these are very relevant resources that should be explicitly referred to, for example, page 31 of the CGRCP includes a list of protected sites that are supposed to be in the project area that could be directly relevant, (although it is not clear whether they are in Mai Ndombe district or in other areas that are receiving REDD funding), but the relevance of this is not made clear anywhere in the main body of the document. In some cases, these annexes are not relevant and so should not be included. For example, in the CGRCP there are reports from two consultations that took place in Plateau, outside of the area concerned by the report and not in any case dealing with physical cultural resources. In other cases, it is not clear whether the annexes are relevant or not, as is the case with the ESMF, which has long lists of participants' signatures from various consultation meetings. Each document also repeats a long presentation of the project and several of them repeat parts of a process that is not necessarily relevant to the framework they are describing.

In short, serious work is needed to streamline the five documents so that they are clear and accessible and contain no contradictions. A short summary of all five documents, identifying what information is contained where, would also be useful.

2.2 Coherence between elements of the framework

Each document gives a different outline of what the actual approval process is for projects. For example, the cultural resources framework refers to the process proposed in the ESMF – but then describes a number of stages, such as consultation and FPIC, that are not referred to in the ESMF document. The Indigenous Peoples Plan (IPP) appears to assume that all projects will be reviewed by the Social and Environmental Expert employed by the Forest Investment Programme (FIP), but the ESMF does not. Some of the documents present a diagram that purports to show how the five frameworks and plans articulate with each other, but at no point in any document is it clearly laid out what the full process for project development and approval should be and at which point the different frameworks should be triggered and hence referred to in more detail.

The ESMF, which should be the overarching framework document, is one of the weakest. It does not set out the various roles and responsibilities of different actors, a robust monitoring framework, consent procedures, or a coherent project development process. At present, a project developer would have to read all the framework documents, regardless of whether their activity triggered any of the other frameworks or not, in order to fully understand what is expected of them and what they can expect of other actors – and even then it would take a long time to tease that information out.

The ESMF should be the reference point, with the other four documents enriching the detail for specific situations, but it wholly fails to fulfil this purpose.

In particular, the screening matrix of the ESMF, which is supposed to serve as the tool to trigger specific responses, is inadequate. In the first place, there should be a specific section that asks appropriate questions to allow the project developer to identify which specific action plans they will need to develop (e.g. Resettlement, Restriction of Access to Resources, Physical Cultural Resources). There should also be a section that explores how the impact on indigenous peoples and other marginalised groups has been taken into account and whether they are the main beneficiaries or not. In addition, there should be more questions that would allow a decision maker to really understand the full impact of the project. The current questionnaire, with its estimates of areas and households, is difficult to complete and possibly misses some critical information.

Other critical elements of the overall framework can appear only in one of the subsidiary frameworks. For example, the Process Framework contains the only analysis on possible sources of conflict, and the Process Framework and the Resettlement Action Plan (RAP) are the only documents that outline a complaints mechanism, something that is central to the safeguards framework as a whole.

2.3 Weaknesses in the overall framework

Each document presents a series of procedures that are supposed to be triggered by individual projects – and almost all of these are unclear. Even if they were clear, there appears to be no mechanism for taking a strategic look at the ensemble of projects and initiatives. If each approval is on a case-by-case basis, the cumulative impact of a whole series of smaller projects is being missed and could have important consequences.

When it comes to individual projects, there is a heavy dependence on the goodwill and competence of project developers and implementers – without, in some cases, provision for strengthening their capacity. The screening questionnaire is inadequate, as explained above, and only one document, the Process Framework, addresses issues of communication and information sharing to local communities.

Some documents report problems or issues that are fundamental but that are not addressed at all in other safeguard documents. For example, the IPP mentions the exclusion of indigenous peoples in general and indigenous women in particular from Comités Locaux de Développement (CLDs) – and yet in the other documents, CLDs are identified as one of the main mechanisms for accountability to local communities and for project management and oversight.

2.4 Processes

Each document lays out a slightly different process and is unclear as to exactly what is expected from various actors. The RAP is the clearest, explaining that a developer has to come up with a specific plan to deal with involuntary resettlement if there is any. However, the Process Framework, for example, suggests at the start that a project developer has to draw up a Restriction of Access to Resources Action Plan; but then in the main body of the document, no information is provided about this particular plan and when and where it should be submitted. It is surely possible to come up with a straightforward schema that any project has to follow.

2.5 Free, prior and informed consent

Each document makes mention of FPIC and its centrality, and each one talks about the importance of including indigenous peoples and other marginalised groups. However, the interpretation of FPIC

(and the process required for ensuring this) is different in every document, and in most it is weak and unclear. The most robust is laid out in the RAF. The fact that each one is different and most are inadequate suggests a capacity gap at the DRC Ministry of Environment and Sustainable Development (MEDD) and, unfortunately, in REPALF: it would appear that FPIC is not fully understood and that there is not yet a consensus on how it should operate in DRC.

3. The Environmental and Social Management Framework (ESMF)

3.1 Background, purpose and description of the document

The Environmental and Social Management Framework document, prepared by MEDD, is supposed to lay out how the programme will identify and respond to potential social and environmental impacts and, in the case of negative impacts, what prevention or mitigation measures will be taken.

The Framework document presents a process for approving subprojects for the PIREDD programme. It identifies a list of possible impacts of a PIREDD subproject, both positive and negative, and associated promotion or mitigation measures. Project developers are supposed to use the lists to inform their projects as they develop them, and then the developer or potential implementer of the project has to complete a screening form which is submitted to the Forest Investment Programme (FIP) Coordination. This form is then used by the FIP Coordination to categorise the projects and determine whether they can go ahead or not, whether they need further environmental and social assessment, and whether they need specific mitigation measures. If a project gets the go-ahead, it is then supposed to be monitored against its safeguards.

The document also itemises all the Congolese legislation and Bank safeguard policies that should be taken into account in the safeguarding process.

3.1.1 Possible impacts and mitigation measures

Potential negative impacts of the programme identified are:

Agroforestry and reforestation-related

- Loss of local and indigenous forest products
- Biodiversity loss and impoverishment of the local environment
- Pests
- Introduction of genetically modified organisms (GMOs)
- Soil and water pollution from fertilisers, pesticides or herbicides
- Bushfires
- Soil erosion

Social and economic

- Conflicts related to work: employment conditions and incoming workers
- Land use conflicts
- Conflicts with indigenous peoples due to discrimination
- Sexually transmitted diseases
- Temporary restrictions on access to land

A number of possible mitigation measures in response to each of these risks are laid out in a table.

3.1.2 The screening process

This involves a short questionnaire that decision makers are supposed to use to decide:

- whether a project can go ahead unchanged, (Category C);
- whether a further environmental and social impact assessment (ESIA) and/or additional mitigation measures are needed, (Category B); or
- whether a project should not go ahead at all (Category A).

The questionnaire is supposed to be completed by the body proposing the project and submitted to the FIP Coordination, who look at it and decide which category it falls into.

The questionnaire consists entirely of quantitative questions such as the area covered by the project, number of households affected, lengths of roads and paths to be repaired, etc. The FIP Coordination analyses the responses on the questionnaire by examining other evidence available to it, such as GIS data on deforestation rates and other land uses, as well as checking conformity to relevant Congolese law and whether any Bank safeguards are triggered. If the FIP Coordination then decides that mitigation measures or an ESIA is needed, the Coordination's impact assessment specialist is supposed to recommend measures from the table laid out in the document or to develop TORs for an ESIA. For Category B projects only, the implementing organisation then has to use this advice – and that of an ESIA if one has had to be carried out – to develop a Social and Environmental Management Plan (SEMP). Only if a project requires an ESIA is there an expectation that public consultation should be carried out.

Once a project is given the go-ahead, with or without a SEMP, depending on whether they are identified as Category B or C, it is then supposed to be monitored by the project implementers, other local actors and by the Bank, although there is very little information provided on how this will take place.

Overall monitoring of the Framework will focus on the following indicators:

- Effectiveness of the screening process
- Reports on each activity
- All project implementers respect environmental safeguards in their activities
- 250 actors are trained in or informed about environmental and social management

3.1.3 Institutional arrangements

The document outlines a large number of bodies with responsibility for the Framework, from project implementers and local civil society organisations to the World Bank. In summary, project implementers are responsible for putting appropriate environmental and social measures into action during project implementation, and local civil society and local authorities are expected to keep track of these, keep local people informed, and (in the case of local authorities and government agencies) carry out their own monitoring and control functions. The Coordination Unit of the FIP is responsible for screening projects and seeking approval from MEDD and the World Bank, as well as deciding if an ESIA or SEMP is needed, while the Congolese Environment Agency (ACE) is responsible for approving and then monitoring them. Overall responsibility for implementation of the Framework lies with the Sustainable Development Department (DDD) of MEDD, with oversight provided by the Steering Committee.

Complaints are supposed to be handled under the overall REDD+ complaints mechanism for DRC that is currently under development.

3.1.4 Capacity strengthening

The document acknowledges that it will be difficult to put the framework in place without considerable investment in the capacity of all actors. The measures proposed are as follows:

- Technical training for local authorities and project implementers on such issues as environmental and social assessment, legal frameworks, management of pesticides
- Awareness raising for local communities on agroforestry and climate change
- Awareness raising for local communities on family planning

The document also refers to consultations that were carried out in some areas of Mai Ndombe, but mentions nothing of relevance to social and environmental safeguards. It appears that, in reality, the “consultations” merely involved presenting the project.

3.2 Analysis of the ESMF

The key problems with the Framework document include that it is very unclear and hard to follow exactly what is being proposed. There is little relation between the background and the detail. Information is presented in annexes with no clarity about why and where they are, and with no reference to the main text of the document. The document does contain some information and ideas that are relevant to its objective, but it is unclear in its presentation and lacking in detail when it comes to actual implementation. There are some major gaps and weaknesses in the framework proposed that, if not dealt with, will mean that the Mai Ndombe PIREDD programme cannot be certain of meeting environmental and social safeguards.

The weaknesses are identified below.

3.2.1 Presentation

The document could be more concise and clear about its function. There is a lot of redundant information and little detail on the essentials.

3.2.2 Overall approach

The document is supposed to present an overall framework for environmental and social management but what it presents is essentially a screening process for sub-projects. There needs to be a strategic oversight for the programme as a whole on its possible environmental and social impacts, and a piecemeal approach may well miss critical factors. For example, a series of small agroforestry projects or road improvement projects might each pass as stand-alone projects, but the cumulative impact could be serious, both environmentally and socially. There needs to be clearer articulation of the strategic oversight role, including, critically, how local communities and marginalised groups can exercise FPIC over the programme.

In the project approval process, only Category B projects that require an ESIA are expected to carry out any public consultation and even there the “consultations” described are principally public meetings to present information, rather than a process of consent. The document describes consultations that were carried out in 2013 on the programme as a whole, but these appeared to be meetings to present and gather information and were not, apparently, constituted as consent processes. Indeed, there have been numerous anecdotal reports from civil society organisations based in the field that the project and its perceived aims have been highly contested by some communities.

In the analysis of the situation in Mai Ndombe, the fact that Esso has carried out oil exploration in the area and that there are considerable mineral deposits pose a significant environmental and social risk that is not referred to at all in the project or the safeguards. The same is true of the existing

logging concessions in the district and the presence of many artisanal loggers. These major risks appear to be completely ignored, when they need to have a strategic response.

3.2.3 Screening process

The Framework document does, in Section 7.1, lay out selection criteria that articulate many of the major risks. However, the tool proposed to carry out the screening does not cover these, so there is a serious danger of projects being approved without major risks being taken into account. For example, one of the criteria is “the activity poses no risks of social conflict, (particularly conflict over land tenure), or social exclusion of marginalised or vulnerable groups”. However, in the assessment matrix, there is not a single question that tackles this issue.

The tool proposed is justified as being “objective”, because it is asking for quantitative information only. However, in the case of an environmental and social assessment, particularly as concerns social aspects, there is a need for qualitative information to be taken into account as well.

Added to that, it is far from certain that project implementers will be able to respond to all of the questions accurately without support: for example, question B7 asks about the number of households that will be displaced by a project. This may be difficult for an implementer to estimate and there will inevitably be a temptation for a project developer to underestimate negative impacts so as to avoid the expense of carrying out an ESIA or developing a management plan.

The assumption appears to be that Category B projects will automatically go ahead as soon as a Social and Environmental Management Plan is produced that deals with mitigating measures. However, if a Category B project undergoes an ESIA and that ESIA identifies that the risks are too great, there should be the option to re-categorize it as Category A and thus prevent it from being implemented.

3.2.4 Mitigation measures and Social and Environmental Management Plans

The mitigation measures proposed in the document are too generic and in some cases are inadequate. For example, in response to the possibility of land use and tenure conflicts, the solutions proposed are to ensure that there is a land title and that any agroforestry is included in a local land use plan. This entirely ignores a fundamental problem in DRC: almost no customary land is titled. Moreover, there is very little experience of implementation of agroforestry projects – which may meet with much resistance in cultures and household economies built strongly around rotational (‘slash and burn’) farming – and neither is there any experience of local land use planning.

There is a requirement for public consultation to be carried out for projects which undergo an ESIA. However, for other Category B (or Category C) projects there is no such requirement. Public consultation appears to consist of “one or a series of meetings”. Depending on the size and possible impact of the project, this is likely to be inadequate: it is critical to ensure that the people who will be affected by a project are consulted. A single public meeting may well miss them out. This is particularly true for people who are frequently marginalised, such as women and indigenous peoples, who may not attend or be able to speak up at public meetings. Proper standards, procedures and operational guidelines need to be established for the conduct of consultations.

3.2.5 Capacity strengthening

Although capacity of all actors is identified as a major limiting factor to the success of the Framework, the measures proposed to address this are inadequate. All that is proposed is a series of trainings or awareness raising sessions for local actors, with no support or follow up to permit them

to put their training into action. The assumption made is that all that is limiting capacity is information, but it is likely that a range of other factors are important too: resources and time; base-level education and literacy that allows people to engage with formal processes; organisational culture and attitude.

3.2.6 Monitoring and evaluation

The indicators identified for the programme as a whole are unconvincing: they are at most indicators of activities carried out. Monitoring does need to ensure that activities are being delivered, but there must be more consideration of the effectiveness and the impact of these activities. There needs to be a more robust monitoring and evaluation framework.

There also needs to be a robust and coherent complaints process in place: the safeguards are supposed to be critical in ensuring that the programme has a positive social and environmental impact, and if there are negative effects, a timely complaints procedure is a critical part of ensuring that they are picked up and dealt with.

4. The Indigenous Peoples Plan (IPP)

4.1 Background, purpose and description of the document

The national indigenous peoples' network Réseau des Populations Autochtones et Locales pour la Gestion Durable des Ecosystèmes Forestiers (REPALEF) has produced the Indigenous Peoples' Plan, which lays out how the specific funding allocated to indigenous peoples in the PIREDD project will be spent. The IPP presents an analysis of the situation of indigenous peoples in Mai Ndombe and the potential impacts of the PIREDD project. The analysis is based on data sourced from referenced documents and on focus group-based consultations that took place in 2014 in each territory covered by the project.

4.1.1 Possible impacts and mitigation measures

The PIREDD programme is described as being potentially positive for indigenous peoples, as it is supposed to be an integrated project which has an element that specifically focuses on the welfare of indigenous peoples and because the activities proposed within it offer opportunities that are relevant to them.

Nonetheless, potential negative impacts of the programme identified are:

- Indigenous priorities not taken into account in consultations
- Inter-community conflicts
- Marginalisation of indigenous Pygmy people
- Exploitation of Pygmy workers and treatment of them as hired hands rather than direct actors

Possible mitigation measures outlined are:

- Awareness raising for indigenous communities, on the project and on the value of indigenous customs and traditions
- Development of appropriate forums for conflict management
- Family planning training for indigenous households
- Ensuring that all social groups are taken into account in planning

- Awareness raising for Bantu communities on peaceful coexistence and mutual acceptance between Bantu and Pygmy people
- Developing and applying quotas for sharing benefits to forest communities with a proportion allocated to indigenous Pygmy communities in particular
- Follow up of materials and equipment distributed
- Capacity strengthening for indigenous Pygmy leaders on: planning and implementing micro-projects, managing benefit sharing

Because this plan outlines some very specific projects, there are also risk analyses associated with each project. They identify issues such as disease affecting animals or crops, as well as theft and malpractice by local police or army personnel. Mitigating measures are suggested in terms of animal and crop hygiene and veterinary care. No response is suggested for the risks associated with theft and malpractice.

The plan laid out is a proposal for how a specific amount of money that has been pre-allocated will be spent on a series of micro-projects to benefit indigenous peoples. Those micro-projects, totalling \$700,000, were developed in a process around another project, the Forest and Nature Conservation Project (PCFN), financed by the World Bank in 2015. A long list of ideas was developed during that process, and the projects being put forward for PIREDD funding have been selected from that list. How and why that particular selection was made has not been detailed.

4.1.2 Activities

The plan consists of six projects, two in each of the three districts in the project area, which are itemised and costed in some detail. They all involve support to indigenous households to carry out livestock rearing (ducks, goats and pigs) and agriculture (cassava, maize and beans), two include beekeeping, and one some handcraft activities (such as producing pots and baskets).

All six projects include a similar approach, which starts with a communal initiative and is then supposed to support families to develop their own domestic initiatives. In the case of livestock, this consists of constructing a piggery, goathouse or poultry shed in a community which will then produce pigs, goats or ducks that families can rear and breed themselves. In the case of agricultural projects, it appears to be based on a communal field, using improved techniques to produce cassava and associated products. The hope seems to be that households will learn from this and make use of seeds, techniques and tools they have learnt. The beekeeping projects intend to set up communal hive areas and harvest and market the honey collectively, and the handcrafts initiative will provide materials to basket weavers and potters. The projects all intend to provide support with selling the products and to open mobile phone-operated bank accounts for the beneficiaries.

They will be implemented by four different civil society organisations (two running one each, and another two running two), with additional input from REPALF. They are expected to reach a total of 32,150 direct beneficiaries, all indigenous people. (Figures are taken from the estimates of numbers of direct beneficiaries for each of the six projects.)

4.1.3 Free Prior and Informed Consent

The interpretation of FPIC as provided in the document is as follows: “a process of collective decision making that is culturally appropriate and is the fruit of serious consultation made in good faith and which permits interested parties to participate in a fully informed manner in the preparation and execution of a project” (p 117).

The process outlined for FPIC in relation to the IPP is as follows:

- Information shared with indigenous Pygmy communities in advance of the project, by the Social and Environmental Expert (it is not specified who this expert is, but for the purposes of this analysis they are assumed to be the person employed by the FIP Coordination). The information shared includes the nature of the project, the potential risks, the time period of the impact analysis research, and the start and finish of the project. This step appears to assume that a Social and Environmental Assessment will automatically be carried out on any project.
- Consultation with Pygmy communities on the location of the micro-projects.
- Pygmy communities and their traditional leaders will be involved in monitoring and evaluation of projects.

The Plan points out the challenges related to the non-literacy of large proportions of indigenous Pygmy communities and the need to develop appropriate non-written forms of communication in accessible languages. It suggests that the approaches used in the consultation carried out to deliver this IPP should be replicated in future. These include focus group discussions with men, women and young people, panel discussions and plenary discussions in larger mixed groups.

4.1.4 Institutional arrangements

The document presents an assessment of current capacity within the local administration for dealing with indigenous peoples' issues and suggests that Mai Ndombe is relatively well positioned. The investments made already in the development process have meant that there have been quite a number of consultations and negotiations between local authorities and indigenous communities, and so local officials are somewhat aware of the key issues.

It is suggested that the principal actors in the implementation should be:

- Conseil consultatif provincial des forêts (CCPF) – which isn't yet in place
- Conseils Agricoles Ruraux de Gestion (CARG) – which is in place and was active in the development of the plans
- Comités Locaux de Développement (CLD) – which are the ones closest to the communities, but which may not be particularly representative of indigenous peoples

But the document then goes on to explain that, due to the inadequacy of all these bodies to take indigenous issues into account, there should instead be a village-level assembly that is the principal decision making body for any micro-projects and that this should delegate day to day responsibility for follow up to a Monitoring Committee. Each project will be supported by a local NGO selected by the community; REPALEF will provide an accountability mechanism in case of conflicts or problems.

4.1.5 Complaints mechanisms

REPALEF is proposed as the body that will manage complaints, as it already does for the World Bank Forest Investment Programme Dedicated Grant Mechanism for support to indigenous peoples' projects.

4.1.6 Capacity strengthening

There are no particular overarching capacity-strengthening initiatives proposed.

4.1.7 Monitoring and evaluation

The IPP proposes “participatory monitoring” but does not specify how this is to take place, or how indicators will be identified, for example. It also proposes three-monthly visits by REPALEF and regular joint missions from REPALEF/FIP/World Bank.

4.2 Analysis of the IPP

The document presents a reasonable analysis of the situation of indigenous peoples in the project areas, based on consultations that did appear to reach to community level and covered more than 800 people. It presents a detailed and costed series of specific local projects that respond to issues identified by indigenous peoples themselves. It does, however, have a number of weaknesses, identified below.

4.2.1 Overall approach

The PIREDD programme as a whole has the potential to have both positive and negative effects on indigenous peoples and this is not fully taken into account in this Plan. Although there is useful data presented from the community consultations that highlights some key problems, the document proposes as a solution only a series of micro-projects focusing on livelihoods within a very specific, pre-allocated budget. To have a real impact on indigenous peoples’ situations and their agency in protecting forests, a more systemic response is undoubtedly also required, that tackles some of the fundamental challenges such as deep-rooted discrimination and the invisibility of indigenous peoples in both formal and customary rights systems of land tenure (although we know from our mapping work that some IP groups are recognised as customary owners of land, “ayant-droits”). There is mention made of this in the document, but no measures are really in place to tackle it, other than rather generic recommendations about awareness raising (“*sensibilisation*”) to which no budget is attached.

There needs to be clarity as to whether the Indigenous Peoples Plan covers only the micro-projects and the modalities required for them to appropriately take indigenous peoples into account, or if it is in fact a plan as to how indigenous people will be taken account of in the programme overall. At the moment, there is not another framework or plan in place that makes mention of the possible impacts on indigenous peoples of the wider PIREDD programme and some of the fundamental challenges identified above. As it stands, the ensemble of frameworks and plans does not offer a sufficient safeguard for indigenous peoples. In relation to FPIC, the document should propose a process by which the IP will be consulted and their views integrated at the highest level in the PIREDD.

In relation to the overall aims of the PIREDD, the IPP is not clear as to how it will contribute to the overall aims and objectives. It does propose projects that may improve some indigenous people’s livelihoods if successfully implemented, but how this will in turn contribute to reduced forest degradation is not outlined.

4.2.2 Risk analysis and mitigation measures

The analysis of risks pinpoints some critical issues that could have an effect on indigenous peoples and suggests possible mitigation measures. However, as with the rest of the document, it is not clear whether the analysis refers only to the projects directly targeting indigenous peoples or to the PIREDD project as a whole. For example, the issue of conflict related to indigenous land tenure is going to be important not only for a pig-rearing project aimed specifically at indigenous Pygmy peoples, but also in the case of larger scale agricultural projects targeting other members of the community.

In addition, although a list of possible mitigation measures is offered in the document, in the actual projects none of the measures are included. There is no discussion, for example, as to how the people involved will be supported to assert themselves and to ensure that they are not taken advantage of as hired hands rather than project developers in their own right. No budget, staff time or calendar time is allocated to any of the suggested mitigation activities such as capacity strengthening for community leaders, work on peaceful cohabitation or training for women, girls and young people in anything other than technical skills related to income generation and project reporting. It would be useful if the Plan were to either make allowance for some of these or to explain more clearly how involvement in the projects proposed may mitigate the identified risks.

In terms of the risks associated with the individual projects, the analysis seems somewhat inadequate and insufficient attention is paid to what needs to be done in response. In the first instance, land tenure and the rights to own and control the products of the projects will be critical – and all too often, indigenous peoples are not permitted by their neighbours to assert control over the fruits of their own labours. This is identified as a risk in the overall plan, but no strategies to manage it are proposed at either plan or individual project level.

In more detail, given that the approach is based on communal livelihood activities, the success of which is limited in many livelihoods projects, attention should be paid to ensuring that community members feel ownership of the projects, so that they exert local oversight and ensure that they are well managed: it is often the case that projects designed without sufficient attention to this become, in effect, the responsibility of nobody and so end up as failures. Elite capture is another major risk that is not itemised, as is the complexity of organising and managing benefit sharing.

More broadly, in terms of project outcomes, an assumption seems to be being made that providing livestock to communities will reduce pressure on wild forest resources. This is not necessarily the case.

4.2.3 Consultation and consent

The way that FPIC is described and discussed in the document is weaker than it could be, and not consistent with international standards. In the first instance, it depends on the World Bank's definition of free, prior and informed *consultation*, not consent. Secondly, its own definition of FPIC is actually more like a definition of participation: a theme that is also important but that lacks the robustness of a clear statement on consent. The process for consultation or consent is also not very clearly described: it appears to be principally an information sharing process, with the only decisions that communities can influence being the location of a project, rather than its nature or whether it should happen.

Further clarity on key decision-making points during processes at micro-project, IPP and overall PIREDD programme level, as well as the space available for communities to give or withhold consent at these key points, would be required. At the moment, the delineation of the consent process does not make it clear what level is being discussed or any of the modalities for sharing information and negotiating consent.

It would be important for this document to provide guidance on consent for the PIREDD programme as a whole, as well as the individual micro-projects included in the IPP.

4.2.4 Project design

The individual projects proposed are livelihood projects focusing principally on agriculture and livestock. The positive element of this is that it does appear to emerge from community consultations. Nonetheless, the projects do not appear to have taken some of the typical challenges

of running a successful rural development project (regardless of type of beneficiary) into account in their design, which is worrying. Also, it is slightly surprising that the specificity and richness of the knowledge and skills of indigenous peoples and the challenges they face have not come up in the specific project responses.

4.2.5 Funding

In the Plan, it is stated on page 10 that \$500,000 is available and \$200,000 remains to be identified to deliver the six projects outlined. In the terms of reference for the development of the plan, attached to the document as Annex II, p.128, the amount set aside is identified as \$780,000, in tranches of \$500,000 and \$280,000. This appears to be seriously inadequate, and it is not clear why the numbers are different.

4.2.6 Capacity strengthening

There are no capacity-strengthening measures proposed, other than elements of training on technical and reporting issues within individual projects. At the same time, the document contains a lot of detail about challenges faced by indigenous peoples.

4.2.7 Monitoring and evaluation

Participatory monitoring is proposed but no detail is offered on how this will take place. In relation to the overall plan, no indicators are identified and no process outlined as to how they might be. In the case of individual projects, only quantitative indicators are proposed. It would be of value to identify qualitative indicators that respond to some of the challenges identified and ways that communities can keep track of them.

5. The Framework for the Protection of Physical Cultural Resources, (CGRCP)

5.1 Background, purpose and description of the document

As background, the document itemises all the Congolese legislation and Bank safeguard policies that should be taken into account in protecting physical cultural resources. It then goes on to present proposals about how cultural resources will be protected in the PIREDD project, starting with the statement, "In carrying out enabling activities, none pose a direct risk to physical cultural resources in the programme sites" (p.22). However, it also suggests that certain projects should trigger a cultural resources management plan:

- Those that limit access to a cultural resource used by communities
- Those that involve physical impacts on the environment such as excavation, flooding, road building, etc.
- Those that involve displacement of people, such that they no longer have access to a cultural resource

In relation to how those risks are identified, the document suggests that a project developer has to follow the same process as outlined in the Social and Environmental Management Framework, although the process it suggests is not the same as the one described in the framework document.

5.1.1 Approval process

1. Pre-feasibility study: This is supposed to include obtaining the FPIC of local communities and indigenous peoples, as well as developing a confidential inventory of physical cultural resources that exist in the project area. The inventory is expected to draw upon community

consultations and documentary and field research by cultural heritage specialists, and will include details about the nature, significance and location of all the cultural resources identified. This is also the stage at which the project developer is expected to analyse the three principal risks outlined above and propose mitigation measures if necessary.

2. Feasibility study: This includes development of a cultural resources management plan (PGRCP) which also needs to be referred to in the project logical framework and included in the deliverables of the project. The document also talks about negotiations for the management of each resource, evidenced through video, but is not clear about who these negotiations have to be with and how they are to be executed.
3. Set-up: The project developer or implementer has to ensure that people involved in the initiative are familiar with the PGRCP and their obligations. They also have to put in place any agreed mitigation measures. A report is supposed to be submitted at the end of the setup phase.
4. Implementation: the project implementer is supposed to monitor the implementation of the PGRCP as well as the project overall. Relevant actions and indicators are supposed to be included in the project's logframe.

5.1.2 Possible impacts and mitigation measures

In relation to the specific risks identified that might affect these resources, there are a number of suggestions:

- *Limitations on access by communities to key resources*

It is suggested that this is only relevant in relation to restricted access for forest protection, as the project is supposed to protect forests and trees, and so there will not be any activities that involve physical works that impinge on access. In the case of forest protection restrictions, it suggests that there needs to be an evaluation of the possible impact on the resource concerned that could be caused by continued access by people.

- *Risks of physical impacts on cultural resources, such as excavation, flooding, road building, etc.*

The analysis presented in response to this risk factor discusses the paucity of information and documentation on DRC's archaeological heritage and the need for both desk research and field visits by experts to identify important cultural resources. It also identifies the need to consult local communities on the same issue so that sites that are culturally important to them can be documented and possibly mapped.

- *Displacement of people, such that they no longer have access to a cultural resource*

It is suggested that there should be little or no displacement of people due to PIREDD projects, but if there are, that needs to be dealt with in the PGRCP.

In the section on monitoring and evaluation, p27, there is a reasonable list of actions that should be taken to account for these risks. These are as follows:

- Listing all key sites of archaeological, historic or natural interest in each province
- Documenting all measures and means planned to protect cultural heritage
- Procedures to be followed in the case of a cultural resource being identified or discovered
- Commitments by project developers, implementers and other local actors to report the discovery of a cultural resource.

5.1.3 Institutional arrangements

The principal responsibility for protecting physical cultural resources is ascribed to the project developer and implementer, whose plans need to be approved by the FIP Coordination.

5.1.4 Capacity strengthening

It is suggested that no particular capacity strengthening or expertise is needed for the implementation of this framework, other than possible archaeological expertise in the case of any excavations. A short list of resource people to contact in such a case is provided in an annex.

5.1.5 Monitoring and evaluation

The document suggests that the indicators to be monitored should be as follows:

- Number of projects that could have an impact on cultural resources
- Number of cultural resources described
- Number of sites of archaeological, historical or natural interest discovered
- Number of people trained
- Level of application of cultural heritage protection measures
- State of conservation of remains discovered

These are supposed to be monitored by Provincial Monitoring Committees.

5.2 Analysis of the CGRCP Framework document

This element of the safeguards process offers DRC an opportunity. At present, there is almost nothing in Congolese law on the protection of cultural resources, and it is not an area that has been prioritised. The requirement to meet Bank safeguards presents the DRC a chance to develop and test a robust practical response to the need to protect cultural resources and it would be good if this document were to reflect that.

5.2.1 Overall approach

The project approval process outlined in this document is different to that identified in the overall Framework document. This is discussed above in the review of the overall strategy.

The strength of what is proposed in the CGRCP is that the starting point is an inventory of what is there in terms of cultural resources and the consent of local communities, and that every project implementer is supposed to produce a PGRCP. The weakness is that there is an assumption that this will be carried out in the frame of project approval, when this is not specified at all in the overall framework document. Guidance needs to be given on what constitutes a resource, based on communities' definitions. Another weakness is that it is left to the project developers and implementers to identify resources and make mitigation proposals, but there is no real incentive for them to do so and no complaints mechanism for people to turn to if their cultural resources are threatened by project activities. There is also no mechanism for communities to participate in or define the inventories themselves.

5.2.2 Consultation and archaeological research

In terms of inventories of cultural heritage in the project area, the document describes two consultations which took place outside the districts covered by the PIREDD extension, one in Bolobo and one in Kimpese. It does not appear that any consultations have yet taken place in the districts covered by the programme. Given that there is no budget ascribed for making an inventory of

cultural resources and carrying out consultations, and that the document itself identifies the fact that little or nothing is yet documented about the cultural heritage of Mai Ndombe, this is a serious concern. The strategy appears to depend on consultation, which is not a given in the current framework, and on chance discoveries. It also appears to rely on project implementers having specialist knowledge that the document itself acknowledges very few people in DRC as a whole have.

5.2.3 Mitigation measures

When it comes to mitigation measures to preserve cultural heritage or to preserve people's access to their heritage, there is no detail whatsoever to help developers come up with an appropriate strategy or to help communities demand adequate responses. There should be more guidance about mitigation and management options.

5.2.4 Capacity strengthening

No capacity strengthening is recommended, which is a problem. The document acknowledges the limited knowledge and capacity at national level, let alone local level, to deal with the protection of cultural heritage in DRC. It also puts the onus for identifying risks and coming up with solutions on the project implementers and developers, without any support for them to be able to take action. Some guidance and training should be offered to people involved on the basics of identifying cultural heritage in an area like Mai Ndombe and more clarity offered on what they need to do in response if any is identified. This applies also to local communities and to those involved in monitoring and evaluating this framework.

5.2.5 Monitoring and evaluation

One of the risks identified in the framework was about ensuring people's continued access to sites of cultural importance to them. This is not mentioned at all in the monitoring framework and yet is of critical importance.

6. Resettlement Policy Framework (RPF)

6.1 Background, purpose and description of the document

This presents the DRC government's strategy for dealing with situations in which people are displaced or suffer a loss due to the activities of the PIREDD project in Mai Ndombe.

The document explains the possible negative effects of displacement or loss on "people affected by the project" (PAP), and is meant to outline a framework by which resettlement is supposed to be carried out, such that it:

- Avoids or limits involuntary displacement by examining all realistic alternatives in the project development phase
- Ensures that people being displaced are consulted about and able to participate in the planning and execution of resettlement plans
- Supports displaced people to re-establish their lives and livelihoods to or exceeding the level they were at before the project intervened

Although it does not say so in the document, it would appear that it is supposed to operate in tandem with the Process Framework (see below), which lays out compensation procedures for people or communities which experience loss of access as a consequence of the PIREDD project.

Particular attention is supposed to be paid to "vulnerable groups", assumed to be women, older people, disabled people, children and indigenous peoples. There is an explicit statement, on p.31, that "no resettlement of indigenous peoples is anticipated".

6.1.2 Process

The RPF is supposed to be triggered at the pre-feasibility phase of the project approval process, when the project implementer or developer is carrying out consultations and background studies. If at that stage, they identify that people may need to be resettled or that their land will be affected, they are supposed to identify that in the screening questionnaire (provided in an annex on p.74 of the ESMF document). The questionnaire is then supposed to trigger MEDD to determine whether a Resettlement Action Plan (RAP) is needed or not.

If a RAP is requested by MEDD, the first stage is to produce an initial estimate, which includes:

1. Mapping of the affected area on high definition satellite maps provided by FIP
2. Identification of users and rights holder who will be losing land or resources and marking these on the map
3. Complete inventory of all resources that will be affected (houses, fields, trees, etc.), including a photographic record
4. Estimation of the losses caused by the project and the costs these imply for the people affected by the project (PAPs)
5. Identification of alternative lands and resources that would be suitable for resettlement by the PAPs
6. Validation of the analysis above by all affected parties
7. Agreement with PAPs on appropriate compensation
8. Estimates of the costs of agreed compensation
9. Inclusion of these costs in the project proposal as project costs, not as benefits (they are not benefits because they are compensation for a loss)

This analysis is then used by MEDD to decide if the benefits of the project are sufficient to justify the costs and disruption incurred.

If the project is still judged eligible, there then needs to be a process of obtaining the FPIC of the communities concerned. The FPIC process outlined includes the following:

- Presence of representatives from the local authorities, including from the Ministry of the Interior, the Inspector of Agriculture and the Coordinator for Environment and Land Tenure.
- Meetings that include presentations of the project, questions and answers, and any additional expert presentations that might be deemed necessary. There appears to be an expectation that there is not just one meeting, but a series of focus groups and local meetings.
- Formal validation of the FPIC of the community including signature of all agreements, including the RAP.
- Video records of all of the above and of the area that will be affected by the project.
- A detailed report and copies of all relevant videos are expected to be submitted as evidence of FPIC.

The project developer then produces their pre-feasibility report that includes:

- Project description
- FPIC report

- Resettlement estimate, (see above for details)
- Proposals on revenue and benefit sharing

If this report is approved, the developer then needs to go on to produce a full RAP. There is a detailed outline provided for the RAP, which includes a great deal of background information, but most critically it has to include itemisation of all PAPs, exactly what losses and other effects they will experience and a detailed plan for how they are to be resettled and compensated, including an agreed calendar and a budget. The RAP forms part of the feasibility report and needs to be approved before a project can go ahead.

6.1.3 People affected by the Project (PAP) and compensation

These can be individuals or households and all people potentially affected have to be considered, whether they hold formal land tenure and titles or not, although it is only formal title holders or recognised customary rights holders who can receive financial compensation for land lost. All individuals or households that are making use of land before the project before the pre-feasibility study is carried out have the right to be resettled and rights to compensation for damage to household goods or crops. The document presents a table of compensation depending on particular circumstances, including: being paid the market value of annual crops lost; replacement value of perennial crops and other goods; resettlement on equivalent areas of land; or payment for land (in the case of formal or customary title holders only). The payment can be in cash or in kind, to be negotiated with the people concerned, and cash payments are calculated according to a formula presented in the document.

6.1.4 Institutional arrangements

Overall administrative management and follow up is supposed to be assured by Provincial Steering Committees for the PIREDD project.

In the case of forced resettlement, a local Resettlement Committee will be set up consisting of:

- A high-ranking representative of the local administration
- Presidents of Comités Locaux de Développement (CLDs), if they exist
- Chiefs of the communities concerned
- A representative of the project developer
- A representative of the PAPs

6.1.5 Complaints mechanism

The document suggests that any complaints should be dealt with at as local a level as is possible. The Resettlement Committee is supposed to provide information about the FIP administration, local authorities and courts and all contact details as well as guidance about rights to compensation or resettlement so that people are fully informed if a complaint is to be made.

There will be stages in the complaints process, starting with mutual explanation and local informal mediation, moving to internal resolution by the FIP Coordination or other FIP actors – and, if that is not successful, formal processes starting with external mediators and then, if necessary, going to court.

6.1.6 Capacity strengthening

The document identifies that understanding and experience of appropriate involuntary resettlement procedures is very limited in DRC and recommends a number of trainings and inputs:

- Training in the preparation of RAPs for local communities, project developers and NGOs
- Resources provided so that the Resettlement Committees can do their work
- Recruiting and training local RAP specialists who can support the local actors in the whole process

6.1.7 Monitoring and evaluation

The monitoring will depend on the follow-up of each individual case of involuntary resettlement, each of whom should have a file that includes the process and the commitments made. The local Resettlement Committee is responsible for gathering data and information, but monitoring and reviewing is the responsibility of the project developer, overseen by the FIP Steering Committee.

6.2 Analysis of the Framework document

This document is probably the most thorough of all the safeguard documents making up the PIREDD safeguard framework. It addresses situations that should trigger resettlement processes, procedures for FPIC, guidelines on who should be compensated and how, and training and support for actors involved. It also includes a complaint mechanism. Nonetheless, there are still concerns that need to be addressed.

6.2.1 People affected by the project

The fact that only formal or customary rights holders can be compensated for land lost is a problem: in many cases, the rights of women and of indigenous peoples, for example, are not recognised under either formal or customary law. This provision is in contradiction with the stated priority of the resettlement mechanism to pay particular attention to “vulnerable groups”.

6.2.2 Institutional arrangements

The Resettlement Committee to deal with any involuntary resettlement is essential. However, at present, the people affected would have only one representative out of 5 members. This is inadequate in permitting a voice and a reasonable negotiating position to the people who will be directly affected. It would lead to more equitable and longer lasting solutions if the people affected by the project were allowed to have more than one representative and if they were able to bring an advocate with them: this could be someone from a local civil society organisation or another community body.

A key problem could be caused through conflict of interest in poorly thought-through or badly designed roles. For example, much community interest is vested in the mapping of community lands, but the responsibility for this largely rests with the project developer, who could have a vested interest in limiting or downplaying community interests.

7. The Process Framework (PF)

7.1 Background, purpose and description of the document

The document analysed in this summary presents a framework for compensation of people who suffer an impact to their livelihoods because the PIREDD project affects their access to resources. Although it does not say so in the document, it would appear that it is supposed to operate in tandem with the Resettlement Action Framework, which lays out compensation procedures for people or communities who are displaced or lose land because of the PIREDD project.

The document explains the possible negative effects of restrictions of access or use of forest resources on “people affected by the project” (PAP), and is supposed to outline a framework by which compensation is offered.

Particular attention is supposed to be paid to “vulnerable groups”, assumed to be women, older people, disabled people, children and indigenous peoples. As with the RPF, there is an explicit statement, on p.31, that “no resettlement of indigenous peoples is anticipated”.

7.1.1 Process

The Process Framework is supposed to be triggered at the pre-feasibility phase of the project approval process, when the project implementer or developer is carrying out consultations and background studies. If at this stage they identify that restrictions to access or use in particular forest areas are necessary for the project, they are then supposed to identify all the people who may be affected and develop a plan to compensate them: an Action Plan for the Restriction of Access to Resources, (PARAR).

The first stage of a PARAR is to produce an inventory of restrictions of access, which includes:

1. Identifying current land uses in the project area, by producing a sketch map in a community meeting.
2. Further analysis of land uses and their benefits in focus groups of men, women and young people.
3. Comparison of current land uses with project plans, identifying areas where access and use may be restricted or may change.
4. Identification of locations outside the project area where similar resources may be available and accessible.
5. Estimation of possible losses due to the project.
6. Validation of the analysis by all actors concerned.
7. Identification of possible compensation measures and their costs. This may not necessarily be monetary: it may relate directly to food security or to customary access and use rights, particularly for indigenous peoples. Compensation could take the form of improved access to public services such as health and education.
8. Estimation of costs of the agreed compensation package.

If the project is still judged eligible following this inventory, there then needs to be a process of obtaining the FPIC of the communities concerned. The explanation of FPIC in this document does not outline a procedure, but suggests that the consent needs to be witnessed by the local authorities, including Sector Chiefs, Territorial Administrators and technical services and that NGOs and community organisations need to be involved, as do Comités Locaux de Développement (CLDs) and other local consultation groups. It suggests that CLDs should be the principal vehicle for facilitating FPIC. The document also suggests that any FPIC meetings should be videoed in their entirety.

If a project passes the pre-feasibility stage, then the feasibility study, which a developer has to submit, needs to include elements that explain the impacts of the project on access and use of local resources and the compensation or mitigation measures put in place throughout the project life to address it. It is made clear that the costs of compensation or mitigation are considered as project costs, not benefits to beneficiaries.

On p.37, in the section on monitoring and evaluation, the authors of the document present a summary of the whole process:

- Project identification and FPIC
- Identification of risks of loss of access or use

- Creation or strengthening of Comités Locaux de Développement (CLD) – accompanied by a local NGO
- Identification of mitigation and compensation measures, their costs and a calendar, which will be supervised by the CLD, which becomes the Local Resettlement Committee
- Opening of an office of complaints at CLD or Sector level
- Follow up by the CLD, project implementer or the NGO responsible for the PARAR
- Dealing with complaints at local, provincial then national level

7.1.2 People affected by the Project (PAP)

It is not made clear anywhere in the document who is eligible for compensation and how that is decided.

7.1.3 Institutional arrangements

The document explains the institutional arrangements for the management of PIREDD projects overall, but contains no detail about how compensation and mitigation will be managed and overseen.

7.1.4 Conflict resolution and complaints mechanism

There is some detail provided about possible conflicts and resolution mechanisms, although it appears to apply to the PIREDD programme as a whole rather than to the individual PARARs.

Possible sources of conflict are identified as follows:

- Payment for environmental services
- Delays in project payments or benefits
- Land tenure and boundary conflicts
- Negative social and environmental impacts

Possible causes of these include: poor communication, lack of consultation and participation, poor data collection, and imposition of decisions from above.

It is proposed that local mediation and negotiation is used to resolve these, usually carried out by the CLDs or the project implementers. The project is supposed to have a complaint mechanism that registers in writing all complaints received, encourages local solutions to be found and makes public the complaints received and measures taken. It appears that this is supposed to start at local level, although with whom it is not specified, and then if the complainant is not satisfied, they can take it to the Provincial Steering Committee or to the national FIP Coordination, where it is dealt with by the Social and Environmental Expert and validated by the National Steering Committee.

7.1.5 Capacity strengthening

No analysis is offered of current capacity of any of the institutions involved in implementation of this framework. There is a budget proposed for training local social and environmental experts and for local NGOs to develop and deliver Resettlement Action Plans.

7.1.6 Monitoring and evaluation

The process is laid out on p.2 above. The principal bodies responsible for M&E are the CLDs.

7.2 Analysis of the Framework document

This document suffers from an overlap with the Resettlement Action Plan Framework and is in itself highly confused and ambiguous. It is not, at present, a document that would allow a project developer to understand and put into action their obligations.

7.2.1 Process

The narrative in the document that outlines the process is complex and leaves out a number of key elements, such as exactly what a PARAR needs to consist of and how it should be integrated into the project as a whole. At the very end of the document, in the section on monitoring and evaluation, is a summary of the process that could have in fact been the basis of a much shorter and much more coherent guidance document. However, there are problems even with that outline: it suggests obtaining FPIC before risks and compensation are agreed. This is not appropriate – it would mean that communities were granting their consent before they had fully understood the implications of the project.

7.2.2 People affected by the project

There is a generic discussion about people not having land rights but using land – but there is no clarification as to who is eligible for compensation, which makes the framework unusable.

7.2.3 Institutional arrangements

It appears that there is a lot of dependence on CLDs, which have been identified elsewhere as being non-existent or not sufficiently representative. There is also confusion between what is described as a Resettlement Committee in this document and what is described as one in the Resettlement Action Plan Framework.

7.2.4 Capacity strengthening

There is no analysis of current capacity or any justification for the measures suggested. It appears that local NGOs are expected to develop and deliver the compensation action plans, but that is not specified elsewhere in the document.
