

Implementing REDD+ in the Democratic Republic of Congo

How to manage the risk of corruption

A report commissioned by NORAD prepared by PricewaterhouseCoopers (PwC) in collaboration with NORAD and UNDP

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ABBREVIATIONS

| | |
|---------|---|
| ASADHO | <i>Association congolaise des Droits de l'Homme</i> - Congolese Association of Human Rights |
| AML | Anti-Money Laundering |
| BDS | Benefit Distribution System |
| WB | The World Bank |
| CN-REDD | <i>Coordination Nationale REDD</i> - National REDD Coordination |
| CREF | <i>Conservation et la Réhabilitation des Ecosystèmes Forestiers</i> - Conservation and Rehabilitation of Forest Ecosystems |
| C-MRV | Measurement, reporting and verification of carbon |
| DRC | Democratic Republic of Congo |
| DFID | Department for International Development |
| DSCR | <i>Document de Stratégie de Croissance et de Réduction de la Pauvreté</i> - Poverty Reduction and Growth Strategy Document |
| DSNLC | <i>Document de Stratégie Nationale de Lutte contre la Corruption</i> |
| ECC | <i>Eglise du Christ au Congo</i> - Christ Church in Congo |
| EITI | Extractive Industry Transparency Initiative |
| FIB | <i>Fédération des Industriels du Bois</i> - Timber / Wood Industry Federation |
| FLEGT | Forest Law Enforcement on Governance and Trade |
| FONALC | <i>Forum National de Lutte contre la Corruption</i> - National Forum for the fight against Corruption |
| GDP | Gross Domestic Product |
| GIZ | <i>The Deutsche Gesellschaft für Internationale Zusammenarbeit</i> |
| ICCN | <i>Institut Congolais pour la Conservation de la Nature</i> |
| IGF | <i>Inspection Générale des Finances</i> - |
| ITIE | <i>Initiative de Transparence des Industries Extractives</i> - Extractive Industry Transparency Initiative |
| IMF | International Monetary Fund |
| KYC | Know Your Client |
| MECNT | <i>Ministère de l'Environnement, Conservation de la Nature et Tourisme</i> - Ministry of Environment, Nature Conservation and Tourism |
| MOU | Memorandum of Understanding |
| NIM-DIM | National Implementation - Direct Implementation |
| NORAD | Norwegian Agency for Development Cooperation |
| OCEP | <i>Observatoire du Code d'Ethique Professionnel</i> - Observatory of the Code of Professional Ethics |
| OLCAC | <i>Observatoire de Lutte Contre la Corruption en Afrique Centrale</i> - Observatory for fight against Corruption in Central Africa |
| NGO | Non Governmental Organization |
| PAP | <i>Programme d'Actions Prioritaires</i> - Priority Action Program |
| PECO | <i>Parti Ecologiste Congolais</i> - Congolese Greep Party |
| PwC | PricewaterhouseCoopers |
| REDD | Reducing Emissions from Deforestation and Forest Degradation |
| RECIC | <i>Réseau d'Education Civique au Congo</i> - Civil Education Network in Congo |
| RRN | <i>Réseau Ressources Naturelles</i> - Natural Ressources Network |
| R-PP | Readiness Preparation Plan |
| SBSTA | Subsidiary Body for Scientific and Technological Advice |
| SEP | Société des Entreprises Pétrolières - Oil Companies Society |
| SGS | Société Générale de Surveillance |
| SNV | Stichting Nederlandse Vrijwilligers (Netherlands Development Organization) |
| SONAL | <i>Société nationale de loterie</i> - National Lottery Company |
| TOR | Terms of Reference |
| UNDP | United Nations Development Program |
| UNODC | United Nations Office on Drugs and Crime |

0. EXECUTIVE SUMMARY

The implementation of REDD+ in DRC will face numerous challenges because of the widespread nature of corruption in the country. We have noted that DRC is considered as a “fragile state” characterized by weak institutions that are currently under construction. The country suffers from poor governance (ambiguous and outdated legal framework, dysfunctional judicial system, lack of transparency and accountability at the institutional level, lack of freedom of the press and / or manipulation of the press for political purposes, precarious and low salary levels in the public administration in general, in the armed forces, police and justice system) and from a certain degree of tolerance towards corruption and anti values. The lack of political will, general impunity, and weakness of state institutions (Court of Auditors, General Inspectorate of Finance, Judicial System...) have been pointed out by our interviewees as the major causes of the dramatic situation in the country in terms of corruption and governance. The absence of coordination and lack of « leadership » at the national level to efficiently implement a centralized strategy to fight corruption, and to promote sound governance, has also been pointed out as a significant issue in DRC. In DRC, environmental governance is not primarily a technical issue; it is a political, social and ethical challenge that has to be dealt with from the highest level of the state to the level of ordinary people in the streets, through massive raising awareness programmes as well as educational and publicity activities.

Risks of corruption will threaten the implementation of REDD+ in DRC in all of the phases. As in all other sectors, grand and political corruption is likely to be ever present. In fact, a number of politicians, including those in the government circles and Parliament, as well as high-ranking civil servants, are currently engaged in industrial and artisanal logging. Congolese armed forces are also involved in mining, and some of the mines that they operate are situated in forested areas. Investors are also increasingly interested in agribusiness in DRC. Oil companies are also vying for contracts to explore oil in forested zones. Many of these investors are also business associates of politicians on whose protection they rely. It is therefore likely that such individuals or groups of people would be keen to influence the design of the national REDD+ framework for their private gain.

“Fragile” countries with poor institutional capacities like DRC are more prone and vulnerable to money laundering risks. Many experts started warning that REDD+ schemes would be highly vulnerable to these risks. It is therefore critical that an anti-corruption specialist be involved for any further REDD related activity and / or mechanisms. There is feeling of insecurity that is maintained in the country that also impedes the apparition of any form of “whistleblowing” mechanism and culture. Indeed, the general climate of impunity strongly discourages the emergence of any form of denunciation.

Following our study and according to many experts and analysts the following initiatives should be considered to adequately address the risk of corruption in REDD+:

- A permanent dialogue should be maintained with politicians and senior public officials with a view to educate them on the long-term benefits of REDD+ for their communities and their own careers. The ultimate purpose of this dialogue would be to convince the powerful groups and individuals that it is in the considered interest of all concerned to support the smooth implementation of REDD+.
- This dialogue should be carried out in parallel with a sustained effort of educating citizens about REDD+, and their rights and responsibilities under the Forest Code. This will put them in a better position to defend their rights, and effectively take part in and influence, the discussions on the governance of REDD+.
- There should be a systematic effort to build up the capacity and provide training in the management of funds to all the stakeholders involved in the forest sector.

- The National Anti-Corruption Strategy could be used as a tool for fighting corruption in the implementation of REDD+ in DRC. In fact, in a proper strategy, direction should be given as to the appropriate approaches and measures to be taken to tackle corruption in the forest sector and which could be adapted to REDD+. However, the strategy submitted to the Congolese government in 2010, will need to be revisited by a pool of specialists and supported with in depth studies.
- UNDP is currently running several programmes (Governance Programme: including support to journalists and the judicial system) which could contribute to the fight against corruption, notably within REDD+. A mapping of all initiatives currently operating and funded in the country should be carried out as a starting point (including the UNDP Governance Program). This will provide a "snapshot" of existing initiatives and a good basis to develop a coordinated approach (matrix) that will be beneficial to the fight against corruption in DRC namely within REDD+.

1. CONTEXT, METHOD AND STRUCTURE

1.1. General context

“Overcoming climate change is the most critical challenge of the 21st century. The flows of funding to assist developing countries in combating climate change have already begun and are likely to be ramped up to many billions of US dollars a year within a few years. The transparent utilization of these funds will determine their effectiveness.”¹

Following the restart of structural cooperation between DRC and the international community in 2001, a number of donor-driven initiatives were launched with a view to rebuild the institutions of DRC and to re-establish the rule of law. Among these initiatives was the development of the Poverty Reduction Strategy Paper (PRSP) which recommended notably the development of a national anti-corruption strategy. Corruption is currently considered as a significant cause of impoverishment and constitutes, particularly in DRC, an obstacle to national development and to the improvement of the business climate. Corruption impedes the effectiveness of public policies and of development funding, trapping people, communities and cities in poverty and leaving them without means to prosper. A national anti-corruption strategy was developed in 2002 with the assistance of the World Bank. However, for various reasons, including among others insufficient ownership and political will within the power-sharing government of the Transition Period (2003-2006), this national strategy was not implemented. Under pressure from donors and development partners, the new government that came into power in 2006 took a number of initiatives (for example: the Governance Contract² or CDG for the period from March to December 2007, followed by the *Programme d'Action Prioritaires* or PAP³ in 2008) to promote sound governance and fight corruption. In 2008 an Inter-ministerial Commission on Audit and Good Governance was created by the Prime Minister's office, having as its main task the audit of state-owned / controlled companies. The performance and results achieved by this Commission have not yet been independently assessed to date, and no report has yet been made publicly available. The Head of State, himself, has made several speeches, reaffirming in 2009 and reiterating in July 2010, the “zero tolerance” policy and his government's commitment in the fight against corruption and impunity, and in the promotion of sound governance in the country.

Following these steps, the Attorney General launched a series of prosecutions⁴. Following this, a large number of senior civil servants were arrested for embezzlement. A number of Directors of state-owned companies were also prosecuted. Despite these initiatives, a high level of corruption permeates the Congolese society and administration at all levels. In this context and given the substantial funding that is foreseen to be made available by donors in the fight against climate change and forest preservation, the current study has been commissioned to assess the risks of corruption relating to the forestry sector and REDD+ in general.

The primary objective of the study is therefore to:

¹ Global Corruption Report: Climate Change - By Transparency International. Comments from Saleemul Huq, Director, International Centre for Climate Change and Development (ICCAD), Independent University, Bangladesh (IUB)

² *Contrat de Gouvernance* or CDG, refer to : RDC, Gouvernement 2007. *Contrat de gouvernance (CDG), mars-décembre 2007. Kinshasa*. See also Kodi, Muzong (2008): Corruption and Governance in the DRC during the transition period 2003-2006. With regards to the fight against corruption the CDG has set 3 main priorities: (i) Public decisions which have a significant financial impact, (ii) Key sectors, such as mining, forestry, public finance management, public enterprises management and procurement, (iii) Building the capacity of institutions such as the Court of Auditors and the General Inspectorate of Finance.

³ Priority Actions Programme of the government aligned to the 5 pillars of the *DSCR*P (Poverty Reduction and Growth Strategy Document) to reach the completion point of the Heavily Indebted Poor Countries.

⁴ Reference: *Le Potentiel* of Mach 12, 2011 : http://www.lepotentiel.com/afficher_article.php?id_article=107708&id_edition=7067

- Inform Norway, the National REDD Coordination and DRC REDD+ implementation partners about corruption risks related to the management of REDD+ funds in DRC ;
- Propose recommendations for short, medium and long term to reduce mitigate and control possible risks.

1.2. Method and structure

The study is based on a combination of desk and field research. The list of reference documents consulted for this purpose is included in Appendix 2. The field research took place in Kinshasa from March 07 to March 20, 2011 and several interviews held face to face or by telephone with a selected number of key stakeholders and industry analysts, including key informants drawn from bilateral and multilateral development institutions, forest related government departments and ministries, forest-focused civil society organizations, forest community groups, and the private sector (please refer to Appendix 1 for the detailed list of interviewees).

The "face to face" interviews were conducted in Kinshasa from March 07 to March 20 by a joint team comprising the following:

- PwC International Consultant (2 weeks): Baraka Kabemba
- PwC National Consultant (2 weeks): Jean Jacques Mukula

In addition, the following Norad and UNDP representatives participated in the interviews in Kinshasa :

- NORAD Representative (1 week): Giske Charlotte Lillehammer
- UNDP Representative (1 week): Estelle Fach

Other interviews were conducted by telephone following the field visit to Kinshasa.

This team has been supported by Mr. Lars Ekman, Counselor at the Royal Embassy of Norway, acting as a facilitator, and by Mr. Jean-Claude Kessous, UNDP anti-corruption specialist in DRC.

A field visit and survey were also conducted at the Province Orientale, in Kisangani and the surroundings, in order to gather the sentiment and perception of corruption and of major risks associated to the forestry sector from the stakeholders that are involved and active on the ground. This visit was conducted in collaboration with, and with assistance from, the team of consultants contracted by the World Bank (Mr. Judicaël Fétiveau and Mr. Augustin Mpyoi). The World Bank team was concurrently carrying out an update of the recent study "*L'économie politique de la REDD en RDC*"⁵

The report has been structured in 5 main sections (excluding the Executive Summary and Appendices)

Section 1 provides the general context as well as the methodology and structure of the study.

Section 2 provides an overview of corruption in DRC. In this section we have started, in the 1st subsection, by performing a basic country analysis aiming to explain the origin of corruption in DRC, from a history of state formation perspective, and t also from a socio-cultural point of view. DRC is considered as a "fragile state" that has inherited, from its brutal colonial past and ill prepared independence, a society which is endemically undermined

⁵ Full report and reference: Fétiveau, Judicaël and Mpyoi Mbunga, Augustin (2009): *L'économie Politique du Secteur Forestier en RDC*, World Bank, Kinshasa.

by corruption. In the 2nd subsection, we have discussed governance in the DRC forestry sector, which is considered to be weak and to require significant improvement notably through strong environmental education and awareness campaigns, the creation of enabling conditions to attract responsible private sector partners to help put Congo's forest economy on track, greater integration of respect for local logics and belief systems, and increased and more systematic capacity-building and training for all stakeholders involved in forest governance. In the 3rd subsection, we have identified the key governance and corruption risks associated with REDD+.

These risks (corruption threats, practices and possible mitigating measures) have been mapped across the various phases of REDD+ implementation in the country, and also in accordance with the various levels of possible intervention by actors, namely: national, provincial or local. The 4th and last subsection addresses money laundering risks, which in a "fragile state" with a cash-based economy like DRC, constitute a serious concern that has been raised recently by worldwide experts. REDD+ schemes are also vulnerable and potentially open to wide abuse. According to Interpol, the world's leading policing agency, the chances are very high that criminal gangs would seek to take advantage of REDD+ schemes.

Section 3 of the report discusses the policy framework, implementation mechanisms and actors in the fight against corruption. A current status of national strategies and initiatives to fight corruption has been provided, and indicates that the country suffers from a lack of means, vision, centralized coordination, and, most probably, inadequate political will to address corruption as a priority. In this section we have also analyzed the role of the different actors / institutions tasked to fight corruption in the country, namely: Public Oversight institutions (Supreme Court of Auditors, General Inspectorate of Finance and Parliament) and other "watchdogs" (media, civil society and NGOs, etc). A benchmark and snapshot of anti-corruption initiatives in Kenya (e-whistleblowing) and in Indonesia (powerful and independent anti-corruption agency) have been provided as well to help understand how technology and law enforcement can make a difference in countries that are considered to be highly prone to corruption.

Section 4 of the report presents an overview of governance and anti-corruption initiatives, and more precisely describes the absence of coordination and lack of « leadership » at the national level to efficiently implement a centralized strategy to fight corruption and promote good governance. The section also discusses the following initiatives: Public finance management reform, EITI and FLEGT in DRC.

Section 5 concludes the report by proposing recommendations to mitigate corruption risks related to REDD+ in DRC. Significant efforts are yet to be made at the highest level of State to change the mentality and to invest in massive awareness raising and education activities in the country. The recent amendment of the constitution and the election law, establishing the one-round election, is also seen by many as an opportunity that will decrease the weight of political alliances on the management of the State and on other key decisions from the State.

2. OVERVIEW OF CORRUPTION IN DRC

2.1. Basic country analysis

2.1.1. History⁶ of state formation

The history of state formation is a key “foundational factor⁷” of any state as it shapes the access to political and economic power of different groups, relationships between them and perceptions of state legitimacy.

The state power in DRC was forged / enforced by a brutal colonial authority, which resulted in a weak sense of political community and weak state legitimacy; and reinforced pre-existing divisions, resulting in (among others) regional inequalities, a dominant political elite and permanent exclusion of certain groups, language barriers, major political divisions and a lack of broadly based interest groups that can challenge the private use of public power.

Congo started its history as the personal property of King Leopold II of Belgium⁸. From 1885 to 1908, the Congo Free State was run in a ruthless fashion, used primarily for the extraction of natural resources. This exploitative system resulted in a death toll of genocide dimensions: 4 to 8 million people lost their lives as a direct consequence of violence and deprivation. The subsequent period of Belgian colonization (1908-1960) avoided the most brutal excesses of the Free State, while relying on the same socio-economic and political foundations. The ‘colonial trinity’ (State, Companies and Church) continued to run the colony, through a mixture of iron fist and paternalism. Independence in 1960 was sudden and ill prepared. The leader Patrice Lumumba came to symbolize a radical break with the colonial past, but hopes of change were short-lived: soon after the declaration of independence, the army mutinied and the resource-rich region of Katanga seceded. Lumumba was murdered in January 1961 under circumstances that remain unclear to this day. The Congolese Government, with the support of United Nations forces, defeated Katanga’s secessionists in 1963. Two years later, Colonel Mobutu Sese Seko seized power with a “coup d’état”, starting a 32-year period of highly personalized autocracy, which has been described as “one of the most catastrophic examples of dictatorship in Africa during the last fifty years⁹”. Mobutu acted as the king and sole owner of the Congo, which he renamed Zaire. Like King Leopold II, he put in place a predatory regime that was maintained by brute force and a one-party state, and that relied on foreign powers for its defense against external threats. Patrimonialism and rent-seeking were elevated to a system of governance. Mobutu’s policy of “Zaireanization¹⁰” of foreign-owned assets in 1973 served to buy the consensus of political cronies and allies – highly and unanimously considered as “a case of theft masqueraded as policy¹¹”.

For various reasons, in the 1990s the system started to go wrong. With the end of the Cold War, Mobutu had turned from being an indispensable ally into a source of embarrassment for the West. The cut-off of foreign aid, along with the Structural Adjustment Programmes, undermined the possibility to use public resources to lubricate

⁶ The Democratic Republic of the Congo – Building an Inclusive, Responsive and Capable State – By Valeria Izzi. Democratic Governance Community Of Practice meeting held on 15-19 February 2010 in Dakar, Senegal.

⁷ This refers to factors that fundamentally shape the state and political system. These include territorial integrity, the **history of state formation**, the revenue base, socio-economic structures, the geostrategic position and geographical aspects of the country (Framework for Strategic Governance And Corruption Analysis (SGACA) – Designing Strategic Responses Towards Good Governance – Prepared by the Clingendael Institute for the Netherlands Ministry of Foreign Affairs – July 2008.)

⁸ Also refer to the following: “CORRUPTION AND GOVERNANCE IN THE DRC - DURING THE TRANSITION PERIOD (2003–2006)” by Muzong Kodi in 2008.

⁹ Source of information: DRC translated NATIONAL ANTI – CORRUPTION STRATEGY – Logical and strategic framework for intervention. Document obtained from UNODC

¹⁰ Extensive nationalisation program initiated by Mobutu (for more details please refer to “The Illegitimacy of External Debt: The Case Of the Democratic Republic of Congo – 2005” that can be downloaded on <http://www.afrodad.org/downloads/publications/Illegitimate%20Debts%20-%20DRC.pdf>)

¹¹ Source of information: DRC translated NATIONAL ANTI – CORRUPTION STRATEGY – Logical and strategic framework for intervention. Document obtained from UNODC

patron-client relationships. A belated, desperate attempt by Mobutu to embrace democracy and multipartism proved unsuccessful.

Inflation went out of control, resulting in a de facto destruction of the monetary side of the economy and the return, in most of the country, to self-subsistence and barter. Social instability ensued. In this already tense environment, the effects of the Rwandan 1994 genocide proved explosive, leading the first Congo War (1996-1997) that led to the fall of the Mobutu regime. He was replaced by Laurent Desiré Kabila, who was sworn in as President in May 1997. While initially Kabila surrounded himself with pro-Rwanda and pro-Uganda advisors, he soon decided to shake himself free of the influence of Kigali and Kampala – a decision that finally gave rise to the Second Congo War (1998-2002). When President Kabila was murdered, his son, Joseph Kabila, adopted a more open attitude towards conflict resolution. Negotiations took place in Sun City, South Africa, in 2002, resulting in the signing, in December, of the All-Inclusive Peace Agreement in Pretoria.

The leadership of Joseph Kabila resulted in a new wave of international trust towards DRC, the restart of international aid, and the labeling of DRC as a 'post-conflict' country. 2006 was a milestone year for the transition, with the adoption of a new Constitution and successful elections, leading to the re-confirmation of Joseph Kabila as President and the formation of a new Parliament. The new Constitution introduced significant innovations in a number of areas. The President's power was significantly limited by the establishment of a semi-Presidential system, with a Prime Minister responsible for designing and leading policy, and accountable to the Parliament.

Importantly, the Constitution established decentralization as a key organizing principle of the Congolese State – a decision that is impossible to overestimate in a country of roughly the size of Western Europe, with one of the least developed communication networks in the world. The Constitution increased the number of provinces to twenty-five (compared to the initial eleven), and gives provinces and sub-national entities increased political weight and an enhanced role in territorial management, through an extensive series of exclusive competences.

The Head of State, President Joseph Kabila, promulgated on January 2011 the bill amending the Constitution. Eight articles of the Basic Law have been revised. Main changes and features are as follows:

- Article 71 paragraph 1 now provides for the presidential election in one round.
- Article 110 deals with the loss of the mandate of a parliamentarian. When the latter is appointed to political office that is incompatible with its mandate, the member may regain his seat in parliament at the end of this political function.
- Articles 197 and 198 relating to provincial institutions were also subject to change. Faced with the many conflicts in this Legislation, this constitutional amendment now allows the head of state to arbitrate disputes. He has the authority to remove the governor from office or dissolve the provincial assembly.
- Article 149 place prosecutors under the authority of the Department of Justice.
- Article 208 allows only the Head of State to call the people in a referendum.
- Article 226 relates to the installation of 26 new provinces for which the programming is left under the care of the legislator.
- Article 126 includes the provision that the government must apply for temporary funding (credits) in parliament when the budget is not voted on time.

In spite of the signing of the 2002 Peace Agreement and the transition period, the war continues in the Eastern part of the country. An often-quoted report by the International Rescue Committee estimates that more than five million people have lost their lives from 1998 to 2007 as a direct or indirect consequence of the conflict, with a high proportion of these deaths happening after the official peace agreement. Both military and diplomatic attempts to solve the conflict have failed to produce lasting results.

2.1.2. Socio – cultural origins and root causes of corruption in DRC¹²

As far as the history of mentalities is concerned, it should be noted that the traces of systematic corruption are almost non – existent in the traditional society of DRC. They might have existed under a veiled form in the behaviour of a few subjects who, in order to gain the favours of the king, would take the liberty of providing gifts, as a reward for loyalty, in order to be considered as his friends or to be appointed as his advisors. It is now commonly recognized, as mentioned above, that the first phenomena and / or initial trigger of corruption in DRC occurred with colonization. First with the Congo Independent State under King Leopold II of Belgium, who in the name of his personal benefits, instituted a very brutal system in the colony (amputation of hands of the natives for a stolen bowl of rubber was common). This corruption of the spirit, in the name of the capital gain and to accumulate wealth, would later be taken over by the colonial administration, which would not hesitate to bribe the colonized population in order to perpetuate the system.

In order to make the future independence fail, Belgian authorities allegedly bribed some high chiefs of Congolese tribes to enter into secession. Having internalized the idea according to which money or fortune provides power and glory to the person who has it, it has acquired the dimension of a matter of life or death for the Congolese citizen. In DRC, like in many developing countries, people are seeking to become involved in politics because it is one of the few ways of accumulating wealth quickly, as compared to most of developing countries where better opportunities often lie in the private sector. Opportunities in the private sector in DRC are extremely limited and hardly accessible to ordinary people.

Psychologically and culturally speaking, the Congolese people experienced colonization as a source of frustration and humiliation. Prevented from accessing the same status as their masters, they lived colonization as a source of deprivation. Once liberated from the colonizer - colonized situation, they attempted literally to take their revenge overnight: to live immediately like a *“master”*, with houses, property, and to live in high style like the depriving father. This image of the person who has succeeded in life will noticeably mark the mental state of the Congolese citizen to the point where he forgets that it is at the price of considerable sacrifices (hard work, deprivation etc.) and of productive work that one can progressively build for oneself a fortune: *“to accumulate with the least effort will become the creed of the Congolese man”¹³*. All possible and unthinkable practices will be utilized provided that they propel him towards the top of the social ladder. With the utter misery worsened by the years of African independences, the Congolese man and women will be tempted to look for safety in corruption, theft, embezzlement of funds and closely related practices. As far as the subsequent causes of corruption in DRC are concerned, it has been unanimously demonstrated that the paucity of salaries, political and economic competition, impunity and poverty, might account for the persistence of corruption in the country.

The situation in DRC is alarming as confirmed by the majority of governance indicators (corruption perception index, business climate etc.) Corruption has become a way of life, *“the system”¹⁴*. Corruption is tolerated and accepted as a means of survival not only for the poorly and irregularly paid civil servants, soldiers and policemen, but also for ordinary men and women in the street. Rapid accumulation of wealth by all means has become a reference for all and a model duplicated by anyone. This has profoundly changed the value system in DRC and affected all layers of the society. As mentioned above, with limited opportunities in the private sector, politics is

¹² Source of information: DRC translated NATIONAL ANTI – CORRUPTION STRATEGY – Logical and strategic framework for intervention. Document obtained from UNODC.

¹³ Source of information: DRC translated NATIONAL ANTI – CORRUPTION STRATEGY – Logical and strategic framework for intervention. Document obtained from UNODC.

¹⁴ Reference: Contribution paper to this study from Muzong Kodi who also referred to: Valeria Izzi, *“The Democratic Republic of the Congo: Building an Inclusive, Responsive and Capable State”*, UNDP, Democratic Governance Community of Practice Meeting, 15-19 February 2010, Dakar, Senegal, p. 188.

seen as the only way to accumulate wealth and provide for one's group and oneself, and to secure one's position in society. Civil servants have "privatised" the delivery of public services for their gains. The police invent and impose all kinds of ad hoc fines to civilians. The military occupy several mines in Eastern Congo and smuggle minerals to neighbouring countries. Magistrates extort bribes from citizens who are supposed to be tried. At a higher level, public finances are poorly managed with relatively few public contracts being awarded in accordance with the set rules and regulations¹⁵. The resources of state-owned enterprises have continued to be plundered with impunity by political appointees to raise funds for their political parties. The justice sector has been considered very corrupt and has recently been targeted in the government's action against corruption.

2.1.3. Governance and corruption in the context of a fragile state¹⁶

A fragile state¹⁷ is a low income country characterized by weak state capacity and/or weak state legitimacy leaving citizens vulnerable to a whole range of shocks. While many countries are making progress towards achieving the Millennium Development Goals, a group of 35 to 50 countries (depending on the measure used) is falling behind. Projections (for example, World Bank¹⁸, 2008) state that fragile states will constitute an even larger share of low-income countries in the future given that many better performing low-income countries will graduate to middle-income status. The increasing proportion of fragile states will, without a strengthened model for dealing with them, make international engagement and development assistance less effective. Country contexts vary widely in this group of countries. Some are trapped in a vicious cycle of violent conflict and poverty, or suffer from a natural resource "curse"; others (and most of them) face a legacy of poor governance; many emerging from a crisis cannot deliver even the most basic services to their citizens, which is the case to a degree with the Democratic Republic of Congo. In terms of dynamics, fragile states include (i) post-conflict/crisis or political transition situations; (ii) deteriorating governance environments; (iii) situations of gradual improvement; and (iv) situations of prolonged crisis or impasse. A fragile state is significantly susceptible to crisis in one or more of its sub-systems (security, socio-economy, monetary etc.) due to the weakness (or lack) of its institutions. It is a state that is particularly vulnerable to internal and external shocks and domestic and international conflicts.

DRC is considered as a "fragile" state in its early stage of transition to a democracy. The country has emerged from a long and complex war, and most public institutions are still under construction (which represents, at the same time a barrier and an opportunity). President Joseph Kabila was elected in 2006 following the very first democratic elections organized in the country since 1965. At the exception of the Eastern part of the country the overall political situation is relatively stable. The population is estimated at 70 million, and is expected to reach over 93 million by 2020. Approximately 1% of the population is indigenous. DRC represents a diverse society and there are between 200-250 different languages, mostly "bantou", and more than 200 ethnic groups. The most recent poverty assessment was carried out in 2005 and estimated that approximately 70% of the population lived below the poverty line.

The forthcoming presidential and parliamentary elections scheduled to take place in November 2011 represent a major challenge for the implementation of the REDD+ Readiness Phase. Indeed it will be very difficult to have

¹⁵ Reference: Contribution paper to this study from Muzong Kodi who also referred to: « Mesure de la performance de la gestion des finances publiques en République Démocratique du Congo selon la méthodologie PEFA », March 2008.

¹⁶ Reference: Advice on REDD+ design of financial mechanism in the Democratic Republic of Congo – Scanteam, Analysts and Advisers – November 2010

¹⁷ Detailed and more in-depth information on what is characterized as a fragile state can be found on the following paper: CRISE (Center for Research on Inequality Human Security and Ethnicity) Working Paper N°51 dated January 2009 available online : <http://www.crise.ox.ac.uk>

¹⁸ One common measure of state fragility is to use the *World Bank's Country Policy and Institutional Assessment index*, but more complex indexes, for example including the security dimension, are increasingly being used.

politicians' involvement to focus on REDD+ as their priority will be on winning the elections. Changes in political personnel may result from these elections as well.

Therefore all the efforts that have been made so far for bringing on board politicians, including the Minister of Environment and his cabinet, might need to be restarted with any hypothetical new entrants. It is, therefore, important for those involved in the implementation of REDD+ to be flexible and to revisit the timeline if required. In any case, a period of flotation and reduced activity should be expected if new teams are to be put in place.

The recent amendment of the constitution and the election law, establishing the one-round election is seen by many as an opportunity that will decrease the weight of political alliances on the management of the State, and on other key decisions from the State. There will, of course, be reduced opportunities to build political alliances during shorter campaign time, and the elected President will have greater freedom of action in appointing the prime minister and government.

The first Poverty Reduction and Growth Strategy (DSCR) was completed in 2006, and was later endorsed by the elected government that came into office in April 2007. The latest draft of the second DSCR is dated March 2011 and is publicly available¹⁹. The key priorities in the document are: structural and administrative reforms to improve governance and decentralization, security reform related to the police, military and justice sectors, improved macroeconomic management, public financial management reform, and economic diversification and private sector development. These priorities are articulated around the following pillars: Pillar 1 – Governance, peace and State Authority, Pillar 2 – Growth sectors, Pillar 3 – Access to basic social and public services, Pillar 4 – Protecting the environment, and fight against climate change; and Pillar 5 – Fight against HIV / AIDS. The National REDD strategy is explicitly stated as a priority under Pillar 4. However the authorities have yet to demonstrate the capability to deliver according to the priorities set in the DSCR. Poor accountability and transparency, as well as the lack of political will remain fundamental problems. This situation undermines the overall support to government action in general. The government is also seen as detached and disinterested from the challenges that undermine the lives of the citizens, in many parts of the country, and the security services are also distrusted.

Although some of the government officials and highest authorities (mainly the Head of State and Ministry of Justice) are clear on their intentions to commit to strengthening the fight against corruption, in practice it is still too early to notice any significant changes, and the country still ranges among the worst ranked on indices such as the TI's Corruption perception index and the Doing Business survey. It is also commonly recognized, following our interviews, that the "zero tolerance" is still a slogan rather than an effective policy. Some other interviewees also clearly mentioned that the lack of political will also affects the highest echelons of the State. The risk of corruption in DRC is generally very high and it is also the case in the forestry sector and for REDD+ related activities. The lack of accountable governmental institutions makes a REDD+ implementation process all the more challenging.

¹⁹ Latest draft of the DSCR dated March 2011 is available on <http://www.dscr-rdc.org/>

2.2. Governance in the forestry sector and REDD+

2.2.1. The “curse” of natural resource abundance

There is a growing body of evidence that natural resources can sometimes be a curse rather than a blessing. Countries endowed with natural resources, on average, grow more slowly than countries without such resources. Natural resources often provide fertile ground for corruption²⁰. Since a substantial number of partner countries in development cooperation are richly endowed with natural resources, these contexts pose a particular challenge for effective donor action. The risk of corruption cuts across natural resource sectors – from non-renewable resources such as oil, gas, minerals and metals, to renewable resources such as forests, fisheries and land. Governance and corruption risks in the forestry sector and REDD+ are a real challenge to address in DRC. The basic relationship between corruption and natural resources is twofold. First of all, the presence of natural resource endowments is a fertile ground for corruption. The existence of appropriable resource revenues, for which various social groups may vie, can result in a high level of rent-seeking behavior. Secondly, corruption may occur within natural resource management systems themselves, leading to the sub-optimal use of these resources, and to poor development outcomes in terms of economic growth and/or poverty reduction. The level of corruption within natural resource management systems is a product not only of the resource endowments at stake, but also of the institutional arrangements in place to govern their use. This is particularly true for DRC²¹ where mismanagement of abundant resources manifested and still manifests itself in a very obvious way. DRC resources include all major tradable extractive industry related products (copper, diamonds, cobalt, petroleum, gold, silver, zinc, coltan, etc.)

2.2.2. Governance in the forestry sector in DRC

DRC is located within the world's second largest tropical forest after the Amazon Basin: the Congo Basin. Industrial logging has great potential to generate massive revenues to the State; however the challenges of illegal logging and smuggling prevent this potential from being translated into economic growth. According to a U4 policy brief, industrial logging companies contribute less than 1% of GDP, and there are indications that actual timber exports could be as much as seven times higher than official figures (International Crisis Group, 2006). There have been several attempts to reform forest governance with support from the international community. However, success has been limited so far. Efforts have been noted during the last decade, as reported in the paper from Mr. Muzong Kodi in that study. The 2002 Forest Code, which replaced the 1949 law governing the forest sector, was a step toward defining the missing forest law. It aims at promoting rational and sustainable management of forests with a view to increase the contribution of the sector to the economic, social and cultural development of the country. It also purports to preserve the ecosystems and biodiversity of the forests for future generations. By requiring that local populations be consulted by the state before granting rights for forest resources, it contributed to closing the gap between modern law and customary law. It also improved transparency in the procedures for awarding forest concessions by making invitations to tender mandatory and restricting single-offer contracts to exceptional circumstances.²² The Congolese government also declared a moratorium on granting new logging titles and renewing or extending the existing ones. This moratorium was extended by a 2005 presidential decree until after the completion of the evaluation of the logging contracts that had been cancelled for non-compliance with tax regulations.

²⁰ Refer to: “Corruption in Natural Resource Management – An Introduction” – 2008 available on <http://www.U4.no>

²¹ Reference: Harvard International Review: <http://hir.harvard.edu/economics-of-national-security/the-resource-curse-revised>

²² Abel Léon Kalambayi wa Kabongo, “La politique forestière de la RDC: l’Agenda prioritaire et le Code forestier», 2007, available at http://www.chathamhouse.org.uk/files11385_171207report.pdf.

However, these measures have not been fully implemented due to inadequate political will to fight corruption in the sector, the weak institutional capacity, insufficient qualified forestry professionals and poorly equipped and paid civil servants; this is mainly due to the lack of financial means. Another important obstacle to the implementation of these measures has been the dysfunctionality or even absence of public consultations of the local populations, and of logistical and institutional controls. A further impediment has been the uneasy co-existence between the 1966 Bakajika law (which recognised the state as the sole owner of land in DRC) and customary law (according to which land belonged to the local populations). The conversion of logging titles has not yet been concluded. While the legal and regulatory framework governing industrial logging has been updated, that relating to community and artisanal logging is obsolete, thus leaving a loophole that is liable to be used for large-scale logging activities.²³

As noted above in 2002, President Kabila declared a moratorium on new forest concessions, cancelled 163 existing ones, and promulgated a forestry code. However, subsequent studies found that new concessions had been granted and 2.4 million hectares reinstated. Seven companies with concessions totaling over one million hectares were operating under fictitious contact details (International Crisis Group, 2006). Concerns have also been expressed by local NGOs over the legal review process of all logging contracts, especially with respect to the limited involvement of civil society and local community representatives. The local NGO representatives that we have spoken to mention the lack of transparency and limited communication around the overall review process that inevitably casts a veil of suspicion over the procedures used by the Government. The review process finally resulted in October 2008 with the announcement that numerous deals would be cancelled, and that there would be an ongoing moratorium on new concessions. Following our discussions and interviews held during the assignment and field visit, we understood that the Ministry of Environment initially announced that the moratorium would be suspended by end of June 2011, however this was strongly denied by the Ministry's Chief of Cabinet. Furthermore:

- The 2002 Forest Code and accompanying presidential decree have been largely unsuccessful in improving industrial logging governance;
- The new legal framework requiring increased public consultation has reinforced social imbalances with limited voice for women and indigenous people;
- The administrative, logistical and institutional control mechanisms envisaged for forest management are either weak or have still not been put in place.

The limited impact of forest governance reforms can mainly be attributed to a lack of incentives for various stakeholders to reform a system from which they benefit in its present form. In addition, the general context of weak institutional and governance structures create favourable conditions for corruption, predation and illegal exploitation of resources. Moreover, whereas some progress has been achieved in forest governance at the national level, implementation at the local level (in provinces and remote locations) remains a significant challenge to date. According to our discussion with representatives of the Industrial Wood Federation in DRC, we understand that the size of the informal wood, timber market and trade is estimated to be 10 to 15 times larger than the formal sector and industrial logging (mainly timber and wood production from large scale concessions) which stands at around 250.000 cubic meters.

The decentralization process should be seized as an opportunity to reinforce the capacity in the forestry sector at the provincial and local levels. This is absolutely vital as the administrative, logistical and institutional controls are even weaker than they are at the central level. REDD+ implementation, if properly done, could be a model of coordinated capacity building effort bringing together several sectors of the provincial and local administration.

²³ Theodore Trefon, "Forest Governance in Congo: Corruption Rules?", *U4 Brief*, no. 5 (2nd edition), September 2010.

It is also important to mention that community-based forest management is a crucial battle for the grassroots and civil society stakeholders. The law anticipates these types of schemes. The UN-REDD process supports their crafting as they are likely to be a major tool for forest management with an equality dimension, and to avoid major misappropriations of the forest (community forest management actually empowers communities in forest governance).

The table below summarizes general recommendations²⁴ that have been formulated to address the issue of weak of forest governance in DRC, following a U4 brief on forest governance in DRC.

Table 1: Weak forest governance and suggested general recommendation²⁵

| Finding: Weak forest governance that needs to be improved | R1: Suggested recommendation |
|---|--|
| Forestry is a high-stakes business that allows unscrupulous actors to accommodate themselves with corrupt officials. Constantly renegotiated rules, codes and practical norms govern this accommodation process. Environmental governance is not – in DRC – primarily a technical issue; it is a political, ethical and social challenge that has to be dealt with. | <ul style="list-style-type: none"> • Environmental education and awareness campaigns about rights and responsibilities to help local populations bargain into forest governance strategies. • The creation of enabling conditions to attract responsible private sector partners to help put Congo's forest economy on track. • Greater integration of respect for local logics and belief systems. Forest governance strategies must consequently take into account a host of cleavages, tensions, problems of distrust, as well as gender and generation gaps that characterize forest communities. • Increased and more systematic capacity-building and training for all stakeholders involved in forest governance. |

2.2.3. Snapshot of current REDD+ Governance bodies in DRC²⁶

The overall institutional structure governing the REDD preparation process in DRC is described and illustrated hereafter. A decree by the Prime Minister (N°09/41) was signed on November 26, 2009. The institutional structure presented in the decree is the result of a participative exercise conducted by all stakeholders during the UN-REDD/FCPF joint mission in January 2009. This structure was later debated and slightly amended following discussions at the Cabinet Meeting before being approved by decree by the Prime Minister. The institutions managing the preparation for the REDD process in DRC established by the decree are notably the following:

- **A national REDD committee**, in charge of decisions and strategic direction. It defines the overall direction of the REDD process, approves the work plans of the Inter-Ministerial Committee and the National Coordination Body, provides for the monitoring, control and evaluation of the REDD process, and implements the national fund. It also establishes the forms of management and redistribution of subsidies and resources deriving from REDD (MECNT²⁷ 2010:15-16). The MECNT announced the members of the National Committee by Ministerial Decree on 28 June 2010. It consists of 14 members, including members from the DRC administration, civil society and representatives from indigenous and local communities, private sector and academia. The National Committee is chaired by the Secretary General of Environment and Nature Conservation in the MECNT. The Ministerial Decree n°09/40²⁸ dated 26 November 2009, from the Prime Minister's office provides the list of the

²⁴ Source : U4 brief, "Forest Governance in Congo, Corruption rules" – September 2010

²⁵ A study "The political economy of the REDD+ in DRC" has been conducted by consultants (Judicaël Fétiveau and Augustin Mpyoi) on behalf of the World Bank, the report is currently being finalized and has not been made public.

²⁶ This is presented in more details in the R-PP that has been prepared for REDD readiness phase in DRC.

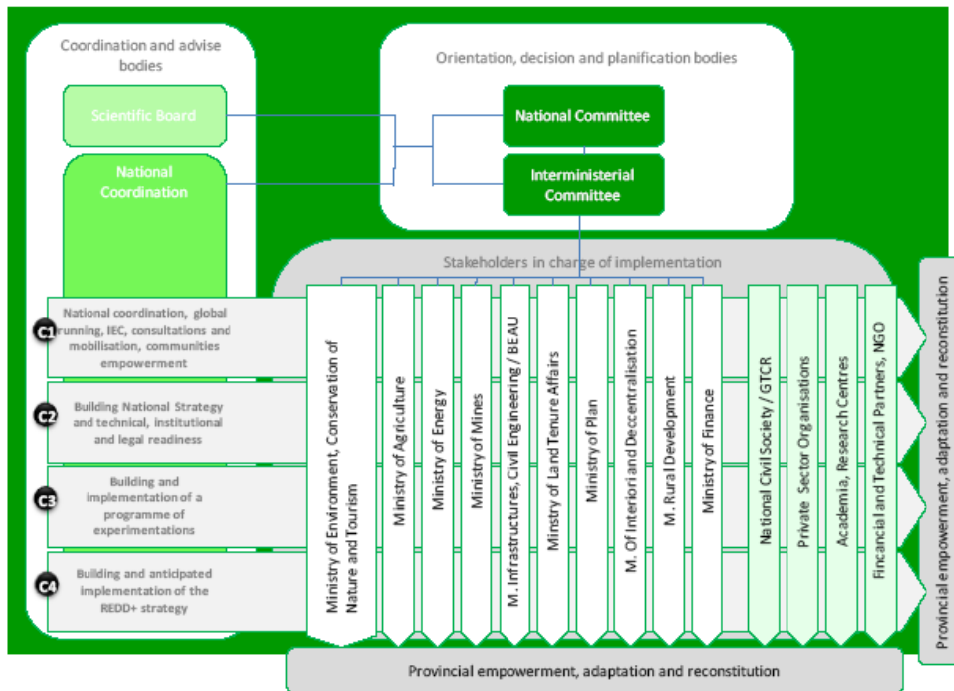
²⁷ Ministère de l'Environnement, Conservation de la Nature et Tourisme

²⁸ Décret n°09/40 du 26 novembre 2009 portant création, composition et organisation de la structure de mise en œuvre du processus de Réduction des Emissions Issues de la Déforestation et de la Dégradation des Forêts, « REDD » en sigle.

14 members of the National Committee, it also explains how the 7 government related representatives are selected. However the decree does not explain how the 7 non-governmental related representatives are selected. Following our interviews we understand that they are designated on the basis of a consensus during meetings between various NGOs platforms representatives and other stakeholders, the names are then submitted for endorsement to the Ministry of Environment. This practice is not fully transparent and poses the question of the legitimacy of the designated representatives.

- **An Interministerial committee**, in charge of planning the implementation of the National Committee's decisions. It also designates responsibility for the execution of these decisions to relevant state structures and experts, both national and international. The establishment of this committee reflects an acknowledgement of the interconnectedness of forestry and other sectors in DRC. The Ministerial Decree published by the MECNT on 28 June 2010 announced the participation of the following ministries: Environment, Nature Conservation and Tourism (president); Agriculture; Energy; Mines; Land Tenure Affairs; Planning; Rural Development; Housing and Urban Planning; and Finance (members). Conspicuous by their absence are the Ministry of Interior and Decentralization; and the Ministry of Infrastructure, Public Works and Reconstruction. These are two ministries who took an active part in the preparation of the DRC's RPP (MECNT: 2010:9). Considering the expansive nature of DRC's forests and the country's plans to develop and to decentralize, harmonization of plans for REDD with those of both of these ministries will be required.
- **National REDD coordination** (already in operation) in charge of coordinating day-to-day activities, and particularly responsible for the implementation of UN-REDD and FCPF. The National REDD Coordination is a large, operational team, with more than a dozen fully-dedicated professionals. The National Coordination body assists in the proper functioning of the authorities responsible for REDD orientation, decision-making and planning (i.e. the National Committee and Inter-Ministerial Committee). As its name suggests, it also provides for coherent REDD implementation by supporting and coordinating different stakeholders. The National Coordination entity was established before the National Committee and the Inter-Ministerial Committee in May 2009. The entity initially included a National Coordinator, a Chief Technical Advisor, an International Technical Expert, an Information, Education and Communication Expert, and administrative and financial assistants. The National Coordination body is overseen by the Secretary General of Environment from the MECNT. The Secretary General is assisted in his duties by the Director of Sustainable Development in the MECNT, who is also the focal point within the ministry for REDD and for the UNFCCC.
- **A scientific consultancy, technical committee** of national and international experts, is yet to be created to provide scientific and technical advice to the REDD process.

Figure 1: Current REDD bodies in DRC



2.3. Corruption risks in REDD+

Recent studies²⁹ from U4 and UNDP have clearly mapped and identified corruption risks and challenges in REDD. These will be outlined in this section of the study.

2.3.1. Defining corruption

UNDP defines corruption as the *“misuse of entrusted power for private gain”*. Many agree that corruption can occur in both the public and private sectors, and may involve corrupt interaction between the two. This definition is also sufficiently broad to include corruption within and by non-governmental actors. The most common forms of corruption, according to UNDP, which are referred to in this study are defined below:

- *Bribery* refers to the act of offering someone money, services or other inducements to persuade him or her to do something in return. Bribes can also be referred to as kickbacks, hush money, or protection money.
- *Cronyism* and *clientelism* refer to the favourable treatment of friends and associates in the distribution of resources and positions, regardless of their objective qualification.
- *Embezzlement* is the misappropriation of property or funds legally entrusted to someone in their formal position as an agent or guardian.
- *Extortion* is the unlawful demand or receipt of property, money or sensitive information to induce cooperation through the use of force or threat.
- *Fraud* refers to an intentional misrepresentation which is done to obtain an unfair advantage by giving or receiving false or misleading information.

²⁹ 1) UNDP Report dated November 2010 – Staying on track: Tackling corruption risks in Climate Change. And 2) U4 report dated February 2011 - REDD integrity : Addressing governance and corruption challenges in schemes for REDD

- *Grand corruption* involves bribery or the embezzlement of huge sums of money by those at the highest levels of government.
- *Nepotism* is a form of *favouritism* that involves family relationships. Its most usual form is when a person exploits his or her power and authority to procure jobs or other favors for relatives.
- *Patronage* refers to the support or sponsorship by a patron (a wealthy or influential guardian), e.g. to make appointments to government jobs, or to distribute contracts for work.
- *Petty corruption*, also called bureaucratic corruption, involves low level contacts between citizens, businesses and officials and generally takes place where public policies are being implemented. It is common in service delivery, such as in health care, where people use public services.
- *Political corruption* is the misuse of political power for private gain for preserving or strengthening power, for personal enrichment, or both.
- *State capture* is where the state is held captive by the actions of individuals, groups, or firms who influence the formation of laws, rules and regulations to serve their own private interests. This is a way of 'legalizing' corruption.

2.3.2. Corruption, illegal logging and deforestation³⁰

Several studies and investigations have demonstrated that corruption is a significant enabler of deforestation in developing countries. This has now been recognized by the worldwide forest policy community for more than 10 years. Corruption in the forestry sector is in most cases associated with interactions between public and private actors where financial or status-related incentives are offered (or sought) to deviate from an agreed framework of rules and regulations. Some of the main links between corruption and deforestation described in recent literature are listed and summarized in table below.

Table 2: Links between corruption and deforestation³¹

| Stage in progress | Corrupt activity | Possible impact on deforestation |
|-------------------|---|---|
| Land planning | Interest groups bribe public officials to skew design and implementation of land use plans | Contributes to deforestation by undermining land use allocation process and enforcement of land use plans |
| | Large-scale farmers bribe politicians in exchange for agricultural subsidies | Contributes to deforestation by reducing agricultural productivity (farmers deliberately use land inefficiently to attract subsidies) |
| | Corruption limits private investment in agricultural land | Protects forests by limiting investments in extension of agricultural land |
| Harvesting | Loggers bribe forestry officials to harvest without legal permits, or to speed up the issuance of such permits | Contributes to deforestation by foregoing legal system for allocating harvesting rights |
| | Logging operators bribe local officials to obtain logging permits not recognised by the forestry regulatory framework | Contributes to deforestation by facilitating forms of harvesting not allowed within the legal system for forestry |
| | Logging concessionaires pay bribes so that over-harvesting is not monitored | Contributes to deforestation by foregoing the established system for monitoring logging activity |
| Transportation | Loggers bribe public officials to allow transport of illegally logged timber | Contributes to deforestation through facilitation of exit-routes for illegally harvested timber |

³⁰ More details can be found in the U4 report dated February 2011 - REDD integrity : Addressing governance and corruption challenges in schemes for REDD

³¹ Sources: Tacconi et al (2009) and Brown (2010)

The same U4 report also summarizes the possible challenges and corruption risks for REDD by Governance level as summarized in the table below.

Table 3: Possible corruption risks and challenges for REDD³²

| Governance level | Corruption risk |
|------------------|---|
| National | Agricultural or timber conglomerates bribe national politicians to undermine establishment of national REDD mechanism |
| | REDD project developers bribe national politicians or senior officials to promote fraudulent REDD schemes |
| | Public officials or politicians bribe technical staff to skew national baseline data |
| | Politicians and senior officials extract rents from REDD revenues |
| | Officials responsible for reconciling REDD projects with national accounting take bribes from project developers to double-count projects |
| | Agricultural or timber conglomerates bribe national officials responsible for forest protection to ignore violations of conservation laws |
| Sub-national | Agricultural or timber conglomerates bribe sub-national politicians and public officials to opt out of REDD implementation, or weaken REDD policies, in their areas |
| | Agricultural or timber conglomerates bribe sub-national officials responsible for forest protection to ignore violations of conservation laws |
| Local or project | REDD project host bribes official monitors either to overstate avoided emissions or understate problems of permanence/additionality of the project |
| | REDD project host intentionally increases emissions in lead-up to implementation in order to benefit from higher credits |
| | Local administrators extract rents from environmental service schemes aimed at benefiting local communities |

And the possible measures to address those risks in REDD, as summarized in the table below.

Table 4: Possible national anti-corruption measures for REDD³³

| Type of measures | Possible foci |
|--|--|
| Measures to improve regulatory and institutional framework | Land use planning process; allocation process for logging concessions; development of REDD framework (regulations plus institutions); Statutory oversight institutions; framework for broad stakeholder participation (including forest communities, civil society, private sector); formalisation of ownership or profit rights from forest uses. |
| Measures to improve accountability and transparency | Land use planning; creation of REDD baseline data; development of REDD framework (regulations plus institutions); regulatory framework for forests; allocation process for logging concessions; MRV system for non-carbon benefits (including field-based monitoring); demand-side accountability institutions; statutory oversight institutions; data on donor support to REDD projects; data on private sector involvement in REDD projects. |

³² Sources: Tacconi et al (2009) and Brown (2010)

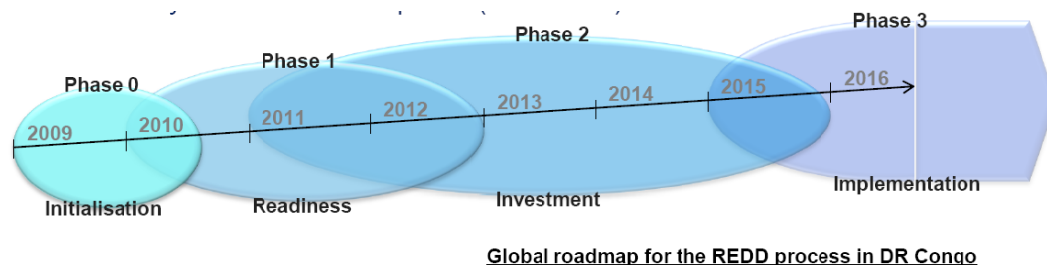
³³ Sources: Tacconi et al (2009) and Brown (2010)

| | |
|---|--|
| Measures to improve law enforcement | Capacity building to state prosecutors, formal anti-corruption institutions, judges and court officials. |
| Measures to reduce rents from deforestation | Reform of national forestry taxation system; addressing rents from land uses that replace forests (e.g. palm plantations). |

2.3.3. Addressing corruption risks in REDD+ in DRC?

As stated in the UNDP report (dated November 2010), the corruption risks that may affect REDD+ will depend upon the phase being considered, namely the readiness phase (phase 0 to phase 2) or the implementation phase (phase 3) of REDD+. The figure below provides an overview of the phases in DRC.

Figure 2: REDD phases in DRC³⁴



Based upon analysis³⁵ the probability that corruption will threaten the implementation of REDD+ in DRC is considered significant in all of the phases above. Grand and political corruption will be a permanent threat. It has to be mentioned that a number of politicians, including those in the government circles and Parliament, as well as high-ranking civil servants, are allegedly engaged in industrial and artisanal logging. Many have also kept close relations with logging companies. Congolese armed forces are also involved in mining and some of the mines where they operate are in forested areas. Investors are also increasingly interested in agribusiness in DRC. Oil companies are also vying for contracts to explore oil in forested zones. Many of these investors are also business associates of politicians and they may therefore enjoy protection from them. It is therefore likely that such individuals or groups of people would be keen to influence the design of the national REDD+ framework for their private gain.

At the Implementation Phase, the above-mentioned groups would continue to bring their influence to bear to benefit from REDD+. Besides, provincial and local servants will be vulnerable to bribery by the same groups. They will be incentivised to ignore illegal logging by industrial companies, artisans or local communities. They will also be enticed to issue fake logging titles or carbon rights.

During the distribution of REDD+ revenues and benefits, the current practices of embezzlement and misappropriation of revenues by powerful interest groups may represent a risk. Their impact would be the exclusion of minority groups, especially indigenous people, and other vulnerable groups, such as women and young people. REDD+ would then have the perverse effect of increasing the gap between the poor and the rich, and denying the former a chance to move out of poverty.

³⁴ More details and definition of these phases can be found in the R-PP spell out that has been prepared for REDD readiness phase in DRC.

³⁵ Reference : Paper from Mr Muzong Kodi on this study.

The table below illustrates and summarizes the type of corruption that is more likely to occur per phase.

Table 3: Typology of corruption more likely to occur per phase of REDD+ implementation in DRC

| Phase | Type of corruption that is more likely to occur |
|--------------------------------|--|
| Readiness (phase 0 to phase 2) | <u>State capture</u> , effected through grand corruption and political corruption, in which powerful individuals and groups, such as politicians, logging companies, agribusiness and possibly the military, might seek to influence the design of a country's national REDD+ framework in order to benefit their private interests or to entrench their political power. This can be a way of 'legalizing' corruption. |
| Implementation (phase 3) | <u>Grand corruption</u> and <u>political corruption</u> (e.g. large bribes to exclude large areas of high value timber from REDD+), this phase may also involve the additional risk of <u>petty corruption</u> , in which the low to mid-level public officials who are responsible for implementing REDD+ are bribed to ignore routine breaches of REDD+ laws (e.g. illegal logging), or are bribed to create fraudulent land titles or carbon rights. The implementation phase is also more likely to involve the risk of <u>embezzlement</u> as REDD+ revenues begin to flow. |

Dealing with these risks of corruption in REDD+ will be a major challenge given the rampant nature of the graft, the enduring culture of impunity in the country and the weakness of the relevant institutions. Some analysts³⁶ have recommended that the following initiatives should be considered to adequately address the risk of corruption:

- A permanent dialogue should be maintained with politicians and senior public officials with a view to educate them on the long-term benefits of REDD+ for their communities and their own careers. The ultimate purpose of this dialogue would be to convince the powerful groups and individuals that it is in the considered interest of all concerned to support the smooth implementation of REDD+. For this to happen, they would need to be persuaded that they also would have something to gain. They should be convinced that improved governance and the reduction of corruption could contribute to the effective implementation of REDD+ and result in increased income for their communities. This may strengthen political and social stability and have a positive impact on the careers of all those who support the scheme.
- This dialogue should be carried out in parallel with a **sustained effort of educating citizens** about REDD+, their rights and responsibilities under the Forest Code. This will put them in a better position to defend their rights, and effectively take part in and influence the discussions on the governance of REDD+. Citizens would then become genuine interlocutors and informed "watchdogs" of the implementation of REDD+. In an environment like DRC where there is insufficient political will at the highest echelons of the state, this approach of promoting governance can assist in reducing graft.
- There should be a **systematic effort to build up the capacity and provide training in the management of funds for all the stakeholders involved in the forest sector**. Attention should also be paid to strengthening systems for public finance management and procurement at the provincial and local levels.
- All efforts should be made for the promotion of maximum transparency with respect to REDD+ in DRC. This is a particular concern for the National REDD Coordination team. Based upon discussions with the technical advisors of the National REDD Coordination, we understand one of the key measures taken so far is the upcoming implementation of the National REDD project registry. A manual has already been drafted and will soon be submitted to the Ministry for validation and enforcement. The review of the manual revealed that adequate measures have been taken to address corruption and money laundering risks by means of

³⁶ Reference: Paper from Mr. Muzong Kodi on this study.

transparency. These include among others: “Know You Client” measures, anti-money laundering questionnaire etc. The main objectives of the registry are :

- Promotion of environmental and social integrity of REDD project
- Provide carbon credit usage rights to attract the private sector in REDD

Other specific objectives of the registry can be summarized as follows:

- Promote transparency and provide accurate reporting
- Avoid double counting and secure investments (minimize the risk of errors, double counting and reporting of projects)
- Ensure the contribution to economic growth, and compliance with social and environmental standards
- Ensure that projects contribute to the development of the national strategy (coordination and sharing)
- Other tools must also be considered as opportunities to address corruption risks in REDD+ and used as leverage for transparency, these are among others:
 - the Monitoring, Reporting and Verification system following the UNFCCC guidelines,
 - the MOABI initiative of WWF which is a powerful a mapping system that establishes a collaborative user community for sharing, editing, and discussion of issues that could affect the sustainability of vital ecosystems.
 - The recent donor Government “National Resource Governance matrix”, forcing the government to publish contracts and concessions, as well as revenues from oil and mining.

The table below also provides a good overview / snapshot of the corruption risks associated with REDD+ as they have been identified in the UNDP report. Possible anti-corruption measures are also suggested in the last column.

| | Actors Involved | | | Corruption Threats | Corrupt Practices | Anti-Corruption measure/s |
|--|---|------------|-------|--|---|---|
| | National | Provincial | Local | | | |
| REGULATORY (establishing the rules) | | | | | | |
| Design of national REDD+ framework generally | Parliamentarians, political elites, international and national logging companies, industrial scale agribusiness, (palm oil, sugarcane, soy, jatropha), multinational, corporations, project, developers, military | | | <p>State capture allowing undue influence to affect design of REDD+ strategy</p> <p>Political corruption</p> <p>Grand corruption</p> | <p>Undue influence by political elite, logging companies, agribusiness, etc. to prepare a weak national REDD+ framework, or to prepare a framework that will benefit powerful interests</p> | <p>Corruption risk assessment, followed by a detailed and through analysis of proposed framework, possibly under an economic and social impact assessment</p> <p>Multi-stakeholders consultations at all stages of development of national REDD+ framework (including national strategy, legislation and regulations)</p> |

| | | | | | | |
|--|---|--|---------------------------|--|--|---|
| Preparation of initial land use plans for REDD+ (spatial planning) | Ministry/ Department of Planning Ministry/ Department of Forestry | Governors and provincial level land use planners | Local government planners | State capture, political corruption, grand corruption influencing REDD+ land use plans, resulting in failure to respect rights of indigenous peoples and other forest-dependent communities | Undue influence or bribes to exclude high value timber concessions from REDD+, while pressing for other areas which have already been degraded (selectively logged) to be included in REDD+ land use plans. | Establish objective criteria to guide land use planning decisions (e.g. 'at risk' factors to identify forests to be covered, soil suitability, carbon sequestration potential, biodiversity values). All decision making rules and individual decisions to be made publicly available in an accessible format. |
| Land and natural resource tenure | Parliament, political elite, departments of planning and forestry | | | State capture and political corruption resulting in a failure to recognize customary land tenure | Undue influence or bribery to resulting in failure to recognize competing rights of customary land tenure, so that 'political elites' can trump customary claims and capture REDD revenues | Capacity building for land administration sector. Assistance to NGOs who often assist customary communities with land registration process. |
| Allocation of carbon rights | Parliament, political elites, powerful logging companies, project developers | | | State capture, political corruption or grand corruption resulting in an inequitable allocation of carbon rights under legal REDD+ framework | Undue influence to link carbon rights to State owner land titles or logging concessions, thus excluding customary communities from control of carbon resources (and possibly REDD revenues) | Close analysis through multistakeholder consultations of proposed carbon rights allocation rules |
| Setting reference levels / emission reference levels | Ministry/department of Forestry Political elites Powerful logging or agribusiness companies | | | State capture, political corruption, grand corruption resulting in an over estimation of national reference levels Collusion | Undue influence to artificially inflate baseline so that excess can be 'skimmed' by corrupt officials at a later date; or to set timeline and national circumstances | Clear guidance on establishing baselines to be given by SBSTA, with third party verification of nominated baseline |
| Design of benefit distribution systems (BDS) | Ministry of Forestry, Ministry of Finance, Political elites | Political elites | Political elites | State capture, favoritism, nepotism, cronyism resulting in weak design of financial management system | Undue influence on BDS which influences who receives REDD+ revenues and benefits | Improvement of public financial management Public financial reporting, multistakeholder body to oversee design and implementation of BDS |

| IMPLEMENTATION OF REDD+ | | | | | | |
|---|--|---|---|--|--|---|
| Land administration | | Land administration officials | Land administration officials | Bribery by multinational corporations, project developers | Bribery of land administration officials to overlook competing customary claims to land title, or to create fraudulent land titles | Capacity building and transparency in land administration sector Recourse mechanisms. |
| Spot rezoning of land to permit (or exclude) REDD+ activities in specific areas | | Logging operators Carbon brokers | Local level public officials, logging operators, carbon brokers | Bribery | Bribery of public sector officials to change the zoning of an area to allow or exclude REDD+ | Public notification and call for public submissions for all rezoning applications and rezoning decisions |
| Carbon rights | | Planning officials, Project developers | Local level planning officials | Bribery by corrupt actors of public officials resulting in the loss of carbon rights for indigenous peoples and other forest-dependent communities | Bribery to overlooks competing claims to carbon rights or to fraudulently create or register carbon rights | Capacity building for land administration sector All applications to register carbon rights and decision to register rights to be made publicly available Recourse mechanisms |
| Carbon measurement risks | | Public sector officials in forestry sector | Local level public sector officials | Petty bribery by project developer or at sub-national level | Public sector officials overestimating the amount of carbon emission reductions or carbon sequestered | C-MRV procedures |

2.4. Money Laundering risks in REDD+

Money laundering is the practice of disguising the origins of illegally-obtained money. Ultimately, it is the process by which the proceeds of crime are made to appear legitimate. The money involved can be generated by any number of criminal acts, including drug dealing, corruption, accounting and other types of fraud, and tax evasion. The methods by which money may be laundered are varied and can range in sophistication from simple to complex. In 2009³⁷ already, many experts, including international police, politicians and conservationists started warning that the UN's programme to cut carbon emissions by paying poor countries to preserve their forests was / is "open to wide abuse". Interpol, the world's leading policing agency, said at the time that the chances were very high for criminal gangs to seek to take advantage of REDD schemes.

As highlighted by Peter Younger, Interpol environment crimes specialist and author of a new report for the World Bank on illegal forestry: *"Alarm bells are ringing. It is simply too big to monitor. The potential for criminality is vast and has not been taken into account by the people who set it up... Organized crime syndicates are eyeing the nascent forest carbon market. I will report to the bank that REDD schemes are open to wide abuse,"* he said. *"Fraud could include claiming credits for forests that do not exist or were not protected or by land grabs. It starts*

³⁷ Source: <http://www.guardian.co.uk/environment/2009/oct/05/un-forest-protection>

with bribery or intimidation of officials, then there's threats and violence against those people. There are forged documents too... Carbon trading transcends borders. I do not see any input from any law enforcement agency in planning REDD."

Fragile countries with poor institutional capacities like DRC are more exposed and vulnerable to the money laundering risks. DRC's controls for anti money laundering and countering the financing of terrorism (AML/CFT) are covered by three main pieces of legislation. These include the Anti-Money Laundering Act 2004, enacted in response to international pressure and in an effort to make DRC a more attractive destination for foreign investment. The Act criminalizes money laundering and the financing of terrorism. Much of the legislation has lain dormant since it was passed and supervision has been extremely poor. A cash-based economy, poverty, inadequate training and a lack of political will have all contributed to this. Porous borders, a poorly regulated banking sector, a dysfunctional judicial system, and inadequate enforcement, all make the country extremely susceptible to money laundering.

There are numerous opportunities for economic gain through the illicit trade of DRC's vast mineral resources. Years of fighting have exacerbated the cross-border trade in arms, drugs, diamonds and other illicit goods. Corruption at all levels of society is extensive and is commonly accepted as normal business practice.

It is absolutely vital that Anti Money Laundering (AML) checks and procedures be implemented and included in the accreditation and homologation procedures that are being developed by the National REDD Coordination in DRC. This should include some form of robust Know Your Client (KYC) questionnaire that should be developed with experts from the Financial Intelligence Unit. Evidence of background checks by the Financial Intelligence Unit would have to be documented rigorously and in full transparency.

3. POLICY FRAMEWORK, IMPLEMENTATION MECHANISMS & ACTORS AGAINST CORRUPTION

3.1. Current status of the national strategies and initiatives to fight corruption in DRC

3.1.1. The beginnings of a National Anti-Corruption strategy

In order to counter the spread of corruption and to restrict the damage it can cause, many States have signed and ratified the 8th United Nations Convention Against Corruption (UNCAC), including DRC. DRC also joined the SADC Protocol against Corruption in 2007 and is preparing to join the African Union convention on Preventing and Combating Corruption which it has already signed. The Head of State signed, with his South African Counterpart, on 24 August 2004, a General Cooperation Agreement emphasizing the Promotion of Ethical Values and the Culture of Asset Disclosure. In order to carry out the vision of the two Heads of State, a trilateral Anti - Corruption Memorandum of Understanding (MoU), was signed on 18 February 2008 between the DRC and South African Governments as well as UNODC. A National Anti – Corruption Forum coordinated by OCEP took place in December 2009, with the following key objectives: Understand the current status of corruption in the country

- Outline and propose an Anti - Corruption Legal and Institutional Framework in DRC ;
- To provide the Democratic Republic of Congo with effective and efficient Anti – Corruption Structures as well as a National Coordination

At the end of this Forum, in which more than 450 delegates from Business, Civil Society and Public Institutions took part, participants formulated 104 resolutions which led to the drafting of a National Anti – Corruption Strategy that was submitted to the Congolese government in October 2010.

3.1.2. Policy gaps and suggested recommendations

Following our review of the latest draft of the National Anti-Corruption strategy document and following our discussion with various interviewees, it is recognized that there is still a long way to go to make the fight against corruption effective in the country. It should however be mentioned that a significant effort has been made, and can serve as the basis for the way forward. The National Anti-Corruption Strategy Document is considered to be a good starting point, although many analysts consider that it has to be revisited by a pool of experts and strengthened / backed up by several in depth studies, by providing the following:

- A proposed logical and strategic framework
- A draft implementation plan (2011 to 2013) that still need to be finalized and revised (but assistance is required for this)
- Draft bill on the prevention and repression of the corruption in the country
- Draft bill on the creation, organization and functioning of CIELC (*Commission Indépendante d’Ethique et de Lutte contre la Corruption*) – Independent Commission of Ethics and the Fight against Corruption
- Draft bill on the creation, organization and functioning of the AGLC (*Agence Gouvernementale de Lutte contre la Corruption*) – Government Agency for the Fight against Corruption

The strategy document has also tried to identify and assess the state of corruption, and proposed the priorities and a draft action plan in the following key streams:

- Justice and security systems (justice, police, army etc.)

- Political sector, Public Administration and International Aid (illicit enrichment, corruption and bribery in the Public Administration etc.)
- Economy, Finance and Natural Resources (Public procurement, State revenues and budget execution, Public spending, Public oversight, business climate improvement, money laundering, civil servants' salaries, Public debt management, Public finance, Natural resources management, land tenure etc.)
- Socio-Cultural sector (Education, Media, Public Health, Civil Society etc.)

As identified and mentioned above, the key priorities to address the policy gaps can be summarized below:

- The legal framework to fight corruption (draft bills) should be clarified and enforced as soon as possible;
- There is an urgent need to perform a mapping of all entities, governmental agencies, and other stakeholders, that are involved in the fight against corruption;
- There is a need to implement a centralized approach. Currently, many institutions have portions / pieces of the mandate to fight corruption, which causes the issue of diluting the overall responsibility, also there is no anti-corruption body that has the centralized mandate, accountability and responsibility to fight corruption to date in DRC;
- The national strategy should be prepared and enforced in the context of the decentralization process, which remains a challenge.

3.2. Key actors against corruption, what role are they playing³⁸?

In performing our assignment we have reviewed the current roles of the institutions tasked with combating corruption and we have conducted various interviews to confirm our understanding. The report from August 2008: "Corruption and Governance in the DRC during the transition period (2003-2006)" by Muzong Kodi also provide a very detailed description of the institutional role of each organ tasked to fight corruption in the country.

3.2.1. The Court of Auditors

The Court of Auditors, the supreme auditing institution of the country, was created by Law no 87-005 of 6 February 1987. Its mandate is:

- To independently audit the general public finances and the execution of the government budget
- To audit the accounts and management of public enterprises
- To monitor the reimbursement of loans due to the state
- To audit public procurement procedures and contracts
- To audit tax collection and expenses incurred on the government general budget

The Constitution also provided that the Court of Auditors should report to the National Assembly, and that its members be appointed by the president based on the recommendation of the National Assembly. In addition to annual reports submitted to the president and the National Assembly on the audits of public institutions, the Court is also required to report to the relevant ministries, the prime minister and the National Assembly on their management of funds and budget.

³⁸ Source: "Corruption and Governance in the DRC during the transition period (2003-2006)" by Muzong Kodi

The Court of Auditors is supposed to play an important role in reducing corruption in the country, is considered to be “toothless”. It lacks independence vis-à-vis the executive branch of the government and is poorly equipped, underfunded and understaffed. In practice the institutions suffers from:

- Lack of resources (both financial and human): the institution only receives 10% of its allocated budget
- Poor and limited access to information
- Lack of political will : all reports and cases that are submitted to the National Assembly go unheeded
- Lack of opportunities for personnel for further training,
- Overdependence on external sources of funding even for the operating budget
- An outdated legal framework that does not guarantee its administrative and financial independence, which is a fundamental principle for any mechanism to promote sound governance
- An ageing group of judges that needs renewal

The UNDP Governance Program 2008 – 2012 includes a pillar related to Judicial and Security governance that is active on this ground³⁹, we have met the UNDP person in charge of the technical assistance for this pillar and understand that they are also working hard to building the capacities of the Court of Auditors. We can only recommend this initiative to continue. We would also suggest and recommend that a specialized training on REDD and Natural Resource Management be included in the program. Appendix 7 also provides a snapshot of the UNDP Governance Program in DRC.

3.2.2. The General Inspectorate of Finance

The Inspectorate is responsible for auditing all public bodies, including the Ministry of Finance, of which it used to be a special unit. It has recently (2010) been placed under the aegis of the president’s office. The Inspectorate is expected to undertake audit assignments at the request of the finance minister, the president or any ministry, or it could initiate a mission on its own. However, it is required to have its annual programme approved by the president’s office (formerly by the Ministry of Finance). The Inspectorate is mandated to:

- Control the implementation on a day-to-day basis of the budgets of the government and of decentralized administrative bodies
- Ensure that the internal audit units in ministries and decentralized administrative bodies are well organized
- Audit the financial operations of state enterprises, organs and private enterprises which were subsidized by the state or of which the state was a stakeholder
- Control tax, customs and accounting situation of any person or body that is liable to taxation, at the request of the Finance minister or the President
- Ensure that all the units in charge of collecting taxes and spending state revenue comply with and apply the legal and regulatory provisions as well as instructions relating to the posting of operations

In an environment that is deeply averse to any kind of control, the Inspectorate is marginalized and deprived of the necessary resources to play its role fully.

As mentioned above this institution is also expected to play an important role in reducing corruption in the country, but is also considered to be “toothless”. In practice the institutions suffer from:

- Lack of resources (both financial and human):

³⁹ A snapshot of the UNDP Governance Program is available on http://www.cd.undp.org/mediafile/PNUD_D_pliant_Programme_Gouvernance.pdf

- Poor and limited access to information
- Lack of political will
- An ageing group of Inspectors that needs renewal
- The Inspectorate has no planning tool or annual approved program, and works solely on the basis of requests from various Ministries and from the Administration.
- The institutional positioning of the Inspectorate in the Office of the President is subject to debate given the risk of the institution potentially being influenced by the executive power in the current configuration.

The fact that the General Inspectorate of Finance has been recently attached to President's office can be seen as an opportunity as well as a threat. It can be manipulated for political purposes, but it could also be empowered to serve and fight corruption. We can take the example of the 'State Inspection' in Ivory Coast under the rule of former president Félix Houphouët-Boigny which was considered to be an effective tool to fight corruption, although it was centralized at the level of the Presidency.

3.2.3. The National Assembly and the Senate

The Constitution provides that the two-chamber Parliament not only votes the government budget, but also controls its implementation by the government and state enterprises and organs. In order to exercise this control and secure information, the Constitution provides that both the Senate and the National Assembly could:

- Ask to any one of these institutions an oral or written question
- Ask for information on a topical issue
- Summon a minister or the head of one of the state enterprises to be questioned by Parliament
- Establish investigation commissions.

In practice the Parliament does not fully play its oversight role over the executive. The capacity of Parliament to hold the Executive to account for its management of the country's economy is dependent on the quality of the reports that the government submits to it, and the advice that it receives from the Court of Auditors. However, as explained earlier, the Court of Auditors does not have the capacity to provide on a regular basis expected reports and information, and when some reports are produced these are not followed up. The provision of the code of conduct for public officials, the implementation of which is monitored by the OCEP (*Observatoire du Code d'Ethique Professionnel* - Observatory of the Code of Professional Ethics), requires Parliamentarians to disclose their assets and interests. Unfortunately, these provisions have not been enforced.

There are 7 permanent commissions in the National Assembly: Political, administrative and judicial commission; Economic and Financial commission, Social and Cultural Commission; Foreign Relations commission; Defense and Security commission; Environment and Natural Resources commission; and Land and infrastructure commission. There is a key opportunity to ensure that a member of the Environment and Natural Resources commission sits on the National REDD Committee. This is an opportunity to promote accountability and transparency by implementing a reporting system to the commission and the National Assembly.

In practice, as mentioned earlier, the Parliament is not able to play its oversight role over the executive, mainly due to:

- Political gaming
- Poor and limited access to information
- Lack of political will

The recent amendment of the constitution and the election law, establishing the one-round election is also seen by many as an opportunity that will decrease the weight of political alliances over the management of the State and other key decisions from the State. Indeed this would reduce political gaming, and could bring some consistency in the policy if elected president enjoys a parliamentary majority, this could be an opportunity to establish investigative capacity in the Secretariat of the National Assembly.

3.2.4. The role of the media⁴⁰

The role of the media in the fight against corruption is universally recognized. In DRC the media suffer from a lack of professionalization. Despite the recent and rapid growth of actors in the media landscape in DRC, the capacity to critically monitor public policies through the media remains weak. The function has been and is poorly fulfilled primarily for the following reasons:

- Low level of professionalization of actors in the media sector;
- Poor quality and poor diversity of content which does not promote the culture of investigative journalism;
- Gaps in the organization of media professionals and in the standards for press freedom and ethics;
- The viability and independence of media companies remains fragile;
- Limited publicly available information and lack of critical debate on public policies.
- Rampant corruption.

The media are also widely manipulated for political purposes. UNDP is engaging in support to the media. Recently, it organized a workshop on "Investigative Journalism in the DRC". According to Mr. Jean Lavoie, Senior Program Coordinator of the UNDP Governance programme: "Supporting the media notably through their professionalization by means of training is how UNDP hopes to contribute to the promotion of sound governance and the fight against corruption in the DRC." As far as he is concerned, the Minister of Communication and Media and spokesman of the Congolese Government, Mr. Lambert Mende Omalanga believes "Investigative journalism is one of the main safeguards against the abuse of power. It is the most effective journalistic style for promoting sound governance." He also underlined its undoubted importance "in the fight against corruption." In its annual report, the CN-REDD reported that contacts have been initiated to support training to foster independent journalism. These efforts need to be pursued and to be escalated to the level of the whole country.

These efforts are critical and contribute to reinforcing the role of the media in the framework for the fight against corruption in REDD. However some analyses and concrete actions should also be conducted to address key issues such as job insecurity for journalists and their low salary levels. The physical and integrity risks facing investigative journalists is to be taken very seriously when investigations are carried out on abuses and crimes,

3.2.5. The civil society (CSOs and NGOs)

Some civil society organizations and non-governmental organizations are doing excellent work in a rather difficult environment specifically, in the anti-corruption arena. However history (since the transition period) has demonstrated the fragility of the civil society (undermined by rivalry of egos). It is however crucial that the civil society remains involved in all matters related to governance and corruption for REDD+ as they are the key link with the local community in the provinces and remote locations. They are also the ones to play a key role as "watchdogs" and in terms of mobilization.

⁴⁰ Source: <http://www.cd.undp.org/news>

A very recent paper from U4 dated February 2011: “*Countering NGO corruption: Rethinking the conventional approaches*”⁴¹ demonstrates that NGOs themselves are not immune from the scourge of corruption. The risk that NGOs might be involved in corruption is also effective. There is a need to be cautious and perform background checks prior engaging with CSOs / NGOs. The issue of CSOs representatives is also to be taken seriously, in DRC there is a certain opacity and lack of transparency on how the representatives of civil society are selected, elected or designated.

We can refer for example to the case of a representative of civil society who was in charge of a project funded by NORAD and implemented by the Rainforest Foundation Norway (RFN), it was demonstrated that the person was involved in alleged misappropriation of funds in 2010. An audit report clearly shows the alleged wrongdoing. The way RFN managed this case should serve as “best practice”. Indeed, the organization immediately organized an extraordinary general assembly to bring the case public and to inform all stakeholders. RFA also started legal proceedings against the alleged perpetrator and brought the case to the court. This is an excellent way of setting the standards in practice for what zero tolerance means in DRC.

Concerns have also been expressed by local NGOs over the limited involvement of civil society and local community representatives. The local NGO representatives we have spoken to mention the lack of transparency and limited communication around for example the overall forest concessions review process that inevitably casts a veil of suspicion over the procedures used by the Government.

It should also be mentioned that a lot work is being done by CSO networks on budget monitoring. For example, The Catholic Church, which has signed a MoU with the Ministry of Finance to jointly promote anti-corruption at the grassroots level, is also raising awareness of Catholic politicians on the ills of corruption.

3.2.6. Auditing firms

Auditing has a key role to play in the overall Anti-Corruption approach in the country. This is particularly true with the recent ratification of the OHADA (*Organisation pour l’Harmonisation en Afrique du Droit des Affaires*) treaty. This will reinforce the role of the auditing firms in an overall improvement of the business climate in the country. These firms can also play an important role as “watchdogs” and be involved in audits or forensic investigations. They can also be provided with a preventive role and review REDD related mechanisms to ensure adequate safeguards are in place.

3.2.7. Certification companies

Certification firms like SGS (*Société Générale de Surveillance*) may play a central role in improving transparency in the forestry sector and REDD+ activity, in line with the EU FLEGT initiative. Interviewees mentioned that an agreement has been signed by SGS with Helveta Ltd., the global leader in asset management and monitoring of supply chains in the forestry sector. It includes an exclusive supply agreement for 5 years with SGS for the provision a software platform, deployment services and technical assistance to oversee the entire chain of exploitation of wood and wood products in DRC. The technology promoted by Helveta, named IC World, includes an integrated system for mapping, inventory, monitoring and traceability of wood products. We understand that the purpose of the project is to provide DRC with a robust system for checking the legality of timber to meet international requirements under the FLEGT (Forest Law Enforcement Governance and Trade).

⁴¹ Full report is available on www.U4.no

However, it should also be mentioned that many of our interviewees have criticized the lack of transparency surrounding the award of this contract which has not been made publicly available. The underlying financial model is also criticized as we understand that the investments for the first 2 years of the contract are been financed by multilateral donors and the World Bank, whereas the investments for the other 3 years are expected to be funded by the proceeds earned by SGS. These proceeds will be calculated based on the volume of exported wood. Therefore, although this initiative is an opportunity to promote transparency in the forestry governance and REDD, at this stage it suffers from a negative perception due to doubts about the process whereby it has been granted.

3.3. Lessons from other countries (Benchmarking) : the cases of Kenya and Indonesia

Although it remains a challenge to benchmark a topic such as the anti-corruption strategy from one country to another due to the complexity and contextual specificities of each country, we believe this can remain an important source of information and highly relevant for a country like DRC.

3.3.1. The Kenya case⁴²: Whistleblowing as a key tool to fight corruption

The report from U4 dated 2010: *“Reducing risks of reporting corruption: Lessons from an online complaints system in Kenya”* provides an interesting approach and describes an online tool adopted by Kenya’s Anti-Corruption Commission (KACC) to improve the quality and quantity of reports it receives about corruption. While clearly an important channel for leads on grand corruption cases especially, the implementation experience illustrates how optimal use of technical solutions depends on a host of human, political, and institutional factors. These include leadership, capacity, and effective integration into an organization’s existing work flow.

Tipping the authorities about corruption in Kenya – as in many places – is a high-risk endeavour. People have been dismissed, harassed, driven from their homes and even murdered for daring to speak out about bribery and other abuses of power. At the same time, owing to the inherently covert nature of corruption, effective enforcement depends heavily on reports from the public. To overcome the challenge of information collection, KACC has installed an online tool to improve the quality and quantity of reports it receives, which enables it to communicate with informants anonymously.

The experience in Kenya with an online reports system illustrates how information technology can improve the quality of anti-corruption efforts as well as compensate, at least in part, for the gaps in laws and policy that hinder enforcement. However, the legal, cultural, economic and institutional factors that impact the effectiveness of online reporting should not be underestimated. As with any IT intervention, the usefulness of the system depends on access, and interest from all relevant actors.

Potential learning point for DRC: This report provides a very good overview on how challenges of “weak reporting culture” and whistleblowing that are common for many African countries can be overcome by technology, implementation of adequate legal framework and strong communication and publicity strategy. It also shows how an anonymous reporting mechanism can make the difference in a highly corrupt environment.

It should however be noted that some progress in this area is being made in DRC; we can name for example the recent initiative from the Ministry of Finance to implement a whistleblowing mechanism. We have pasted in Appendix 6 the relevant recent communication dated 25 April 2011.

⁴² Full report is available on www.U4.no

This initiative is in line with the Government's Strategic Plan for Public Finance Reform, the implementation of which is being coordinated by the Committee on Public Finance Reform ("Comité sur la Réforme des Finances Publiques", COREF). The aims of the strategy include improving transparency and reducing opportunities for corruption in the management of public finances. Within the framework of this reform, the government intends to give a greater voice to citizens in the monitoring and tracking of the state budget. To this end, civil society organisations, in collaboration with COREF, have produced a citizen's budget, a plain language version of the 2011 budget which will enable citizens to understand the budget and demand that the government accounts for its implementation. For the next budget, the government intends to provide room for citizens to fully participate in all the stages of the development of the state budget. In the process, new skills and knowledge will be imparted to citizens, which could be used in the monitoring and tracking of REDD+ revenues as well.

3.3.2. The Indonesian case⁴³: The need for a powerful and independent anti-corruption body

The report from U4 dated 2010: "An exception to the rule? Why Indonesia's Anti-Corruption Commission succeeds where others don't - a comparison with the Philippines' Ombudsman" provides an excellent overview on why and how an Anti-corruption agency can fail.

Anti-corruption agencies have been for a long time a key strategy to fight corruption in many developing countries. Unfortunately, few of them have produced evident results and many are seen as being rather ineffective. Recently, however, the Corruption Eradication Commission of Indonesia (KPK) seems to have emerged as a good example. A comparison with another such institution in a very similar neighbouring country – the Office of the Ombudsman of the Philippines – illustrates the KPK's success especially in investigating and prosecuting corrupt public officials. Why was the KPK, in just five years, able to reach a 100% conviction rate against top officials in all major branches of the Indonesian government, while the Philippine Ombudsman has scored only a few convictions in its 20-year history? Part of this success can be explained by considerable investigative powers given to KPK, which the Philippine Ombudsman does not hold. Moreover, rigorous pre-testing of every prosecution and a highly efficient anti-corruption court contribute to KPK's success. These and other factors are analyzed in the U4 Issue, which concludes with recommendations for donors and governments on the establishment and strengthening of anti-corruption agencies.

The experience in Indonesia strongly demonstrates that success of an Anti-corruption agency and of a National Anti-Corruption Strategy is compounded by a strong political will to provide these with adequate powers and means to meet expectations.

Potential learning point for DRC: A successful Anti-Corruption body must be powerful, independent (financially and politically) and be provided with adequate human resources to be able to handle the decentralization challenges in a large country like DRC.

⁴³ Full report is available on www.U4.no

4. OVERVIEW AND EXPERIENCE FROM GOVERNANCE AND ANTI-CORRUPTION INITIATIVES

This section of the report provides a description of the current status and relevant experiences - including drivers and obstacles - of initiatives that aim to improve governance, including the management of corruption risks.

The absence of coordination and lack of « leadership » at the national level to efficiently implement a centralized strategy to fight corruption and promote good governance

Following our discussions, it appears that there is a lack of leadership at the national level to put into place a centralized mechanism to fight corruption and promote sound governance. Although some initiatives have been and are being taken, including the creation of the OCEP (*Observatoire du Code d'Ethique Professionnel* - Observatory of the Code of Professional Ethics) within the Ministry of Public Service (Ministère de la Fonction Publique) and the organization of FONALC (*Forum National sur la Lutte contre la Corruption* – National Anti-Corruption Forum), there seems to be a general agreement that these initiatives suffer from a lack of strategic vision and coordination / centralization. The effort of developing a national strategy to fight corruption and the "zero tolerance" campaign / slogan is promoted by the Ministry of Public Service (Ministère de la Fonction Publique) and the Ministry of Justice and Human Rights (Ministère de la Justice et des Droits Humains) with no real political and / or financial support from the higher levels of the state (Office of the President of the Republic or Prime Minister's Office), which makes the task of these Ministries very difficult or even impossible. The "Zero Tolerance" initiative from the Head of State is seen by many as a "slogan" rather than an effective tool to fight corruption. Some observers consider the upcoming election in November 2011 as an opportunity for the elected president to reverse the trend. .

Public finance management reform efforts of the Government supported by the World Bank and the IMF⁴⁴.

The IMF and the World Bank decided in 2010, to support debt relief worth \$12.3 billion for DRC. The decision grants the debt relief under the Heavily Indebted Poor Countries Initiative (HIPC). Having reached the HIPC Initiative's final stage, or completion point, the country also qualifies for debt relief under the Multilateral Debt Relief Initiative (MDRI). According to IMF's mission chief for the Democratic Republic of the Congo, Brian Ames:

"Reaching the HIPC completion point demonstrates the significant progress that the authorities have made over the past several years in strengthening macroeconomic policy management and performance following a decade-long devastating conflict that destroyed the country's economic and social infrastructure," ... "The conditions for reaching the HIPC completion point provided the authorities with a policy and reform framework that guided their efforts to enhance macroeconomic stability, address weaknesses in public financial management and economic governance, and reform the social sectors. Progress in each of these areas also sets a solid foundation for advancing the country's development agenda going forward".

Some progress is being made in this area, but the road to a sustainable and sound management of public finances is still long. A review of the Public Expenditure Cycle was performed last year by the General Inspectorate of Finance, but we understand that its recommendations are yet to be implemented. We also understand that the full report has not been shared with the Ministries involved (Finance and Budget).

⁴⁴ Source: <http://www.imf.org/external/pubs/ft/survey/so/2010/car070110a.htm>

EITI in DRC⁴⁵

The Government of DRC early on identified the EITI as a tool to resolve the paradox of plenty. At the EITI Conference held in London on 17 March 2005, DRC officially announced its endorsement of the EITI principles to strengthen transparency and good governance of the extractive industries sector. Following this public statement the country embarked on the implementation of the initiative. The Democratic Republic of the Congo was accepted as an EITI Candidate Country at the Board meeting in Accra 22 February 2008.

After some initial difficulties following the national elections in March 2007, the EITI implementation process in DRC gained momentum. Thanks to the commitment of all local stakeholders, some tasks have been accomplished including the publication of 2007 EITI reconciliation reports.

This exercise should be taken as an opportunity to improve transparency in the forestry sector. It is therefore advisable that forestry be included in the scope as soon as possible.

It should however be noted that the entire process has been strongly criticized by the civil society⁴⁶ denouncing a lack of political will, following the publication and review of the 2007 reports, but also the following main issues:

- Limited involvement of the civil society and local communities in the process since inception in 2005
- The scope should be expanded, both in terms of categories of revenues, and in terms of extractive industry related companies.

FLEGT in DRC⁴⁷

In light of the serious environmental, economic and social consequences of illegal logging, the European Union published the EU Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan in 2003. The Action Plan recognizes that the EU is an important export market for countries where levels of illegality and poor governance in the forestry sector are most serious. The EU FLEGT Action Plan sets out actions to prevent the import of illegal wood into the EU, to improve the supply of legal timber and to increase demand for wood coming from responsibly managed forests. The long-term aim of the Action Plan is sustainable forest management. The measures of the Action Plan focus on the following broad areas:

- Support to timber exporting countries, including actions to promote equitable solutions to the illegal logging problem
- Activities to promote trade in legal timber, including actions to develop and implement Voluntary Partnership Agreements between the EU and timber exporting countries
- Promoting public procurement policies, including actions to guide contracting authorities on how to deal with legality when specifying timber in procurement procedures
- Support for private sector initiatives, including actions to encourage private sector initiatives for good practice in the forest sector, such as the use of voluntary codes of conduct for private companies to source legal timber
- Safeguards for financing and investment, including actions to encourage banks and financial institutions investing in the forest sector to develop due care procedures when granting credits
- Use of existing legislative instruments or adoption of new legislation to support the Plan, e.g. the EU Illegal Timber Regulation

⁴⁵ Source: <http://eiti.org/DR Congo>

⁴⁶ <http://www.digitalcongo.net/article/65663>

⁴⁷ Source: http://www.euflegt.efi.int/portal/news/news_from_africa/news_from_drc

- Addressing the problem of conflict timber

The FLEGT Action Plan sets out a range of measures available to the EU and its Member States to tackle illegal logging in the world's forests. The summary of the first VPA (Voluntary Partnership Agreement) negotiation session between DRC and the EU and the VPA Roadmap created during the negotiations in Kinshasa, DRC on February 14-17, 2011 have been made publicly available on line. This demonstrates goodwill and progress on the part of the country in its commitment to promote transparency in the forestry sector.

In 2010, European Forest Institute was appointed as host of the newly founded EU REDD Facility. It aims to assist developing countries by providing effective support to the emergence of REDD national frameworks, and the European Commission and EU Member States in providing such an effective support. The Facility will help developing countries in building their capacity and in improving forest governance so as to help them meet their REDD objectives.

The EU FLEGT and REDD facilities will assess linkages and strengthen synergies between the EU FLEGT programme and REDD, the key international programme under development to combat climate change in the forestry sector. This is an opportunity that deserves close monitoring.

5. SUMMARY OF CORRUPTION RISKS AND PROPOSED RECOMMENDATIONS FOR REDD+

As already mentioned above, dealing with risks of corruption in REDD+ will remain a major challenge given the rampant nature of the disease, the enduring culture of impunity in the country and the weakness of the relevant institutions. It is also important to mention that any recommendation to mitigate the risks of corruption would have to fit in the following priorities (as reported under section 2.3 of this report):

- Maintain a permanent dialogue with politicians and senior public officials with a view to educate them on the long-term benefits of REDD+ for their communities and their own careers. The aim of this is to convince the powerful groups and individuals that it is in the considered interest of all concerned to support the smooth implementation of REDD+.
- This should go out in parallel with a sustained effort of educating the citizens about REDD+, their rights and responsibilities under the Forest Code. This will put them in a better position to defend their rights, and effectively partake in and influence the discussions on the governance of REDD+. Citizens would then become informed “watchdogs” of the implementation of REDD+.
- There should be a systematic effort to build up the capacity and provide training in the management of funds for all the stakeholders involved in the forest sector and REDD+.
- The promotion of transparency is a key element to be considered as well. We can for example refer to the MOABI project (<http://rdc.moabi.org/fr/propos-du-moabi>). Moabi is a powerful online tool for tracking information in space. It is a mapping system that establishes a collaborative user community for sharing, editing, and discussion of issues that could affect the sustainability of vital ecosystems. By connecting the base of civil society working in the field with international organizations based worldwide, the vision of the project holder is to establish an international community that makes the promotion of transparency and sustainable use of resources in critical ecosystems.

Although, as proposed, there is need for an anti-corruption body that is credible, in a case like DRC where the state is under construction and the REDD/Climate Finance domain has a huge potential to also develop, there is need for a two-folded approach on anti-corruption: (i) to support overall anti-corruption efforts nation-wide; and (ii) to design and implement REDD-specific (or climate finance specific) anti-corruption mechanisms. They are not opposite, but complementary. Please note that (i) it is likely to take lots of time and needs a massive endeavor, while (ii) is more manageable and will allow the country to access and duly use climate finance. There is need for a strategic approach that combines both actions simultaneously. REDD+ does not solely bring about risks, but also opportunities to tackle corruption, especially through its participatory nature that needs to involve local communities.

This section of the report also provides a summary of corruption risks and findings together with the proposed recommendations to mitigate both general governance issues and REDD+ specific issues. To the extent possible it will also be indicated at what level the action should be deployed: national, provincial and/or local. We have also provided our appreciation on the timeline for the implementation of the suggested recommendations: long term (LT), medium term (MT) and short term (ST) as follows.

| | |
|--|-------------|
| | Long Term |
| | Medium Term |
| | Short Term |

| General governance issues | | | | |
|--|---|----------|------------|-------|
| Findings / Risks | Proposed recommendations | National | Provincial | Local |
| <p>Poor governance : ambiguous and outdated legal framework, dysfunctional judicial system, lack of transparency and accountability at the institutional level, lack of freedom of the press and / or manipulation of the press for political purposes, precarious and low salary levels in the public administration in general, in the armed forces, police and justice system;</p> <p>A certain degree of tolerance towards corruption and negative values, notably in the most destitute layers of the population;</p> <p>National strategies and policies to fight corruption in DRC currently suffer from a number of gaps.</p> | <ul style="list-style-type: none"> ➤ Overall capacity building programs under UNDP Governance program should be leveraged to address the cross-cutting issue of weak governance. ➤ The various initiatives in the country to fight corruption and promote sound governance ("zero tolerance", Strategic Plan for Public Finance Reform, EITI, FLEGT) should be coordinated, streamlined and leveraged to address the overall governance issue in the country. ➤ The lack of resources (human and financial) is a key barrier that needs to be addressed as soon as possible. ➤ The National Anti-Corruption Strategy led by OCEP should be backed up (the document needs to be revisited by a pool of experts and strengthen / backed up by several in depth studies), as significant amount of quality work has been done (a draft implementation plan 2011-2013 has been produced) so far. The national strategy should be prepared and enforced in the context of the decentralization process, which remains a challenge. ➤ An awareness raising campaign, at national level, should be implemented, for example the "code of conduct" of the public servant and the paper to fight "anti-values" are ready, but the OCEP has no funds to distribute them in the country. ➤ In terms of Policy gaps the legal framework to fight corruption (draft bills) should be clarified and enforced as soon as possible. | x | x | |
| <p>Lack of political will and general impunity. Despite the recent initiatives taken by the highest State authorities (Prime Minister's Office and President of the Republic), most of our interviewees mentioned the absence of real political will to fight corruption. It would appear that most of the initiatives taken by the government are either ad hoc or go unheeded, and are rarely followed up by concrete action on the ground. Some of our interviewees argued that the recent government actions (Phase 2 of the "zero tolerance") that led to the dismissal of several judges and ministers had been carried out for political and propaganda purposes in a pre-election context. It also appears that impunity is a major underlying reason for</p> | <ul style="list-style-type: none"> ➤ This issue concerns the higher levels of power and if not properly addressed, it can annihilate all efforts and investments that can be made to fight corruption and promote sound governance. ➤ It is important to raise the awareness of senior state officials and civil servants. This exercise must be supported by a very strong signal from the highest authorities of the State (President of the Republic). The implementation of the UNCAC, ratified in September 2010, can be a starting point and provide a framework to guide anti-corruption measures to be considered in the context of | x | | |

| | | | | |
|---|---|--------------------------------------|--------------------------------------|--|
| <p>the proliferation of corruption in the country.</p> <p>The absence of coordination and lack of « leadership » at the national level to efficiently implement a centralized strategy to fight corruption and promote sound governance. Following our discussions, it appears that there is a lack of leadership at the national level to put into place a centralized mechanism to fight corruption and promote sound governance. Although some initiatives have been and are being taken, including the creation of the OCEP within the Ministry of Public Service (Ministère de la Fonction Publique) and the organization of FONALC, there seems to be a general agreement that these initiatives suffer from a lack of strategic vision and coordination / centralization. Key accountable institutions in charge of Public Oversight are not fully aware of the status of this work.</p> | <p>REDD+ implementation.</p> <ul style="list-style-type: none"> ➤ Raising awareness of senior officials is a necessary prerequisite to ensure coordinated efforts at national level. This process must be sustained and supported by a strong signal from the highest authorities of the State (President of the Republic). It is important that DRC adopts a national strategy to fight corruption and puts institutions in charge and accountable for this. These institutions should be adequately funded and staffed by motivated and competent personnel. ➤ There is a need to get a better dialogue among key accountable Public Oversight institutions and a participatory approach to finalize the National Anti-Corruption Strategy. The structure of the Anti-Corruption National Coordination also needs to incorporate a participatory approach. ➤ There is an urgent need to perform a mapping of all bodies, governmental agencies, and other stakeholders, that are involved in the fight against corruption. ➤ There is a need to implement a centralized approach as no anti-corruption body has the overall mandate and responsibility to fight corruption to date in DRC. The mandate is diluted and fragmented among many state institutions. A strong and independent anti-corruption agency is needed. | | | |
| <p>The weakness of state institutions. This is one of the major causes of the current extent of corruption in DRC. Our interviewees were unanimous on this matter. The weakness of state institutions is the result of decades of conflicts and periods of political instability that have destroyed the state infrastructure and governance. The weakness of state institutions facilitates the development of corruption, which in turn undermines confidence in these institutions, and this creates a vicious circle. It appears notably that the National Assembly and the Supreme Audit Institution (Cour des Comptes) are not fulfilling their role in monitoring the use of public finances and accountability (critical to any strategy for promoting sound governance). The role of the General Inspectorate of Finance is also currently limited.</p> | <ul style="list-style-type: none"> ➤ This general finding fits within a capacity building framework in which a number of donors are engaged at different levels of the public administration in DRC. Efforts in this direction should be maintained with a particular attention to forestry and REDD+ (MECNT, provincial administration, etc.); we would also recommend that these efforts be properly and better coordinated in a transparent manner. Improvement and strengthening of coordination among the donors appears crucial. This could be done by implementing some sort of committees (for example) which could work on issues like budgeting etc. ➤ There is a need to promote transparency and clarify what government institution has what mandate in terms of fighting corruption. A mapping should be performed. These will naturally promote accountability in order to avoid the dilution of responsibilities among state institutions. Capacity building programs under UNDP Governance program should be leveraged to reinforce the role of public | <p style="text-align: center;">x</p> | <p style="text-align: center;">x</p> | |

| | | | | |
|---|---|---|---|--|
| | oversight Institutions namely: the Supreme Audit Institution, General Inspectorate of Finance and the National Assembly | | | |
| <p>The lack of consultation and coordination at the donors level in the mechanisms of development assistance and fight against corruption. Indeed, it is unanimously agreed that there is a lack of coordination at the national level. However, some interviewees also mentioned that it was critical that donors implement adequate consultation and coordination mechanisms for the assistance (technical or financial) provided to the country, including operational support mechanisms.</p> <p>This coordination is necessary in order to ensure efficiency and rationalization of the resources and spending being allocated. Please refer to Appendix 3 for a draft organizational chart of the MECNT showing the various levels of technical and finance support provided by donors and development agencies in the environmental sector. This situation demonstrates the actual lack of effectiveness that could lead to either duplication of resources or gaps in the deployment of assistance.</p> | <ul style="list-style-type: none"> ➤ Consultation mechanisms should be set up and reinforced (the various Thematic groups can be a good starting point) by donors to coordinate technical and financial assistance provided to DRC, in order to improve the perception of this issue and to minimize dilution of effort. Indeed at the level of both the government and at the civil society, the lack of coordination among donors is seen and interpreted as a contributing factor to the opacity of operations and lack of transparency. The initiative of coordination of donors' work with civil society by the "Groupe Inter-bailleurs pour la Société Civile (GIBSOC) coordinated by DFID can also be a good starting point. ➤ Development partners and donors at the highest level should continuously engage on corruption issues with the government. ➤ Thematic Groups and forums such as the Groupe Inter-bailleurs sur la société Civile (GIBSOC) could play an important role of consultation and coordination, not only between donors but also between donors, government and civil society members. ➤ Reinforce the operational coordination and synergies among all REDD mechanisms, the UNDP Governance Programme and the various government initiatives in the context of the fight against corruption and promotion of sound governance, notably as regards to the support to investigative journalism, public budget monitoring, and building the capacity of the Supreme Audit Institution ➤ We would recommend that a multi-donor matrix to improve forest governance be prepared showing the objectives of the assistance and level of effort provided, | x | x | |

| REDD+ and forest governance specific issues | | | | |
|---|--|----------|------------|-------|
| Findings / Risks | Suggested mitigating measures | National | Provincial | Local |
| <p>Money laundering risks in REDD+. Many experts, including international police, politicians and conservationists started warning that the UN's programme to cut carbon emissions by paying poor countries to preserve their forests was / is "open to wide abuse". Interpol, the world's leading policing agency, said at the time that the chances were very high that criminal gangs would seek to take advantage of REDD schemes.</p> <p>"Fragile" countries with poor institutional capacities are like DRC are more exposed and vulnerable to the</p> | <ul style="list-style-type: none"> ➤ It is absolutely vital that Anti Money Laundering checks and procedures be implemented in included in the accreditation and homologation procedures that is being developed by the National REDD Coordination in DRC. This should include some form of robust Know Your Client controls that should be developed with experts. Evidence of background checks would have to be rigorously and transparently documented. | x | x | X |

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|---|---|---|---|---|
| money laundering risks. | | | | |
| <p>The need for an anti-corruption specialist. There is a need to get an anti-corruption specialist involved for any further REDD related activity and / or mechanisms.</p> | <ul style="list-style-type: none"> ➤ Ensure that an anti-corruption specialist be systematically involved for any further establishment of mechanisms or organizations to be created for REDD+, in particular as regards the establishment of the National REDD Fund, revenue sharing, and the thematic coordination group facilitated by the National REDD Coordination on anti corruption, etc. | | | |
| <p>Weak forest governance: Forestry is a high-stakes business that allows unscrupulous actors to accommodate themselves with corrupt officials. Constantly renegotiated rules, codes and practical norms govern this accommodation process. Environmental governance is not – in DRC – primarily a technical issue; it is a political and social challenge that has to be dealt with through massive raising awareness programmes as well as educational and publicity activities.</p> | <ul style="list-style-type: none"> ➤ Environmental education and awareness campaigns about rights and responsibilities to help local populations bargain into forest governance strategies. ➤ The creation of enabling conditions to attract responsible private sector partners to help put Congo's forest economy on track. ➤ Greater integration of respect for local logics and belief systems. Forest governance strategies must consequently take into account a host of cleavages, tensions, problems of distrust, as well as gender and generation gaps that characterize forest communities. In the context of DRC as mentioned above a permanent dialogue should be maintained in parallel with sustained effort on educating the citizens. ➤ Increased and more systematic capacity-building and training for all stakeholders involved in forest governance. ➤ In the same vein as it has been done by the OCEP with the Code de Conduite de l'Agent Public de l'Etat, it would be useful to publish a "handbook" on REDD+ and corruption. It could contain among others: a brief description of the rules and regulations relating to REDD+, risks, existing tools to prevent their occurrence, reporting mechanisms. ➤ Fund educational programs on governance and corruption risks in forestry and REDD+. These programs could be addressed to students at Universities, to local communities, NGOs, officials and civil servants (particularly those of MECNT) and magistrates. We would also recommend editing and dissemination of a practical "field handbook" on REDD+ and corruption risks, this would include among other topics: a description of basic rules for/ operational modalities and regulation of REDD+, the potential corruption risks / and what to look for, a description of existing and under preparation monitoring tools and instruments (Interactive Atlas, Moadbi, Geopoll etc.), the suggested "whistleblowing" | x | x | X |

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|---|--|----------|----------|----------|
| | <p>mechanism (How and to whom to report to), etc. An anti-corruption specialist should be associated to this exercise.</p> <ul style="list-style-type: none"> ➤ Fund and sponsor the production of teaching materials on REDD+ and Forest Governance including anti corruption issues for university students (A similar and successful activity was organized in Angola with respect to the Oil & Gas Governance). Some flyers have been prepared by OCEP to raise awareness on corruption issues, some of these have been designed for primary schools, but they have not been distributed due to lack of funds. This could be a good starting point. ➤ We would also strongly recommend to have a governance / anti corruption advisor / officer attached to the REDD+ structures, initially attached to either the National REDD Coordination or UNDP Governance Team, later in medium term based and advising the management of a “Pole d’ Excellence”, or similar local “think tank” entity (Anti Corruption Body). The immediate task of the advisor ought to be to strengthen the operational coordination between the REDD program and the UNDP Governance program and the Government anti corruption program / efforts and initiative. | | | |
| <p>The typology of corruption (petty corruption, grand corruption etc.) varies according to the phase of REDD+ implementation: It is more likely that during the readiness phase (0 and 1), <u>state capture</u>, effected through grand corruption and political corruption, will occur (refer to section 2.3.3 of the report). On the other hand during implementation phase (2 to 5), <u>grand corruption</u> and <u>political corruption</u>, as well as <u>petty corruption</u> are more likely to occur. The implementation phase is also more likely to involve the risk of <u>embezzlement</u> as REDD+ revenues begin to flow.</p> | <ul style="list-style-type: none"> ➤ When setting up any REDD+ funding mechanism, integrate this typology when performing a risk assessment in order to consider appropriate preventative or detective mitigating measures (e.g. use of a fiduciary agent or segregated bank accounts) and to embed these already at the design stage. Bearing in mind that REDD+ funding is likely to be performance-based, care will need to be taken to balance the level of inherent risk of corruption which accepted, versus the degree of prudence of the countermeasures put in place, as an over-conservative approach could lead to a blockage of all funding. | <p>x</p> | <p>x</p> | <p>x</p> |
| <p>Lack of protection schemes and legal framework to promote and encourage “whistleblowing” mechanisms. From our discussions and interviews with members of civil society organizations and human rights defense groups, we noted that a there is feeling of insecurity that is maintained in the country and this impedes the appearance of any form of “whistleblowing” mechanism and culture. Indeed, the general climate of impunity strongly discourages the emergence of some form of denunciation. The lack of accountability and transparency at all levels of the state; the lack of free access to information and the absence of a strong legal framework also contribute to</p> | <ul style="list-style-type: none"> ➤ The role of the judicial power needs to be strengthened in this area. The fight against impunity is a prerequisite for the establishment of protection schemes that may encourage “whistleblowing” mechanisms. ➤ The success of the Kenya case (see section 4.3.1 of the study) is a very good example on how challenges of “weak reporting culture” and “whistleblowing” that is common to many African countries can be overcome by technology, implementation of adequate legal framework and strong communication and publicity strategy. It also shows how an | <p>x</p> | <p>x</p> | <p>X</p> |

| | | | | |
|--|---|---|---|---|
| <p>this situation.</p> | <p>anonymous reporting mechanism can make the difference in a highly corrupt environment.</p> <ul style="list-style-type: none"> ➤ We would recommend that when setting up any REDD+ funding mechanism, the “whistleblowing” mechanism should be integrated as a preventative or detective mitigating measure, the current initiative to promote transparency in the forestry sector, such as the Interactive Atlas, Moabi or Geopoll (see http://geopoll.mobileaccord.com/congo), or as promoted by the Ministry of Finance (refer to appendix 6) can serve as a good basis to design this. These initiatives should also be coordinated and widely promoted to ensure efficiency. | | | |
| <p>Reinforce the involvement of the civil society in the process implementation of REDD+ Based on our various discussions with members of the civil society, we understand that they would like to see a reinforcement of their role in the mechanisms of preparation and implementation of REDD+. Civil society members believe that it is necessary to continue to promote transparency in the process of preparing the implementation of REDD+ in DRC, so that the civil society can be adequately represented right from the preparation phase, which would ensure a sound basis for the future implementation of a performance-based REDD payment mechanism. Indeed, civil society members do not feel systematically involved in the upstream negotiations regarding REDD+. They also regret the fact that the National REDD Committee has not really started to embrace actively its role as a leadership, supervisory and consultative body, despite being urged to do so by the Minister of Environment himself.</p> | <ul style="list-style-type: none"> ➤ It appears important to improve the perception that the civil society has of this issue through better communication, and to reinforce their involvement in the overall process, to the extent feasible. ➤ There is also a need to promote mechanisms to ensure a higher value-added representation of the civil society members in REDD+ (transparency of eligibility criteria and selection procedures, capacity-building to ensure a more constructive role, etc.). ➤ It is necessary to carry out an exhaustive mapping of civil society organizations that are genuinely active in the field of REDD+ and have proven operational capabilities and track records in this area. | x | x | X |
| <p>The role of the media in the fight against corruption in DRC and in REDD+ The role of the media in the fight against corruption is universally recognized. In DRC the media suffer from a lack of professionalization. Despite the recent and rapid growth of actors in the media landscape in DRC, the capacity to critically monitor public policies through the media remains weak. The function has been and is poorly fulfilled primarily for the following reasons:</p> <ul style="list-style-type: none"> • Low level of professionalization of actors in the media sector; • Poor quality and poor diversity of content which does not promote the culture of investigative journalism; • Gaps in the organization of media professionals and in the standards for press freedom and ethics; • The viability and independence of media companies remains fragile; | <ul style="list-style-type: none"> ➤ Although significant efforts have been and are being made in this direction (workshop organized by UNDP), these should be supported, sustained and escalated to the level of the whole country. ➤ In addition there should be financial incentive mechanisms to promote investigative journalism and training on very specific topics such as REDD+. Workshops should be organized for journalists to remind them their crucial role as “watchdogs” in this area. It is worthwhile also inviting selected journalists to any upcoming anti-corruption event / workshop taking place in DRC (i.e.: U4 summit). | x | x | X |

| | | | | |
|---|--|---|---|---|
| <ul style="list-style-type: none"> Limited publicly available information and lack of critical debate on public policies. <p>It is particular crucial for the Media in DRC to quickly fulfill the gaps of knowledge and competence in the REDD+ related matters so they can fully play their “watchdog” role as well. These efforts are critical and contribute to reinforcing the role of the media in the framework for the fight against corruption in forest governance and REDD+.</p> | | | | |
| <p>Preparation of REDD+: Transparency and communication regarding resources management made available for CN-REDD</p> <p>Following our interviews, we noted some concerns raised by civil society members and other stakeholders regarding the reporting mechanisms and communication from the CN-REDD with regard to the management of the resources made available for the preparation phase for REDD+ in DRC. It appears important that the CN-REDD put in place in a timely manner a transparent communication and reporting protocol covering its management of resources and funds. This is important in order to avoid any speculation about transparency in this area.</p> | <ul style="list-style-type: none"> ➤ As already mentioned above, the lack of coordination among donors is seen and interpreted as a contributing factor to the opacity of operations and lack of transparency. It appears important that the reporting process and communication on the management of funds and resources, regarding REDD, be enhanced to avoid any potential concerns and speculation on this matter. ➤ Prioritize obtaining a comprehensive financial overview and transparency with respect to the financing of activities in the REDD+ related sectors, starting with MECNT. A transparent reporting mechanism for the budget execution of the MECNT should be implemented as soon as possible. We would also recommend that audits be performed on a regular basis and at least yearly. | x | x | X |
| <p>Promotion of transparency in REDD+. Reinforce the operational coordination and synergies among REDD mechanisms and other initiatives. This is a cross-cutting issue mentioned by most of our interviewees. Efforts should continue to be invested in this area. Although significant improvements and initiatives have taken place already, namely : the Moabi projects, the Interactif Atlas (WRI), the GeoPoll reporting tool, the National REDD Coordination registry of projects and accreditation / homologation procedures. Other initiatives worth considering in this context are FLEGT and EITI.</p> | <ul style="list-style-type: none"> ➤ Efforts should continue to be invested in technology oriented solutions to promote sustainable and transparent forest management and governance. The cases of Kenya (section 4.3.1 of the study) as well as the various initiatives in DRC in this area are very encouraging. ➤ Reinforce the operational coordination and synergies among all REDD mechanisms, the UNDP Governance Programme and the various government initiatives in the context of the fight against corruption and promotion of sound governance, notably as regards the support to investigative journalism, public budget monitoring, and building the capacity of the Supreme Audit Institution. | x | x | |

APPENDICES

APPENDIX 1: List of interviewees

| | Name | First Name | Organization | Grade |
|---|--------------------|----------------|---|--|
| NGO - CIVIL SOCIETY | | | | |
| 1 | BOBIA BONKAW | Joseph | RRN / Civil Society | National Coordinator |
| 2 | ADEBU | Cyrille | <i>Réseau Ressources Naturelles</i> | <i>Coordonnateur OCEAN, Point Focal Province Orientale</i> |
| 3 | BAMONGOYA | Célestin Raoul | <i>CDPE (ONG congolaise, partenaire pour le projet pilote REDD Mambassa, Province Orientale)</i> | Coordinator |
| 4 | BOUNDAWANA | Marie | <i>OSAPY (ONG congolaise, partenaire pour le projet pilote REDD Mambassa, Province Orientale)</i> | <i>Chargé du genre</i> |
| 5 | KAIGAMA | Yaouba | SNV | Country Representative |
| 6 | KETENDE | Jean Paul | ASADHO / Congolese Association of Human Rights | Head of the Organization |
| 7 | LIYOFO | Félicien | <i>ILEXA BOIS (Initiative Locale des Exploitants Artisanaux du Bois de la Province Orientale)</i> | President |
| 8 | LOKOKA | Richard | <i>OSAPY (ONG congolaise, partenaire pour le projet pilote REDD Mambassa, Province Orientale)</i> | Deputy Coordinator |
| 9 | MAKANA | Jean Rémi | WCS DRC | Forestry Coordinator |
| 10 | MBWES | Pius | RECIC | National Coordinator |
| 11 | MPOYI | Augustin | CODELT | Director / WB Consultant |
| 12 | MUCHUBA BUHEREKO | Roger | <i>Groupe de Travail Climat REDD / Société Civile</i> | National Coordinator |
| 13 | MULUMBA TSHIMBUMBA | Jean Marie | OLCAC | President |
| 14 | NGONGO | René | Greenpeace Africa | Forestry Expert |
| 15 | SABONGO | Prosper | <i>Projet REFORCO, Université de Kisangani</i> | Analyst |
| 16 | TEGTMAYER | Reiner | Global Witness | International Forestry Expert |
| GOVERNMENT BODIES AND INSTITUTIONS | | | | |
| 17 | BATUBENGA MBAYI | Victor | IGF | <i>Inspecteur Général des Finances</i> |
| 18 | ESUKA | NC | <i>Ministère Provincial en charge de l'Agriculture et des Affaires Foncières</i> | <i>Ministre</i> |
| 19 | KALALA | Léopold | MECNT / <i>Cellule Environnement</i> | Legal Expert |
| 20 | KAMITATU | Olivier | Ministry of Planning | Ministry |
| 21 | KANU MBIZI | Léon | CN-REDD / MECNT | National Coordinator |
| 22 | KITAMBALA | Joseph | <i>Cour des Comptes</i> | General Secretary |
| 23 | LABILA | Jean Marie | <i>CIABG / Commission Interministerielle d'Audit et de Bonne Gouvernance</i> | <i>Deputy Coordinator / Coordonnateur Adjoint</i> |
| 24 | LIFENDI | Samuel | <i>Ministère Provincial en Charge de l'Environnement</i> | <i>Coordonnateur Provincial de l'Environnement</i> |
| 25 | MAGO | Jean Marie | <i>Cabinet du Gouverneur la Province Orientale</i> | <i>Conseiller en charge de l'Environnement</i> |
| 26 | MUTEBA | Florimont | ITIE | National Coordinator |
| 27 | MWENDAMBALI | Saint Augustin | OCEP / <i>Ministère de la Fonction Publique</i> | Director |
| 28 | NKULU | Marie Claude | <i>Ministry of Justice / Ethique, Lutte contre la Corruption et Bonne Gouvernance</i> | <i>Substitute Prosecutor / Substitut du Procureur de la République</i> |

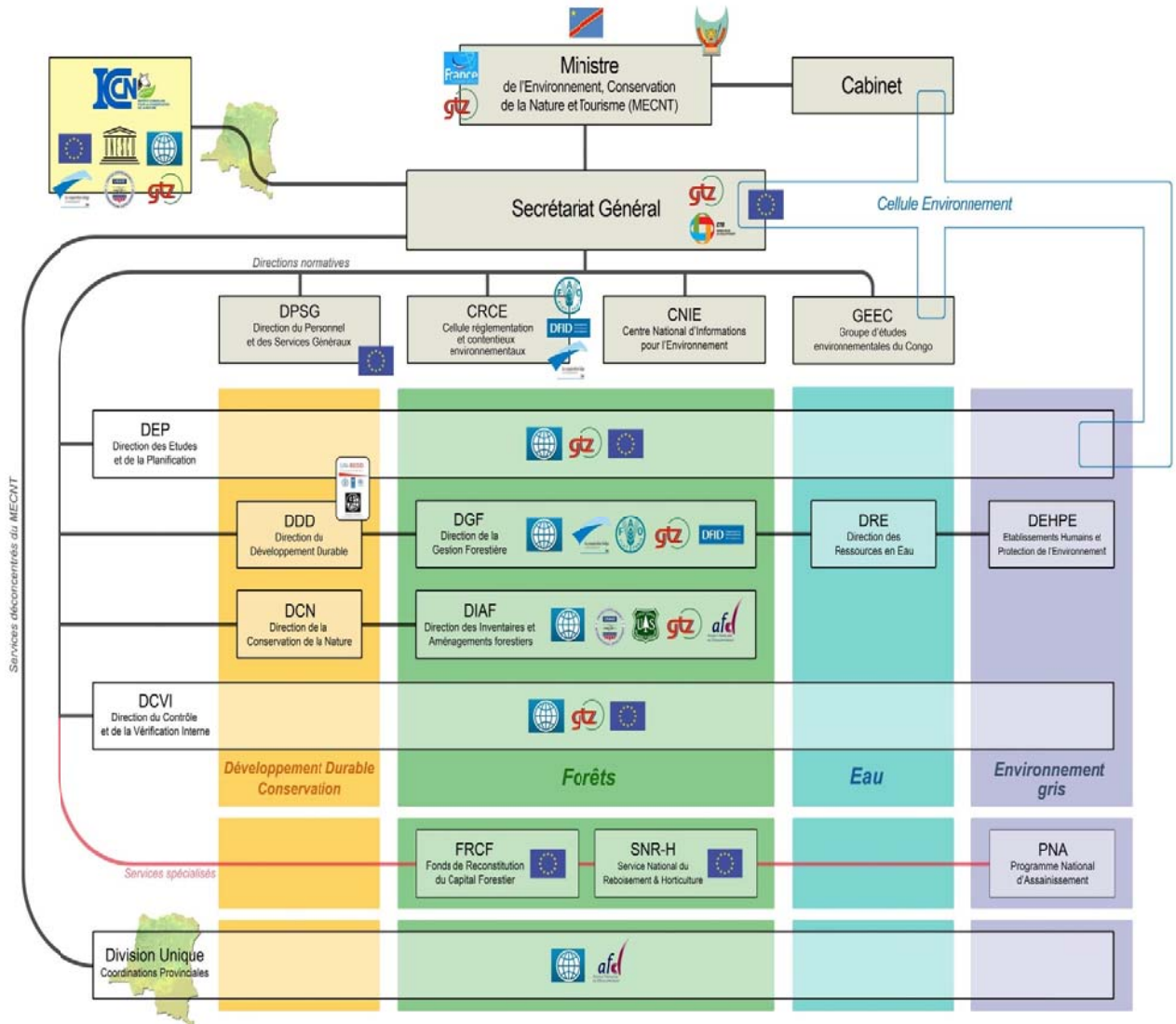
| | | | | |
|--|----------------------|----------------|---|--|
| 29 | PEMBE | Didace | PECO / <i>Parti de l'Ecologiste Congolais</i> | Party leader (Political) |
| 30 | SOMWE | | <i>Fond Forestier National</i> | <i>Chef de l'Antenne Provinciale</i> |
| 31 | TOFENDO | Joseph | <i>Cabinet du Gouverneur la Province Orientale</i> | <i>Conseiller juridique</i> |
| 32 | WELBY | Patrick | MECNT / <i>Cellule Environnement</i> | Independant Consultant |
| PRIVATE SECTOR | | | | |
| 33 | DIAGOLA | Samba | KPMG | Director (Audit Department) |
| 34 | KALENGAY | William Albert | GEOPOLIS Magazine | Managing Director |
| 35 | LUKIMUENA | Samuelson | KPMG | Manager (Audit Department) |
| 36 | M'BODI ASSOMA | Paul | KPMG | Partner |
| 37 | MDADU | Dieudonné | DELOITTE | Partner |
| 38 | ODENT | Philippe | DELOITTE | Partner |
| 39 | OSUNDJA | Robert | <i>Fédération des Entreprises du Congo</i> | <i>Directeur Provinciale</i> |
| 40 | REEKMANS | Tony | Independant Consultant | Independant Consultant |
| 41 | SEKANA PENE-PAPA | Jérôme | Agence Galaxie Medias | Managing Director |
| 42 | VAN DE VEN | Françoise | FIB | General Secretary |
| 43 | VERNEY | Alain | SGS | Managing Director |
| DONORS AND DEVELOPMENT PARTNERS | | | | |
| 44 | AHO | Gilbert | UNDP / <i>Unité de lutte contre la pauvreté</i> | Team Leader |
| 45 | DE AQUINO RODRIGUES | André | World Bank | Carbon Specialist |
| 46 | DIHN | Van | UNODC / Implementation support section | Analyst |
| 47 | EKMAN | Lars | Royal Embassy of Norway | Counsellor |
| 48 | FACH | Estelle | UNDP / <i>Groupe Environnement et Energie</i> | Program Analyst |
| 49 | FETIVEAU | Judicaël | World Bank | Consultant |
| 50 | GUAY | Bruno | UN-REDD / UNDP / <i>Unité de lutte contre la pauvreté</i> | Technical Advisor |
| 51 | HANANO | Jouaida | UNODC / Implementation support section | Analyst |
| 52 | HEUZE | Emmanuel | FLEGT / <i>Coopération Technique Belge</i> | Project leader |
| 53 | KALALA TSHIMPAKA | Frédéric | UNDP / NIM-DIM | National Expert |
| 54 | KESSOUS | Jean Claude | UNDP / <i>Gouvernance / Judiciaire et Sécurité</i> | Anticorruption specialist |
| 55 | LILLEHAMMER | Giske | NORAD | Senior Advisor |
| 56 | MABAYA | Jean-Paul | DFID | Governance Adviser |
| 57 | MONTEILS | Fabien | UN-REDD / UNDP / <i>Unité de lutte contre la pauvreté</i> | Principal Technical Advisor |
| 58 | MUHINDO VALIVAMBENE | Alphonse | Réseau CREF / Société Civile | General Secretary |
| 59 | MULLER | Ueli | GIZ / <i>Biodiversity and Forest section</i> | Coordinator |
| 60 | NYAKABINGU WANCESIAS | Yves | UNDP / Eastern Province | <i>Expert National en renforcement des capacités</i> |
| 61 | RAKOTONIAINA | Pierrot | UN-REDD - UNDP / <i>Unité de lutte contre la pauvreté</i> | International Consultant |
| 62 | SEYMOUR | Vicky | DFID / <i>Infrastructure and Environment</i> | Adviser |
| 63 | WASIKAMA | Charles | UNDP / <i>Environnement et Changement Climatique</i> | Program Analyst |

APPENDIX 2: Relevant documentation consulted for the purpose of the study

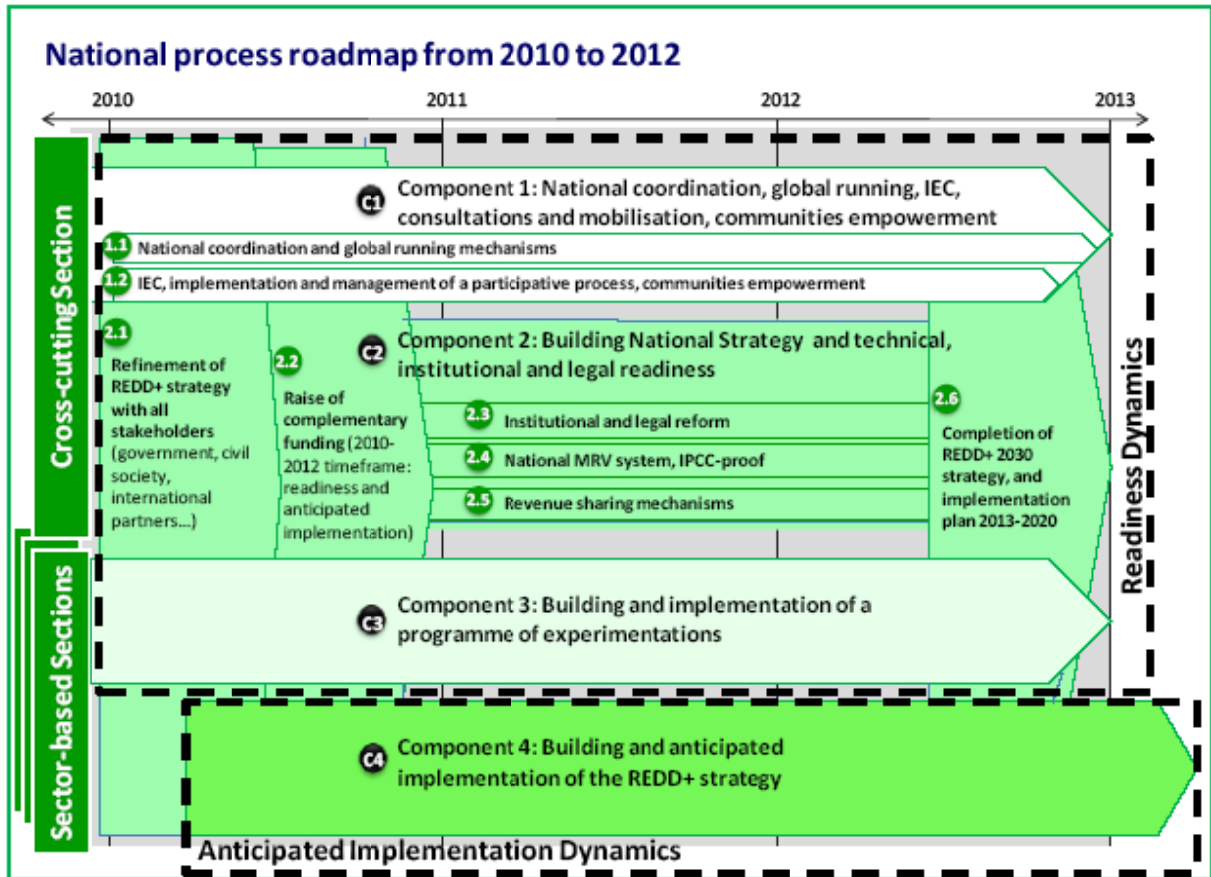
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APPENDIX 3: MECNT Organizational chart (showing Aid assistance in Forestry)



APPENDIX 4: DRC national process roadmap from 2010 to 2012



APPENDIX 5: Map of corruption risks in Climate Change Adaptation to Country Level

| Activity | Actors involved | | Corruption threat | Corrupt practice | Risk assessment |
|---|---|--|---|---|--------------------|
| | Demand side | Supply side | | | |
| Planning and Setting Priorities for Adaptation | | | | | |
| Consultation with stakeholders | Political elite Officials | Landowners Consultants Engineers Suppliers NGOs | State capture | <p>Extortion, solicitation and clientelism by officials, e.g.</p> <ul style="list-style-type: none"> ■ Vested interests given unfair access to decision-makers ■ Information released selectively <p>Bribery, fraud and collusion by groups seeking favourable treatment, e.g.</p> <ul style="list-style-type: none"> ■ Promoting adoption of particular technologies or methods ■ Seeking preference for particular properties or regions | Medium - High risk |
| Identification and prioritisation of adaptation actions | Officials Ministers Political elite | Landowners Officials Consultants Engineers Suppliers NGOs | State capture leading to poor planning, reducing capacity to respond to climate change and build resilience to future impacts | <p>Bribery, patronage, nepotism and clientelism, e.g.</p> <ul style="list-style-type: none"> ■ Selection of projects, properties and technologies favouring vested interests <p>Abuse of discretion to prioritise activities that maximise potential for rent-seeking, e.g.</p> <ul style="list-style-type: none"> ■ Capital-intensive infrastructure projects over ecosystem-based adaptation and community-based management ■ Complex licensing and regulatory systems | Medium risk |

| Activity | Actors involved | | Corruption threat | Corrupt practice | Risk assessment |
|---|---|---|--|---|--------------------|
| | Demand side | Supply side | | | |
| Implementation of Adaptation Programmes and Projects | | | | | |
| Project, programme and regulatory design | Ministers Political elite Officials | Landowners Engineers, construction and other consultants | State capture, abuse of discretion Inefficient use of resources, failure to build resilience, maladaptation | <p>Bribery, nepotism, clientelism and cronyism, e.g.</p> <ul style="list-style-type: none"> ■ Preference to adaptation activities favoring vested interests, rather than areas of greater vulnerability ■ Weak enforcement of environmental impact assessment procedures and other regulatory requirements ■ Abuse of discretion to develop rules that will enable rent-seeking in the implementation of funds, e.g. ■ Complex projects and regulatory systems with high levels of discretion that may be used to seek kickbacks from contractors or to siphon funds for other purposes <p>Fraud, theft and collusion, e.g.</p> <ul style="list-style-type: none"> ■ Seeking funding for identical results through different adaptation programmes/projects ■ Corporate interests seeking adoption of particular technologies | Medium - High risk |

| Activity | Actors involved | | Corruption threat | Corrupt practice | Risk assessment |
|--|---|---|---|---|-----------------|
| | Demand side | Supply side | | | |
| Procurement | Ministers Political Elite Officials Contractors and Consultants | Engineers Construction Consultants | Poor quality, incomplete projects, inefficient use of resources, failure to build resilience, maladaptation | <p>Bribery, solicitation, nepotism, clientelism and cronyism, e.g.</p> <ul style="list-style-type: none"> ■ Tailoring of project requirements to suit particular bidders ■ Over-stating project requirements ■ Inadequate advertising, short bidding times to enable officials to solicit bribes for information and contract awards ■ Withholding information/ access to tender process, charging for information/ access ■ Weak enforcement of contract requirements, environmental impact assessment and regulatory requirements <p>Collusion between industry stakeholders, particularly engineering and construction firms, e.g.</p> <ul style="list-style-type: none"> ■ Pre-agreement on prices, contract conditions <p>Theft, fraud and embezzlement, e.g.</p> <ul style="list-style-type: none"> ■ On-selling of equipment ■ Over-billing ■ Siphoning of project funds ■ Concealing substandard work ■ Providing sub-standard equipment, drugs, food and water | Medium risk |
| Appointment of staff and committee members | Political Elite Officials Industry | Ministers Political Elite Officials | Reduced capacity to respond to adaptation needs and build resilience | <p>Favouritism, nepotism, clientelism and cronyism, e.g.</p> <ul style="list-style-type: none"> ■ Officials grant favourable roles to their friends, families and business associates <p>Bribery and solicitation, e.g.</p> <ul style="list-style-type: none"> ■ 'Buying' and 'selling' certain roles with high rent-seeking potential | High risk |

| Activity | Actors involved | | Corruption threat | Corrupt practice | Risk assessment |
|------------------|--|--------------------------------------|--|--|-----------------|
| | Demand side | Supply side | | | |
| Service delivery | Officials Contractors Transporters | Industry Households Irrigators | Petty corruption inflating the cost and reducing the quality and accessibility of services | <p>Bribery, extortion and solicitation, e.g.</p> <ul style="list-style-type: none"> ■ Extra-legal charges for connections, services, deliveries, expediting repairs and processing licence applications ■ Over-billing to enable officials to obtain bribes to revise bills <p>Theft and fraud, e.g.</p> <ul style="list-style-type: none"> ■ Illegal on-selling of food, medicines and other equipment ■ Illegal connections to supplies ■ Diversion of maintenance funding <p>Bribery, nepotism and clientelism, e.g.</p> <ul style="list-style-type: none"> ■ Weak enforcement of regulations and allocations ■ Preferential treatment in licensing and allocations for certain industries or regions | High risk |

APPENDIX 6: Communication from the Ministry of Finance regarding a whistleblowing mechanism

République Démocratique du Congo



Ministère des Finances

COMMUNIQUE OFFICIEL N°001CAB/MIN/ FINANCES/2011 DU 25 AVRIL 2011

Dans le cadre de la lutte contre la fraude et la corruption, le Ministère des Finances annonce à la population congolaise tout entière l'ouverture d'une adresse E-mail destinée à recevoir les dénonciations des faits et actes constitutifs de fraude et de corruption au détriment du Trésor public dans le chef tant des agents publics que des opérateurs économiques et de toute autre personne à charge de laquelle ces faits et actes peuvent être constatés.

Le Ministère des Finances rassure le public que les dénonciations reçues feront l'objet d'un accusé de réception, bénéficieront d'une confidentialité garantie au plus haut niveau, feront l'objet d'une analyse minutieuse mettant à contribution tous les services attitrés de l'Etat et donneront lieu à une récompense appropriée, conformément à la réglementation en matière des primes de contentieux.

La défense des intérêts financiers de notre pays requiert l'implication et la collaboration de toute la population pour barrer la route à l'appropriation personnelle des ressources collectives. Ainsi, pour participer à cette noble lutte contre la fraude et la corruption qui est aussi un devoir civique, le public est donc invité à dénoncer les faits et actes susvisés à l'adresse E-mail ci-après, du reste déjà opérationnelle : fraudeetcorruption@minfinrdc.com.

Veuillez retenir et faire connaître cette adresse électronique au plus grand nombre pour aider à l'éradication des fléaux qui inhibent les efforts de mobilisation des recettes publiques et privent ainsi notre pays, des moyens d'action significatifs pour son progrès et son développement harmonieux.

Fait à Kinshasa, le 25 APR 2011

Le Ministre des Finances,
MATATA MPOYO Mapon.-

"Potentiel"

APPENDIX 7: UNDP Governance Program in DRC

Crosscutting Elements

- ✓ **The fight against corruption** : Corruption pervades the political and socioeconomic system and is a major obstacle to development. In order to overcome this obstacle, the fight against corruption cuts across Governance Program and is specifically addressed through concerted and sequential interventions of several components.
- ✓ **Mainstreaming Gender** : In the DRC, women make up 53.7% of the population. Ensuring that gender issues are addressed is essential to achieving development goals and strengthening the democratic framework. Each component promotes gender inclusion and equality in its activities.
- ✓ **Capacity Development** : A key element of the Governance Program's intervention strategy is strengthening national capabilities through capacity development. A capacity development plan has been developed, which involves strengthening the skills of program personnel to better support the governance process ; and national partners to take charge of the process in a sustainable manner. A support plan for training targeting the provinces is a key element of the strategy.





**A Broad Partnership
for Democratic Governance in the
Democratic Republic of the Congo**












Governance Program 2008-2012



TECHNICAL AND FINANCIAL PARTNERS

- ◆ **Local Governance** :
United Kingdom, Canada, United Nations Capital Development Fund (UNCDF) : Decentralization, Local development
- ◆ **Administrative Governance** :
- Belgian Technical Cooperation : Census support
- United Kingdom : Promotion of ethics and combating corruption, Communication for development
- ◆ **Political Governance** :
- United Kingdom : Support for parliamentary institutions and political parties
- United Kingdom, Canada, The Netherlands, Sweden, Belgium, European Union, France, Switzerland, Italy, Spain : Electoral Cycle Support Project
- ◆ **Economic Governance** :
- UNDP, African Development Bank : Development planning, Aid coordination, Support for the national statistical service, Improving the business environment
- Implementation Agencies : African Management Service Company, the Center for International Commerce, and the United Nations' Department for Economic and Social Affairs : Development planning, Improving the business environment
- ◆ **Judicial and Security Governance** :
- Switzerland, United Kingdom, South Korea, Sweden, the Netherlands, Canada, Austria, Belgium, Germany, MacArthur Foundation : Mapping Justice
- UNDP's Bureau for Crisis Prevention and Recovery (BCPR) : Access to justice
- The Netherlands, UNDP : Reform of the security sector, Support for reform of the Army
- France, UNDP : Disarmament, demobilization and reintegration of ex-combatants
- France, UNDP, BCPR : Small arms and light weapons, Reduction in armed violence, Community security (community disarmament)
- BCPR, Japan : Support for Police reform.

The United Nations Development Programme (UNDP) is the United Nations' global development network. It advocates change and connects countries to knowledge, experience, and resources to help their citizens build a better life. UNDP is on the ground in 166 countries, helping governments and populations to identify their own solutions to national and global development challenges. To develop their capacity, these countries can draw on the personnel of UNDP and its partners.
For further information on the Governance Program in the DRC, go to : www.undp.org.cd



CONTEXT

After years of war followed by a democratically elected political transition, the Democratic Republic of the Congo (DRC) through its government and in collaboration with international partners has devised a system of governance centered on sustainable human development. UNDP's Governance Program (2008-2012) was developed to support the DRC government in implementing national strategies for improving governance.

The Program emerged following broad dialogue involving the DRC government, parliament, civil society organizations, and technical and financial partners. It responds to the DRC Growth and Poverty Reduction Strategy Document (DSCRDP : Document de stratégie de croissance et de réduction de la pauvreté) and is structured around five distinct but complementary components (Political ; Administrative ; Judicial and Security ; Economic ; and Local Governance), which address national governance priorities and provide a comprehensive sustainable response. This approach seeks to strengthen the gains made through the political transition and to undertake new, innovative actions in synergy with interventions by other technical and financial partners.

Over the five year period, the total resources required by the Governance Program are US\$ 388,499,800. This financing is provided by 16 international donors.

STRATEGY

In the short term, the Program aims to accompany the consolidation of the new political system which has been formed through the elections and constitutional reform processes, by preparing key institutions to carry out their respective functions within an environment of sustainable development and security.

In the medium and long term, the Program will act as a general framework for intervention in the area of democratic governance in the DRC in concert with the government, its technical and financial partners and the UN system, particularly with the United Nations Organization Mission in the DRC (MONUC).

PROGRAM OBJECTIVES

The primary objective is to support the establishment of stable and legitimate democratic governance that promotes sustainable human development. Taking account of the main challenges outlined in the DSCRDP, the Governance Program supports the government in achieving the following development goals :

- Increasing citizens' access to and participation in the political system ;
- Improving the government's performance and delivery of basic services by public institutions ;
- Strengthening unity, national reconciliation, and the security of individuals and property ;
- Supporting the adoption and strengthening of transparency and accountability in public affairs management, and
- Providing a more effective and accessible system of justice.



INTERVENTION BY COMPONENT

UNDP interventions in 2008-2012 are organized in five strategic directions or program components :

1. Political Governance :

Strengthening the democratic framework

– Parliament, Political Parties, and Citizens' Participation :

- Supporting parliamentary institutions and political parties
- Strengthening the media and civil society

– Electoral Cycle : This is implemented through the Electoral Cycle Support Project (PACE : Projet d'Appui au Cycle Electoral) 2007-2011

- Electoral cycle support, including local elections
- Institutional strengthening of the Independent Electoral Commission and the future Independent National Electoral Commission



2. Administrative Governance : Reforming public administration

- Improving inter-ministerial coordination
- Strengthening public administration
- Combating corruption
- Supporting development-related communication



3. Judicial and Security Governance :

Strengthening human security and implementing judicial reform

- Justice sector reform support
- Improving army integration and army community security
- Control over small arms and the fight against armed violence
- Strengthening democratic control over the defense and security systems



4. Economic Governance : Improving economic planning and management

- Supporting development planning
- Improving foreign aid management and coordination
- Strengthening the national statistical service
- Improving the business environment



5. Local Governance : Implementing decentralization and supporting provincial and local development

- Supporting decentralization and coordination
- Improving provincial and local development