The Need to Extend Safeguard Coverage to Development Policy Lending

A Case Study of the Inspection Panel Investigation on International Development Association Funded Timber Concession Reform in the Democratic Republic of Congo

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Congolese children sitting on timber from the Congo rainforest, courtesy of Greenpeace

"It is critical that the process for assessing whether there are significant environmental and social effects be rigorous and thorough, and that there be a willingness to undertake the prudent assessments in order to avoid subsequent unforeseen impacts and unwelcome developments." *-- Inspection Panel, Management Report and Recommendation in Response to the Inspection Panel Investigation Report*

"Relatively few DPLs include assessments of the potential effects of policy reforms on forests." *-- World Bank, from the 2007 Midterm Review of Implementation of the World Bank Forest Strategy*

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EXECUTIVE SUMMARY

The 2005 Inspection Panel case addressing World Bank timber concession reform undertaken through the Democratic Republic of Congo Emergency Economic and Social Reunification Support Project (EESRSP) and Transitional Support for Economic Recovery Grant (TSERO) provides valuable lessons for forest lending and engagement in sensitive environments. The Inspection request submitted by indigenous Pygmy peoples illustrates deficiencies in the Bank's forest sector strategy, weak application of safeguard policies, insufficient consideration of indigenous and local peoples, and the dangers of utilizing Development Policy Loans (DPLs) in circumstances of poor governance and sensitive sectors. The Bank would benefit from incorporating these lessons into future lending operations in all regions by disengaging from timber concession reform in low governance contexts, undertaking more participatory processes with local and indigenous peoples, and expanding safeguard coverage to include DPLs. Regardless, use of DPLs should be prohibited for sectoral reforms with numerous social and environmental impacts.

Among the numerous lessons learned from the Democratic Republic of Congo Inspection Panel investigation, the most apparent change needed to World Bank policy is extending safeguard policy coverage to include Development Policy Lending. Such a change would have far-reaching implications for prevention of environmental and social harms across the Bank's portfolio, and improve poverty alleviation outcomes. The Inspection Panel investigation highlighted the substantial risks posted by the project-based lending operation discussed here, EESRSP, and found the Bank to be in non-compliance with numerous safeguard policies; the negative impacts and shortcomings of EESRSP, despite the existence of applicable safeguard policies, clearly demonstrates the need for safeguards in the closely-related TSERO DPL. Such a high risk investment requires robust safeguards to avoid social and environmental harm, particularly in poor governance environments and sensitive sectors such as the DRC's forest sector. The absence of safeguard policies, weak monitoring and evaluation frameworks, lack of robust risk assessment, and quick disbursement of funds renders DPLs risky investments with high potential for adverse impacts.

I. INTRODUCTION

Forests in the Democratic Republic of Congo

The Democratic Republic of Congo (DRC) is home to the Congo Rainforest, which is the second largest block of rainforest on earth. Two thirds of the remaining intact Congo Forest lies in DRC, comprising of 60 million acres.[1] DRC's forests hold 8% of the world's carbon, substantial biodiversity, and provide food, medicine, and livelihoods for 40 million Congolese people.[2] Projections of future deforestation in the Congo indicate that more than 40% of the Congo's forests are at risk of deforestation. Transportation infrastructure, including logging access roads and commercial logging, are a main driver of deforestation in the DRC. Consequently, deforestation and degradation in DRC are closely tied to industrial logging and logging concessions. As of 2007, more than 20 million hectares of such logging concessions were awarded in DRC.[1] Although DRC's forest was previously left relatively intact due to war, widespread logging concessions have both environmental and social impacts— they threaten not only the pristine environment of DRC, but also the numerous indigenous peoples and forest communities that rely on the forest for survival. As a key funder of reconstruction and a major actor in DRC's forest sector, the World Bank's engagement in the country plays a decisive role in the fate of its forests and people.

World Bank Engagement in the DRC Forest Sector

In the face of widespread conflict and political instability in the DRC in the 1990s, the World Bank suspended its lending operations in 1993. The Bank resumed lending to the DRC in 2001, funding a Transitional Support Strategy intended to generate economic reform. By August 2006, the Bank had approved more than $4 billion of grants and loans, including series of policy-based lending operations.[3] The first such policy-based operation was the Economic Recovery Credit approved in June 2002.[4] DRC adopted a new Forestry Code in August 2002 as a condition for release of the forest sector-focused $15 million tranche of this structural adjustment credit.

Although the second policy operation did not include a forest component, the third operation, the Transitional Support for Economic Recovery Grant Operation (TSERO) approved in November 2005, was a Development Policy Loan (DPL) with forest components. The TSERO involved timber concession reform activities, including an extension of an existing moratorium on issuing new titles, review of existing forestry titles, and a three year plan for future concessions.

Additionally, the Bank approved a project-based lending operation in September 2003: the Emergency Economic and Social Reunification Support Project (EESRSP). Among the objectives of this project were strengthening the country's forest management agencies and governance of natural resources, including a national forest zoning plan and building administrative capacity in forestry. The EESRSP is supported by an IDA Credit of SDR 35.7 million and an IDA Grant of SDR 117.0 million.

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[1] Greenpeace. 2007. Carving up the Congo. http://www.greenpeace.org/international/Global/international/planet-2/report/2007/5/carving-up-the-congo-part1.pdf
[2] Greenpeace. 2010. Forest Reform in the Democratic Republic of Congo: Leaving People Out. http://www.greenpeace.de/fileadmin/gpd/user_upload/themen/waelder/Congo_Forest_Reform_leaving_people_out_final.pdf
[3] Greenpeace, Carving up the Congo
[4] Economic Recovery Credit No. 3660-DRC.

II. INSPECTION REQUEST

Request for Inspection

An Inspection Panel request was submitted on November 19, 2005 by the Organistions Autochtones Pygmees et Accompagnant les Autochtones Pygmees en Republique Demoratique du Congo (Indigenous Pygmy Organizations and Pygmy Support Organizations in DRC).[5] Thirteen representatives from various provinces signed the request, expressing their concern regarding the Bank's engagement in the forest sector and timber concessions through the Emergency Economic and Social Reunification Support Project (EESRSP) and the Transitional Support for Economic Recovery Grant Operation (TSERO) DPL. Both projects were intended to support implementation of DRC's legal framework relating to forests, principally the 2002 Forest Code and the 2002 Decree which imposed a moratorium on awarding new forest concessions. The projects involved a series of 30-some decrees to support the new Forest Code and concession reform, including decrees on community forests and conservation concessions. Enactment of such decrees was one of given progress indicators for the TSERO.

The request primarily focuses on Component 2 of the EESRSP, which seeks to restore effective institutions in the forestry sector, implement the new Congolese Forestry Code, and address illegal logging by: 1) preparing a Participatory Forest Zoning Plan (PFZP), and 2) laying the groundwork for implementation of a new forest concession system. The subsequent TSERO sought to initiate a legal review of forest concessions, extend the 2002 Moratorium on new logging concessions until a legal review was completed, and adopt a 3 year concession plan through a participatory process.

The requesters stated that indigenous Pygmy peoples had been harmed, and would continue to be harmed, by the forest reform activities undertaken through EESRSP and TSERO. They asserted that the Congolese Forest Code was "hastily" adopted "without any input from civil society or involvement of the indigenous communities," and consequently supports an industrial logging system that is detrimental to local people. The requesters charged that in lending operations subsequent to the creation of the forest code, the Bank failed to implement many of its safeguard policies. The specific failures identified are:

> 1) Failure to implement Operational Policy 4.20—the Indigenous Peoples safeguard policy—by placing the PFZP in areas inhabited by Pygmies, and supporting a concession system for which the government lacks the proper mechanisms and structures to monitor effectively.
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> 2) Miscategorization of the risk level of the EESRSP as a Category B project, even though its broad environmental impact in a sensitive area clearly warrants a Category A categorization.
>
> 3) Failure to carry out an Environmental Assessment (EA).
>
> 4) Violation of Operational Policies 4.04 and 4.36, safeguards for Natural Habitats and Forests, respectively.

The request also outlined the likely future violations of Pygmy rights should the EESRSP proceed as planned, including violation of rights to occupy, access, and manage their ancestral lands; violation of

[5] Indigenous Pygmy Organizations and Pygmy Support Organizations in the Democratic Republic of Congo. October 30, 2005. Request submitted to the World Bank Inspection Panel. http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Resources/RequestforInspectionEnglish.pdf

cultural and spiritual value; destruction of the natural environment; and serious social conflicts. The request described a series of instances in which Pygmy peoples approached the Bank to obtain clarification for their motivations and open dialogue with them, but report being repeatedly excluded or ignored. Finally, the request questioned the "rationale for log-driven development."

On February 28, 2006, the World Bank Board approved the Panel's recommendation to conduct an investigation on the issues outlined in the request. Management responded to the request on January 13, 2006, and the Inspection Panel's Investigation Report was released on August 31, 2007.

Management's Initial Response

Bank Management's response to the initial Inspection Panel Request, on January 13, 2006, stated that it had made every effort to apply Bank policies and procedures, and asserted that "the Requesters' rights or interests have not been, nor will they be, directly and adversely affected by a failure of the Bank to implement its policies and procedures."[6] The Bank also defended the EESRSP's categorization as a Category B project, noting most such operations for institutional strengthening are classified as lower risk Category C projects.

Management also disagreed that OP 8.60 on Emergency Recovery was applied incorrectly in the case of the TSERO, and stated that projects intended to undertake emergency recovery assistance are exempted from compliance under the environmental assessment policy, OP 4.01. Management acknowledged that compliance with EA and Environmental and Social Management Framework (ESMF) requirements was delayed due to procurement issues.

Management defended its decision to engage in forest sector reform in DRC through variety of lending vehicles, stating that the Moratorium resulted in an "unprecedented" decrease of areas under concession, and that the new Forest Code introduced innovations in regards to indigenous peoples' rights and use. Management stated that the Bank's engagement in forest concession reform is warranted, given that "additional steps need to be taken for commercial logging in the DRC to bring social and economic benefits to Congolese people."

Management did acknowledge shortcomings with respect to indigenous peoples, noting that OD 4.20 should have been triggered when the PFZP was added to project preparation. Although the Bank asserted that its engagement has enhanced public participation and dialogue on forest issues, it acknowledged that its outreach to indigenous peoples was limited because many forest areas were inaccessible. However, the Bank denied that the Project threatened physical cultural property.

Management's response outlined several next steps to be taken in light of lessons learned from the EESRSP and TSERO's failings. These next steps included: reviewing EA and ESMF for specific project components, ensuring enforcement of deadlines for completion of safeguard requirements under OP 8.50, establishing a "proactive forest information and outreach program," establishing more direct lines of communication with indigenous communities, ensuring indigenous communities

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[6] Bank Management Response to Request for Inspection Panel Review of the Democratic Republic of Congo: Transitional Support for Economic Recovery Operation ((Grant NO. H 192-DRC) and Emergency Economic and Social Reunficiation Support Project (Credit No. 3824-DRC and Grant No. H 064-DRC). http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Resources/DRCfinalJan15.pdf

receive culturally appropriate benefits, and ensuring that future Bank lending strengthens indigenous rights and preserves cultural heritage of indigenous communities.

III. INSPECTION PANEL FINDINGS

The Inspection Panel investigation assessed the Bank's compliance with operational policies and procedures pertaining to Environmental Assessment (OP/BP 4.01), Involuntary Resettlement (OP 4.12), Poverty Reduction (OD 4.15), Indigenous Peoples (OD 4.12), Forests OP/BP 4.36), Emergency Recovery Assistance (OP/BP 8.50), Development Policy Lending (OP/BP 8.60), Cultural Property (OPN 11.03), Project Supervision (OP/BP 13.05), and the Policy on Disclosure of Information.[7] Additionally, the Panel investigated several distinct aspects of project implementation, surrounding issues such as concession conversion, treatment of existing concessions, and timelines. Findings for all topics will not be discussed here; instead, the subsequent sections address the Inspection Panel's findings pertaining to indigenous peoples and cultural property, forests and natural habitats, and environmental assessment and DPLs.

Indigenous Peoples & Cultural Property

The Panel determined that the Bank did not apply safeguard policy **OD 4.20 on Indigenous Peoples**, despite the requesters' assertion that indigenous Pygmy peoples have inhabited the forests in the project area for centuries or millennia. Although the Bank contended that the project review during the concept stage did not indicate the presence of Pygmy communities in the project area, a map produced by the Bank subsequent to the Inspection Panel Request demonstrates that Pygmies communities are distributed throughout large areas of DRC (figure 1).

The Panel determined that Pygmies qualify as indigenous peoples under OD 4.20, and concluded that management "did not carry out appropriate screening as required in the early stage of the Project [EESRSP] to determine the possible presence of indigenous peoples." Consequently, the Bank did not comply with OD 4.20. The Panel furthermore observed that the Bank paid little attention to the heavy reliance of approximately 40 million rural people on the forest for their subsistence and income, including bushmeat, honey, fruits, various nuts, mushrooms, insects, palms, and lianas. The Panel stated that the Bank did support alternative uses of forest resources beyond logging, and did not incorporate the importance of non-timber products to Pygmy peoples in project design or IPDP development. Additionally, the Panel pointed out the utility of participatory mapping exercises in establishing much-needed baseline information on Pygmy peoples' distribution, demography, and customary use of forests. However, the Bank had no plans to support participatory mapping, even though a "policy-consistent IPDP" would have used such techniques to establish reliable baseline information.

As a result of the Bank's failure to trigger OD 4.20 or prepare an Indigenous Peoples Development Plan (IPDP), Pygmy peoples' needs and interests were not addressed in the planning and implementation of the project. The Panel also cited a lack of meaningful participation by Pygmy people and local communities, and expressed concern about the selection and participation of indigenous representatives in the Inter-Ministerial Commission created to provide recommendations to the Ministry of Forests on

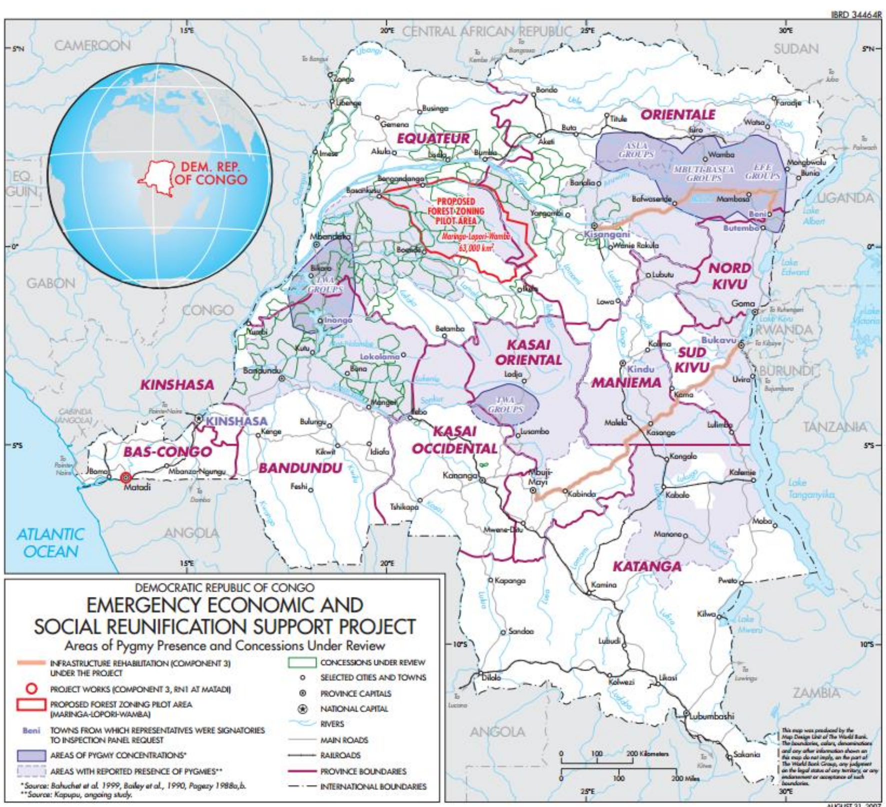
[7] Inspection Panel. August 31, 2007. DEMOCRATIC REPUBLIC OF CONGO: Transitional Support for Economic Recovery Grant (TSERO) (IDA Grant No. H 1920-DRC) and Emergency Economic and Social Reunification Support Project (EESRSP) (Credit No. 3824-DRC and Grant No. H 064-DRC).

approval of logging concessions. The panel noted that although the inclusion of indigenous representatives is a positive development, such representatives may find themselves in a weak position during Commission meetings, and their presence may simply serve to legitimize a process that runs contrary to the interests of impacted local people.

The Inspection Panel noted that after the Request for Inspection was submitted, the Bank began to show more consideration for the Pygmy people and other forest-dependent peoples potentially impacted by the project. During the Investigation, the President of the DRC also issued a Presidential Decree recognizing Pygmy Peoples as Indigenous Peoples.

Furthermore, the Panel found that the project documents created during the design and appraisal stages of EESRSP did not identify the cultural property in and spiritual value of the forest to indigenous Pygmy peoples, or take appropriate measures to avoid impacts to this cultural property. This does not comply with **OP 11.03 on Cultural Property**, and the Panel observed that the relevant policies do not permit the Bank to postpone consideration of impacts on cultural property or consultation with indigenous peoples to later stages of project implementation.

Figure 1. Map of Pygmy Presence and Concessions Reviewed in EESRSP



Forests & Natural Habitats

OP 4.36 on Forests prohibits the Bank from financing projects involving “significant conversion or degradation of critical forest areas or related critical natural habitats.” The Bank’s definition of “critical natural habitats” explicitly includes areas recognized as protected by traditional local communities, including sacred groves. During its investigation, the Panel received numerous reports from indigenous communities that concession operations were felling trees and constructing roads in sacred groves—traditional community protected areas. The Panel acknowledged that “given the focus of the Project to improve institutional and policy capacity, the Bank could consider that it is not financing a Project that involves significant conversion of critical forest areas or natural habitat,” although the Panel called into question the project’s strong emphasis on revenue generation from timber harvesting. The Inspection Panel concluded that the Bank could be out of compliance with OP 4.36 if the concession review process encourages conversion of critical forests and sacred groves.

As outlined by **OP 4.04 on Natural Habitats**, the Bank may not support projects involving significant conversion of natural habitats without first conducting a comprehensive analysis to demonstrate that the benefits of such a project substantially outweigh the costs. The Panel concluded that such a comprehensive analysis was not undertaken, despite the strong potential for the project to influence how logging operations in “areas of very significant natural habitat” are carried out. Furthermore, the Panel found little evidence that the Bank attempted to involve local communities likely to be impacted by the project, which is also out of compliance with OP 4.04.

Development Policy Loans & Environmental Assessment

The previously discussed policies on Indigenous Peoples, Cultural Property, Natural Habitats, and Forests apply to sectoral loans, including the EESRSP project. However, DPLs such as TSERO are not subject to these same safeguard policies, and are instead regulated by **OP 8.60 on Development Policy Lending**. According to OP 8.60, the Bank must determine whether “specific country policies supported by the operation are likely to cause significant effects on the country’s environment, forests and other natural resources.” In the case that significant impact is deemed possible, country-level diagnostic work must be undertaken through instruments such as Country Environmental Assessments (CEAs) or Strategic Environmental Assessments (SEAs).

Relying primarily on the analysis conducted under the previous EESRSP, the Bank concluded that significant adverse environmental impact was unlikely in the case of the TSERO. However, the Panel found that the Environmental Assessment (EA) for the EESRSP was not available until February 2006—after the Bank decided that the TSERO was unlikely to cause adverse impacts. Regardless, the EA did not address forest-related activities under Component 2 of the EESRSP, and neither a CEA nor a SEA for this component had been carried out. The Panel concluded that the Bank’s determination of no significant environmental or social impacts for the forest component of the TSERO “is not consistent with the objective of Bank policies,” and that the potential impacts of land use planning in DRC should have been analyzed as part of a high-risk ‘Category A’ EA rather than a lower-risk ‘Category B’ project. Furthermore, OP 8.60 emphasizes the need to consider borrower systems for reducing adverse impacts, even though such systems were “non-existent or extremely debilitated or ineffective” in the case of the DRC forest sector, according to the Panel.

Furthermore, the Panel questioned the Bank's choice of a DPL as the "right instrument for achieving agreed-upon goals of reforming this sector with its many social and environmental complexities," and cautioned that forest concession programs can have "very broad and very significant social and environmental impacts." The Panel noted that undertaking forest-related reforms through DPLs—with no requirements to follow safeguard policies—carries serious potential risk. The Panel noted that traditionally, safeguard policies would apply to forest and natural resource projects. In the case of DPLs in particular, the Panel asserted that "it is critical that the process for assessing whether there are significant environmental and social effects be rigorous and thorough, and that there be a willingness to undertake the prudent assessments in order to avoid subsequent unforeseen impacts and unwelcome developments." The Panel noted that although it is important that the Bank remain engaged in the forest sector in DRC, it must apply and comply with social and environmental safeguard policies.

IV. BANK RESPONSE

Management Action Plan

The Bank's Management Action Plan, released on November 5, 2007 after Board discussions, outlines the Bank's response to the Inspection Panel's findings.[8] On safeguards, the Bank committed to strengthening safeguard quality control across the Africa region. On Indigenous Peoples, the Bank committed to integrate indigenous people as a cross-cutting theme across the Bank's engagement in the country, including an analysis of vulnerable groups, capacity building components in Bank projects, and dialogue with the government. Pertaining to forests, the Bank's first action is a pledge to "stay engaged in the DRC forest sector," and to continue monitoring the legal review and moratorium. Integration of forest sector work through DRC's Country Assistance Strategy (CAS), the Global Environment Fund (GEF), and the Bank's Forest Carbon Partnership Faculty (FCPF) are mentioned as tools to further these commitments. Finally, the Bank agreed to implement a strengthened outreach strategy, including meetings with Pygmy communities. The Bank denied the existence of "potential risks" that the Panel cited as a result of employing DPLs in the context of forest reforms. The Bank's also defended its choice of a DPL to support "a small set of policy and institutional actions" as appropriate and consistent with the objective of Bank policies, even though this "small set " of actions led to the cancellation or approval of forest concessions—many of them over 200,000 hectares—with potential significant and social environmental impacts.

Progress Report to the Board

The Bank published three progress reports outlining steps taken towards goals established in the action plan. These reports were published on March 11, 2009, March 2011, and May 2012[9] respectively, with the final report indicating completion of all agreed-upon tasks. The reports outlined achievements in the

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[8] International Bank for Reconstruction and Development, International Development Association. November 5, 2007. Management Report and Recommendation in Response to the Inspection Panel Investigation Report. http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Resources/MgmtResp&Annexes.pdf

[9] International Bank for Reconstruction and Development, International Development Association. May 14, 2012. Third Progress Report on the Implementation of the Management Action Plan in Response to the Inspection Panel Investigation Report (Report No. 40746-ZR) on the Democratic Republic of Congo Transitional Support for Economic Recovery Grant (TSERO) (IDA Grant No. H1920-DRC) and Emergency Economic and Social Reunification Support Project (EESRSP) (IDA Credit no. 3824-DRC and Grant No. H064-DRC).

four themes of: 1) safeguards, 2) indigenous peoples, 3) forest policy reform in DRC, and 4) outreach and communication.

In the theme of safeguard strengthening at the regional level, the Bank reported having recruited and decentralized staff focusing on safeguards and environmental assessment, conducted regional and country safeguard reviews, initiated a quarterly review of high risk projects, and provided safeguards training to task team leaders and managers.

In regards to integrating indigenous peoples as a cross-cutting theme in the Bank activities in DRC, Economic and Sector Work (ESW) was carried out to create a development strategy for Pygmies in the DRC, Indigenous Peoples policy was integrated into all relevant projects in the DRC, and indigenous peoples and local communities in DRC will access funds through the Forest Investment Program to implement forest management projects.

In forest engagement, the Bank reported conducting a legal review of forest concessions, successfully monitoring TSERO indicators, incorporating forest operations into DRC's CAS, helping DRC access the Forest Carbon Partnership Facility, negotiating a GEF grant to support national parks, and supporting conservation concessions through an IDA-GEF project.

Finally, additional outreach work reportedly took place through meetings with Pygmy representatives, disseminating material through various means, facilitating participation of Pygmy groups in the legal review of concessions, creating a consultative council to facilitate information sharing, creating a National REDD Coordination team, providing safeguards training to local stakeholders, and "scaling up" the World Bank's presence in DRC's forest sector through the FIP.

V. LESSONS LEARNED

The shortcomings of World Bank engagement in DRC's forest sector provide valuable lessons for forest sector interventions and engagement in the DRC, but also for engagement in sensitive sectors and poor governance environments more broadly, as well as for the use of DPLs.

Strategy in Sensitive Sectors

The DRC Inspection Panel investigation clearly illustrates the difficulties inherent in engagement in a sector as complex and sensitive as the forest sector. The forest sector is a particularly challenging environment for policy reform due to the panorama of governmental, business, and local actors involved, as well as the poor governance and corruption that frequently plagues the timber industry. Interventions in the forest sector are particular risky given the potential for broad and significant impacts at the local level. Indigenous and forest-dependent peoples acutely feel any restrictions to their access to natural resources, but often lack the knowledge and political capital to successfully advocate for their interests or influence decision makers. Timber concession reform in particular—generally dominated by powerful, international interests—creates clear winners and losers, with severe implications for local and forest-dependent peoples. As noted by the Panel, local people do not generally benefit from the logging industry.[10]

[10] Inspection Panel. August 31, 2007. DEMOCRATIC REPUBLIC OF CONGO: Transitional Support for Economic Recovery Grant (TSERO) (IDA Grant No. H 1920-DRC) and Emergency Economic and Social Reunification Support Project (EESRSP) (Credit No. 3824-DRC and Grant No. H 064-DRC).

As demonstrated in the 2007 Report on Post-Conflict DRC, industrial logging has historically had little success in alleviating poverty in Africa.[11] Little evidence exists to suggest that engagement in industrial logging has alleviated poverty. Instead, the Inspection Panels suggests that the project was likely to "contribute to adverse impacts on poverty to the extent that unsustainable logging-related practices are encouraged."[12] Indeed, Bank engagement in DRC follows the failed model of the Bank's concession reform in Cameroon project, which increased poverty among Pygmy people.[13] Furthermore, the actions of industrial logging companies have caused social conflict, including cases of violent conflict with local communities.[14, 15] The Bank's decision to focus its engagement in DRC on an industrial timber concession model, in an environment of high social, ecological, and economic value, is not the strategy likely to provide the best outcomes for the environment or poverty alleviation. Alternative strategies, such as community forestry, would better advance the Bank's goal of poverty alleviation.

Development Policy Loans

Due to the highly sensitive nature of the forest sector, particularly in the case of timber concession reform, DPLs are not the appropriate lending instrument for promoting policy reform. Interventions in the forest sector require strong risk assessment, monitoring and evaluation, and safeguard application—all of which are weak or absent in the case of DPLs. Weak monitoring and evaluation frameworks for DPLs, as well as the often quick disbursement of funds, render it difficult to assess how interventions have contributed or would contribute to country results. Furthermore, a robust assessment of risk is not required.

Additionally, the absence of safeguard policies for DPLs does not provide adequate protection for people or the natural environment. Although OP 8.60 requires the Bank to screen for the likelihood of "significant effect on the country's environment, forests, and other resources," a retrospective review of 199 Development Policy Operations completed by Global Witness found that only 6 were deemed to have potential adverse environmental despite focus on high-impact industries such as agriculture and mining.[16] The Midterm Review of Implementation of the World Bank Forest Strategy similarly notes that "relatively few DPLs include assessments of the potential effects of policy reforms on forests."[17]

Although Good Practice Notes recommend the government consult with stakeholders in the design of DPLs, there is no obligation to do so. As described above, the potential for significant impact on the livelihoods of a large number of forest-dependent peoples makes it critical that DPLs are held to the Bank's highest standards. Similarly to agricultural sector projects, forest sector projects may affect the subsistence practices of large populations of individuals, many of whom likely do not have access to information or the ability to advocate for their interests.

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[11] CIFOR, World Bank and CIRAD. 2007. Forests in Post-Conflict Democratic Republic of Congo: Analysis of a Priority Agenda. http://www.cifor.org/publications/pdf_files/Books/BCIFOR0701.pdf
[12] Inspection Panel, p. 75.
[13] Greenpeace. February 2007. Forest Reform in the DRC: How the World Bank is Failing to Learn the Lessons from Cameroon.
[14] Rainforest Foundation UK, Global Witness, Greenpeace, Rainforest Foundation Norway. December 3, 2009. The World Bank and the forest sector in the Democratic Republic of Congo: REDD FUTURE or GREENWASH?
[15] Greenpeace. 2007. Carving up the Congo.
[16] Global Witness. August 31 2012. Global Witness Comments on World Bank 2012 Development Policy Lending Retrospective.
[17] World Bank. 2007. Midterm Review of Implementation of the World Bank Forest Strategy.

Given the absence of safeguard policies for DPLs, strong institutional capacity and borrower country systems are fundamental. After emerging from a decade of armed conflict, the weak institutional capacity of DRC was ill-equipped to successfully carry out timber concession reform. This insufficient institutional capacity and widespread corruption is demonstrated by a 2007 Greenpeace review of 156 of the timber contacts under review[18]. They found that 107 out of 156 contracts were signed after the May 2002 moratorium, and only 40 of those signed prior to the moratorium paid their tax in 2004. Furthermore, nearly half of the 156 titles are in intact forest landscapes critical for carbon storage and wildlife protection.

The Inspection Panel investigation report noted that during implementation, "forest institutions remained weak and their capacity to ensure implementation of reforms on the ground limited. This begs the question of whether Management should have had a larger component in the EESRSP devoted to building the capacity of the Ministry of Environment." The development of such capacity would have been valuable not only in implementation of the EESRSP, but also in the subsequent TSERO DPL, which served as a continuation of the EESRPS in many regards.

Engagement with Local People

Many of the requesters' complaints centered on lack of consideration for indigenous and local peoples and their values: the Indigenous Peoples policy was not applied despite the clear presence of indigenous peoples; non-compliance with Cultural Property policy by not recognizing the spiritual value the forest holds for the Pygmy peoples; non-compliance with Forests policy due to conversion of Pygmy sacred groves which constitute 'critical natural habitat'; and non-compliance with Natural Habitats policy, in part due to minimal evidence of involvement of local people, and not completing a full cost-benefit analysis to justify conversion of natural habitats.

The Inspection Panel found the Bank to be out of compliance with all four of the aforementioned policies, clearly demonstrating a lack of consideration for local and indigenous peoples in project design and implementation. In its response to the Request, management acknowledged that "more proactive outreach would have perhaps enabled the Bank to rely less on advocacy groups and, instead, establish more direct lines of communication with Pygmy leaders and communities."[19]

In order to avoid harm and achieve positive outcomes, indigenous and local peoples must be treated as partners in Bank interventions. Targeted efforts are required to inform and involve local and indigenous peoples in all stages of a project: development, implementation, monitoring, and evaluation. True cost-benefit analysis, as required by the Natural Habitats policy, necessitates accounting for not only conventional costs and benefits of undertaking a project, but also livelihood, spiritual, and cultural value. For example, non-timber forest products provide an estimated $2 billion per year to local people, including firewood, bushmeat, fruit, honey, and medicines— a figure that dwarfs income from timber sales.[20] In addition, sacred groves are of irreplaceable value to indigenous peoples, and should be

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[18] Greenpeace. 2007. Carving up the Congo.

[19] Bank Management Response to Request for Inspection Panel Review of the Democratic Republic of Congo: Transitional Support for Economic Recovery Operation ((Grant NO. H 192-DRC) and Emergency Economic and Social Reunification Support Project (Credit No. 3824-DRC and Grant No. H 064-DRC), p. 22.

[20] Inspection Panel. August 31, 2007. DEMOCRATIC REPUBLIC OF CONGO: Transitional Support for Economic Recovery Grant (TSERO) (IDA Grant No. H 1920-DRC) and Emergency Economic and Social Reunification Support Project (EESRSP) (Credit No. 3824-DRC and Grant No. H 064-DRC).

considered in any decision-making process. Incorporating such values requires strong participatory processes. Likewise, determination of areas of cultural property and traditional areas that constitute 'critical natural habitat,' should be highly participatory. Without input, traditional knowledge and involvement of local people, projects are likely to harm local people rather than achieving the Bank's goal of alleviating poverty.

VI. CONCLUSIONS

The DRC Inspection Panel case offers valuable lessons for future Bank engagement, particularly for forest sector projects in poor governance environments. Lessons learned from the DRC experience may prove instructive in various aspects of Bank engagement: country assistance strategies, project design and implementation, and safeguard application. The Inspection Panel investigation of the DRC forest concession reform, and in particular the detrimental use of DPLS in this context, demonstrates the importance of carefully selecting strategies for engagement in sensitive sectors, the shortcomings of DPLs, and the need to involve local and indigenous people. The experience of DRC offers evidence for the failings of timber concession reform and logging operations in the tropics—a lesson supported by the 2013 IEG evaluation of the Bank's forest strategy, which recommended assessing the outcomes of Bank engagement in industrial timber concession reforms in tropical moist forest countries.[21] The World Bank's forest strategy, including the upcoming Forest Action Plan, should reflect these experiences with timber concession reform. Notably, the DRC case illustrates the necessity of extending safeguard coverage to DPLs—a possibility that should be explored in the ongoing World Bank safeguard review. Rather than repeating the mistakes made in DRC, hopefully the Bank will apply these lessons learned to future interventions.

[21] IEG. February, 2015. Managing Forest Resources for Sustainable Development: An Evaluation of World Bank Group Experience