

Implement in haste, repent at leisure

A call for rethinking the World Bank's Carbon Fund,
based on an analysis of the Democratic Republic of Congo
Emissions Reduction - Project Idea Note (ER-PIN)

A FERN FPP Briefing

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Acronyms used in the text:

CF – Carbon Fund of the FCPF

CF7 – 7th Meeting of the Carbon Fund Participants, Paris 24-25 June 2013

CN-REDD - DRC National Coordinating Committee for REDD

DNV – Det Norske Veritas

DRC - Democratic Republic of Congo

ERA – Ecosystems Resources Associates

ERPA – Emissions Reduction Programme Agreement

ER-PIN – Emissions Reduction Project Idea Note

FCPF – Forest Carbon Partnership Facility

FPP – The Forest Peoples Programme

FMT – Facility Management Team (of the FCPF)

GIZ – Deutsche Gesellschaft für Internationale Zusammenarbeit, The German Agency for International Cooperation

GTCR-DRC - Groupe de travail climat (Working Group on Climate, DRC)

MECNT – Ministère de l'Environnement, Conservation de la Nature et Tourisme (MECNT) (DRC Ministry of Environment, Nature Conservation and Tourism)

MF – Methodological Framework (of the FCPF Carbon Fund)

OSFAC - Observatoire Satellital des Forêts d'Afrique Centrale

PC – Participant Committee

REDD - Reduced Emissions from Deforestation and Degradation

R-PIN – Readiness Preparation Ideas Note (for the FCPF)

R-PP – Readiness Preparation Proposal (for the FCPF)

RRN - Réseau Ressources Naturelles

VCS – Voluntary Carbon Standard

WWC – Wildlife Works Carbon

WWF – The Worldwide Fund for Nature

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1. Introduction

This report is the third in a series which FERN and the Forest Peoples Programme (FPP) have published concerning the World Bank's Forest Carbon Partnership Facility (FCPF) since the facility was launched in Bali in December 2007.¹

The first two reports analysed the implementation of the various stages of the FCPF 'readiness' process in a number of countries, with a particular attention to rights, consultation, free, prior and informed consent (FPIC), land tenure issues and the analysis and treatment of the underlying causes of deforestation. This third report examines the FCPF treatment of the same issues in the early roll-out of the FCPF Carbon Fund activities through an in-depth and critical analysis of a draft Emissions Reduction Project Idea Note (ER-PIN) developed for the Democratic Republic of Congo (DRC).

While it is recognised that the ER-PIN for the DRC (March 2014) is not yet approved and may still be subject to revisions, this critique finds a number of serious systemic weaknesses in the FCPF process for policy formulation and project design already identified in previous FERN-FPP reports on the FCPF. In short, FCPF and government failures to safeguard land rights, protect traditional livelihood activities, conduct social risk analyses and ensure meaningful prior consultation already pinpointed in our earlier reports '*Cutting Corners*' and '*Smoke and Mirrors*' are now starting to become evident in the FCPF's Carbon Fund operations.

This case study concludes that unless major changes are made in FCPF planning, design and validation of emissions reduction programmes to ensure alignment with the FCPF Charter and international human rights standards, the FCPF Carbon Fund risks enabling seriously flawed REDD pilots that could generate negative impacts on indigenous peoples and local communities as the FCPF moves towards implementation of activities on the ground.



1 Cutting Corners and Smoke and Mirrors, both available at www.fern.org and www.forestpeoples.org

Box 1: The story so far: findings of previous FERN/FPP reports on the FCPF

In 2008, the FERN/FPP report *'Cutting Corners'* found that the very early stages of development of FCPF programmes in nine countries had been "rushed and corners have been cut". The review found that:

- Most of Readiness Programme Ideas Notes (R-PINs) had failed to give adequate treatment to the rights of indigenous peoples and local communities.
- The FCPF was not consistently following its own rules.
- There was a lack of national ownership of the R-PINs.
- Consultation over most R-PINs had been inadequate.
- A disturbing level of attention was placed on 'slash and burn agriculture' as the primary driver of deforestation.

The 2011 report *'Smoke and Mirrors'* comprised an analysis of eight of the R-PPs flowing from the earlier R-PINs. It found:

- Little more than lip service being paid to forest peoples' rights and local benefit sharing, with little or no real intention to put these principles into action.
- Lack of credible plans to recognise and respect customary rights to land and forest resources
- Biased analyses of the causes of deforestation that place blame on indigenous peoples and local communities for forest loss and damage, without justification.
- Non-existent or inadequate national consultations on draft R-PPs.
- Re-affirmation of state ownership over forest lands.
- A focus on valuation and monitoring of forest carbon to the exclusion of livelihoods, biodiversity and cultural values.
- An acknowledgement of the need for governance reforms, but confined to the establishment of new government institutions

1.1. Emissions Reduction programmes – the Carbon Fund and the overall FCPF process

While our first two FCPF reports considered the development of national programmes under its 'Readiness' Facility, this report is a first look at an example of a programme being proposed for the FCPF's larger facility, the FCPF Carbon Fund.

When the FCPF was initially established, it was envisaged that its 'readiness' programmes would establish a sound basis for later programmes to develop emissions reduction projects and the purchase of carbon credits under the Carbon Fund facility. National readiness programmes would include various studies (such as into underlying drivers of deforestation), review and revise national forest policies and regulatory frameworks, and establish appropriate institutions and political mechanisms, all through multi-stakeholder processes. The Carbon Fund would then support the development of credit-generating REDD programmes, and also act as a first buyer of the credits created. These credits would, in theory, accrue to the 'investors' to the Fund in proportion to the size of each donor's contributions (see Table 1).

Table 1 Financial commitments to the FCPF, as of June 2013 (US \$'000s)

Contributor	Readiness Fund	Carbon Fund	TOTALS
Australia	23,892	18,393	42,285
Canada	41,360	5,015	46,375
Denmark	5,800	-	5,800
European Commission	5,284	6,709	11,993
Finland	19,966	-	19,966
France	10,340	-	10,340
Germany	52,125	129,288	181,413
Italy	5,000	-	5,000
Japan	14,000	-	14,000
Netherlands	20,270	-	20,270
Norway (1)	130,199	171,310	301,509
Spain	7,048	-	7,048
Switzerland	8,214	10,796	19,010
United Kingdom (2)	5,766	87,940	93,706
United States	9,000	14,000	23,000
BP Technology Ventures	-	5,000	5,000
CDC Climat	-	5,000	5,000
The Nature Conservancy	-	5,000	5,000
TOTALS	358,264	458,451	816,715
(1) Includes \$100m to Readiness Fund announced since June 2013			
(2) Includes up to \$70m committed to Carbon Fund since June 2013			

Source: FCPF Annual Report 2013, personal communication with Bank Information Centre (BIC), 2 April 2014.

The original, sequenced, approach recognised that complex REDD credit-generating programmes over potentially 'nationally significant' geographical areas, with potentially many and varied rights-holders and claimants, with complex tenure regimes, and even more numerous stakeholders, would require greatly strengthened national systems of forest, tenure and carbon governance. As it has transpired, however, and as indicated in our previous reports (see Box 1), the extent to which the FCPF's readiness programmes have succeeded in achieving this is very much open to question. These programmes have proven to be protracted, bureaucratic and in some cases failing to deliver any meaningful improvements in sector governance or preparedness for REDD. In many countries (e.g. Guyana, Cameroon) indigenous peoples' communities have still not been consulted in a meaningful way about national REDD readiness, five years after the first Readiness Project Idea Notes (R-PINS) were accepted by the FCPF and its governing body (FCPF Participants Committee). In other countries, like Peru, promises of legal and policy reforms to secure the land and resource rights of indigenous peoples made in the R-PP have yet to be fulfilled.

In the case of the DRC, various new institutions have been established since the commencement of 'readiness' activities (though these seem to be at least partly non-operational), but little has been achieved in terms of building the capacity to improve forest governance, other than the adoption of a legal requirement for REDD projects to be government-approved and entered into a national registry (although the utility of such registries remains to be proven). Some of the

studies undertaken during the readiness phase which were supposed to inform later REDD programme development have been of dubious quality and are likely to be highly misleading in terms of policy and programme prescriptions. The findings of official studies on the drivers of deforestation, are contested by civil society and communities as they mainly lay the blame for forest loss at the feet of local communities. At the same time, there has been no advancement in, for example, completing the woefully fragmented forest sector regulatory framework. Progress towards the adoption of pieces of legislation to secure community rights (such as concerning community forestry) and basic geographical planning and spatial management (such as the national forest zoning exercise), which are critical to the likely success of future forest and climate emissions reductions efforts (as acknowledged in the March 2014 draft proposed ER-PIN), has been chronically slow or has even gone into reverse.

As this briefing went to press, the DRC government was considering lifting its long-standing moratorium on the allocation of new logging concessions. This could seriously undermine all attempts to reduce emissions of carbon from the forest sector and would also likely have major negative impacts on the quality of forest governance.

The FCPF has always stated that it is 'learning by doing'. On the face of it, this seems a reasonable approach. However, there is little evidence that there has been much learning from the earlier and now long-running readiness programmes, or that this is being transferred into the potentially much more significant and higher impact Emissions' Reduction (ER) programmes. The monitoring by the Bank of the progress of readiness activities appears to be more of a 'box-ticking' exercise than ensuring that real and meaningful improvements are being made, and seems to be entirely divorced from the real needs for 'readiness' as ER programmes start to emerge.

The result of this is that the systemic weaknesses and shortcuts in the readiness processes, which we described in our earlier two reports are also now becoming evident in the functioning of the Carbon Fund.

1.2 Implement in haste, repent at leisure?

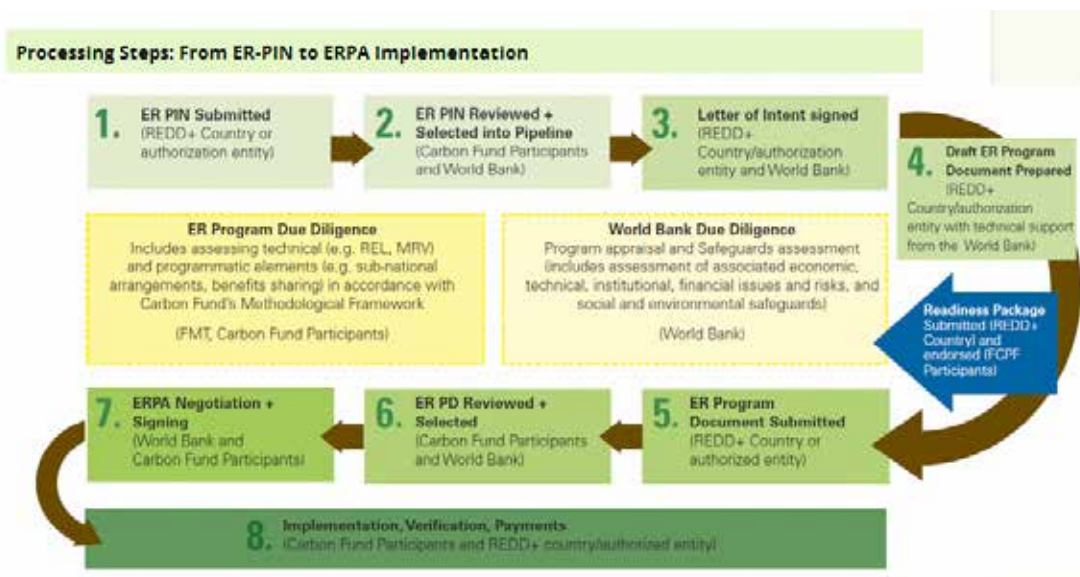
Changes more recently introduced in the overall structuring of the FCPF's activities will exacerbate the problems outlined above. Specifically, the strict sequencing of readiness-then-reductions programmes appears to have been seriously compromised; it now seems to be accepted that emissions reductions programmes under the Carbon Fund could run in parallel with or even in advance of the readiness activities in the same country.

This important shift was formally marked by a resolution adopted by the Participants Committee in 2012, which has subsequently been interpreted as effectively allowing for ER-PINs to be submitted by a *"REDD Country Participant that has signed a Readiness Preparation grant agreement (or the equivalent) with a Delivery Partner under the Readiness Fund"*². Figure 1 shows how the preparation of ER programmes is now notionally supposed to relate to readiness activities in any given country. This means that the development of an ER-PIN by DRC and other countries is not linked to the implementation of REDD-Readiness work. Proposals to the Carbon Fund could advance to submission of a final ER Programme proposal immediately after, or even simultaneously with, the submission of a Readiness Package. In other words, the real 'REDD-readiness' work could barely have started before a full Carbon Fund programme was funded and initiated.

As is evident from the DRC case study, the lack of appropriate sequencing is likely to cause serious difficulties and risks serious negative impacts on forest peoples.

2 FCPF, Fourth Carbon Fund Meeting June 24-25, 2012, Santa Marta, Colombia, Resolution CFM/4/2012/1 Selection Criteria for Emission Reductions Program Idea Notes (ER-PINs)

Figure 1. Schematic representation showing the Carbon Fund approval process in relation to readiness activities



Source: FCPF website

It might be argued that formulation of draft ER-PINs and ER-Programmes might serve as leverage for governments to move forward more purposefully with the all-important readiness activities. However, given the track record of the FCPF so far, it seems unlikely an ER-PIN or ER Programme would fail to be funded once 'Letters of Intent' between the Fund and the proposing government have been signed. ER programmes, at least in outline form, could thus be *de facto* approved well before full readiness 'packages' have even been submitted, let alone approved, implemented or completed.

This all begs the question as to why the obvious sequencing structure has been broken, and why as a result there is now a rush for countries such as the DRC to prepare and submit ER-PINs long before any serious readiness work has been completed. As was noted in our earlier reports, whilst the actual implementation of meaningful readiness work has often been very slow, haste in moving forward through the various formal stages of the readiness funding has meant that consultation has often been superficial or non-existent. Difficult but critically important issues such as land tenure and indigenous peoples' rights have often been given little or no attention or have been treated in perfunctory manner without meaningful and actionable plans for change.

Similar problems are now becoming apparent with proposals to the Carbon Fund, and certainly with the DRC draft ER-PIN proposal. These potentially much larger and technically more complex proposals (and the various technical documents and protocols relating to the operation of the Carbon Fund) require a great deal more expert scrutiny than the earlier R-PINs and R-PPs – yet documentation is often only made available to members of the Participants Committee a few weeks or even days in advance. Part of the problem appears to have stemmed from the Bank's announcement that only four ER-PINs would be moved forward in the first tranche to be approved and funded. This is believed to have created haste to complete and submit the first proposals, as countries felt that they were in competition with other countries from the same continent or region.

Another issue is the apparent FCPF intention to have the first ER Programme Agreements (ERPAs) in place by the middle of 2015. This would mean that ER-PINs would have to be approved and implemented in 2014 and full ER programmes developed by early-mid 2015. Our 2011 report 'Smoke and Mirrors' concluded that *"through the FCPF, the World Bank is now setting the post-Cancun agenda in terms of how forests are integrated into a global climate regime, how REDD will be implemented and how finance will be sourced."* The scheduling of the Carbon Fund appears to be linked to expectations of the new global climate policy and financing regime, which is expected to come into force after 2020. Hence, the somewhat arbitrary deadlines for Carbon Fund implementation appear to be based on a desire of the FCPF to position the World Bank as having piloted and delivered market-based REDD financing mechanisms over 3-4 years by 2020. As such, there are disturbing signs that the Carbon Fund is possibly being driven by ideological and institutional priorities rather than an attempt to develop quality solutions. In effect, the FCPF is working backwards from a perceived deadline in the future, rather than working forward from the current actual situation in a genuine process of 'learning by doing', which would allow it to correct mistakes as it progresses, and allowing sufficient time to do so.

Evidence from countries to be piloted for emissions reduction programmes under the FCPF, including the Republic of Congo, DRC and Ghana, indicates that ER-PIN development has been conducted in a hasty manner without adequate participation of local civil society organisations and potentially affected forest peoples. In some cases, it appears that vital documents, such as different versions of draft ER-PIN documents, have only been made available in English.

In the case of DRC the current ER-PIN development schedule would seem to be wholly unrealistic. As noted in the case study below, the preparation of the draft DRC ER-PIN has thrown up a number of major issues, including:

- the lack of availability and critical analysis of basic data relating to the proposed project area, including rates, distribution and underlying causes of deforestation; lack of credible proposals for addressing these;
- lack of government 'ownership' of the entire process;
- lack of understanding of potentially complex tenure arrangements and the implications this has for carbon ownership and responsibilities for, and benefits from, the proposed activities;
- lack of linkages to ongoing 'readiness' work, both within the formal FCPF readiness programme and more widely;
- failure to conduct a meaningful analysis of potential social, poverty and human rights impacts linked to different emission reduction proposals;
- lack of baseline data on land and resource rights in the proposed pilot project area;
- absence of well-developed FPIC procedures agreed with local rights holders;
- reliance on the completion of important but potentially controversial legislation (such as concerning community forests and carbon ownership rights) and spatial planning processes;
- lack of consultation and participation, especially with communities in the relevant area (including indigenous people), but also civil society, national and international government agencies and experts.

A thorough redress and resolution of these issues will take many months and would involve a substantial revision of the proposal. Anecdotal evidence of some of the other ER-PINs put forward for approval indicates that the above issues are not limited to DRC.

A thorough re-thinking of the FCPF's overall objectives, priorities and timescales (including those that have not yet been explicitly stated), is therefore called for.

2. The DRC ER-PIN proposal

2.1 The development of the DRC ER-PIN – overview of process and participation

The origins of the current DRC ER-PIN proposal are not entirely clear, but the idea seems to have emerged from discussions in late 2011/early 2012, when the Ecosystems Resources Associates REDD project in Mai Ndombe (see Box 2) had already been formally agreed, and the Government of DRC had apparently started considering the possibility of a wider, regional, project for submission to the Carbon Fund.

According to the World Bank, the partners ‘involved in the proposed ER Program’ include “*Environmental NGOs; private sector: logging, cattle farming; agroforestry, CO2 origination, etc.; development partners; civil society and Indigenous Peoples*”³. However, according to the information available to FERN and FPP, up until the submission of a draft ER-PIN to the FCPF Carbon Fund Participants Committee (PC) in June 2013, the only NGOs which had been meaningfully involved (and described as a ‘partner’) were WWF and the Observatoire Satellital des Forêts d’Afrique Centrale (OSFAC, Central African Satellite Observatory of Forests)⁴.

An “initial presentation of the Program design” was apparently made to the FCPF Carbon Fund in 2012, though this appears not to have been discussed and is not publicly available⁵. A complete draft version of the ER-PIN was ‘finalised’ at a workshop in Kinshasa in February 2013, and the document resulting from this was then submitted for consideration at the meeting of the Carbon Fund in Paris in June 2013 (see section 2.2 below). Numerous concerns about the proposal were raised.⁶ As a result of concerns raised by DRC and international civil society organisations, the Government of DRC was asked to address these and re-present the proposal to subsequent meeting of the Fund.

Following the Paris meeting, a working group of 20 persons was established to improve the proposal, consisting of two representatives each from government, academia, the private sector, provincial authorities (at present, Bandundu), ‘development partners’, the National Interministerial Committee, and international organisations, along with six representatives of civil society. However, in practice, the revisions appears mostly then to have been undertaken by Wildlife Works Carbon (WWC – see Box 2 below), partly in conjunction with WWF DRC⁷. More generally, it is not clear to what extent the Government of DRC has actually been involved in the development of the revised proposal. There are indications that it mostly seems to have played a convening role. This does not bode well for its future ‘ownership’ of the project or the implementation of the many key governance measures upon which the project seems to rely.

A workshop in Kinshasa of most of the key national stakeholders took place in January 2014⁸, at which progress was reviewed, the newly approved global Methodological Framework for the Carbon Fund was presented, and a schedule for completion of the ER-PIN revision agreed. As it turns out, whilst the civil society participants in this meeting, through the Group de Travail Climate REDD (GTCR) platform, agreed to this schedule, it would later prove to be extremely

Figure 2 – showing the proposed project area (the entire future Mai Ndombe Province)



3 Completeness Check of DRC ER-PIN, World Bank FMT, June 24-25 2013.

4 OSFAC is registered as an NGO in DRC, is principally a technical remote sensing monitoring agency working out of the University of Kinshasa, and is a partnership of mostly governmental agencies, funded by USAID.

5 GoDRC, DRC ER-PIN, An emissions reduction programme ideas note for the Democratic Republic of Congo, Paris June 24-25, presentation by MECNET

6 FPP, FERN, LDC Watch, and Third World Network (24 June 2013) *To the Participants of the Carbon Fund meeting, Paris 24/25 June 2013. Letter to the participants of the FCPF Carbon Fund Participants* <http://www.forestpeoples.org/sites/fpp/files/publication/2013/07/letter-carbon-fund-meetingjune2013.pdf>

7 During the second half of 2013, negotiations had been underway for WWC to take ‘ownership’ of the ERA project in the Mai Ndombe area, and these were concluded in October 2013, with WWC assuming full responsibility for the project.

8 ‘COMPTE RENDU DE L’ATELIER DE RÉVISION DE L’ER-PIN À MBAKANA’, anon, undated.

problematic, not least in that very little time (five days in total) would be permitted for proper consideration of and consultation on the final revised ER-PIN during February 2014.

As per the schedule agreed in January 2014, a full revised draft ER-PIN was circulated on February 12th 2014, with comments required to be submitted to WWC by February 17th. A 'validation' workshop, to be convened by the Comité National-REDD, and supervised by the Secrétaire Général of MECNT, was scheduled for February 21st at which the final revised document was to be 'adopted'. After protests from civil society organisations, the deadline for submissions was extended by two days, but local NGOs were only able to convene a meeting to discuss the proposal on February 18th.

It has been reported that, as has occurred on previous occasions before 'validation' of proposals to the FCPF, civil society organisations were 'called in' to the Minister's office on the evening of February 20th (i.e., immediately prior to the ER-PIN 'validation' meeting) and encouraged not to cause problems in the validation.

A revised version of the ER-PIN was submitted by the DRC Government on March 7th for consideration at the April 7-8 meeting of the Carbon Fund.

2.2 The June 2013 Paris meeting of the Carbon Fund participants (CF7), submission and revision of the draft ER-PIN

A full draft of the ER-PIN dated 17th May 2013 was submitted by the Ministère de l'Environnement, Conservation de la Nature et Tourisme (MECNT) to the Carbon Fund Participants Committee for consideration at its 7th meeting (CF7) on 24-25 June 2013 in Paris. The assessment of the Bank Facility Management Team was that the proposal was satisfactory according to the FCPF's agreed selection criteria⁹. Wildlife Works Carbon (see Box 2), which is an NGO registered in DRC but a 'private sector partner' in the DRC ER-PIN, submitted a 'white paper' in support of the proposal for submission to CF7¹⁰. Representatives from DRC civil society participated in the meeting, and expressed serious concerns about the lack of civil society/indigenous peoples' participation in the process to develop the ER-PIN to date. These concerns had also been set out in a letter signed by 20 organisations and sent to the FMT before the meeting¹¹.

A number of queries about the proposal were raised by various participants. The Chair's summary of the meeting noted that:

"CFPs expressed interest in working further with DRC towards potentially including the ER-PIN in the pipeline of the Carbon Fund, raising several issues that will need to be addressed before full consideration, including:

- *The need for a better description and explanation of the approach used to set Reference Levels, in particular for degradation;*
- *Description of the planned institutional set up for the National Fund, and information on how funds would channel down to local communities;*
- *Description of the composition of the Comité de Direction;*
- *Better explanation of how the proposed program would address the identified drivers of deforestation, in particular drivers related to small-scale agricultural expansion, charcoal production and mining, and how benefit-sharing would be aligned with the activities proposed to address these drivers;*
- *Description of the status of ongoing land tenure reform;*
- *Detail on how potential associated institutional capacity challenges will be overcome, given that the program target area, Mai Ndombe, is not yet a "politically operational" province;*
- *and description of improved stakeholder participation in the design of the program, including at the ER-PIN stage.*

CFPs noted that the updated Mid-term Report, which is expected to be submitted in the next few weeks, will provide important context on governance aspects related to REDD+¹².

9 Completeness Check of DRC ER-PIN, World Bank FMT, June 24-25 2013

10 Prior to becoming involved in the ERA carbon offset project in Mai Ndombe in 2011, WWC had had no previous experience in DRC, and has no permanent presence there.

11 Letter from Group de Travail Climate REDD de la DRC (GTCG DRC) to the FMT, undated.

12 FCPF CF 7th meeting, Paris, June 24-25, Chair's Summary

A number of these issues are considered in more detail below, in relation to the revised proposal as circulated in March 7th 2014. On the basis of this analysis, Annex 1 provides a summary of the extent to which the revised document has addressed the various concerns raised.

2.3. Analysis of content of DRC ER-PIN

2.3.1 Truly a REDD project?

In its presentation to the June 2013 meeting of the Carbon Fund (CF) Participants Committee (PC), the Government of DRC made it clear that it sees the development of REDD as being a challenge because of the ‘dilemma of high forest, low deforestation countries’. It stated specifically that, because deforestation in DRC has “not yet become a force for development”, therefore “*REDD+ offers the possibility to protect intact forests, without having to displace massive deforestation*”¹³. In other words, rather than being concerned with reduction of carbon *emissions*, DRC’s approach to REDD is primarily about preserving *stocks*. In fact the proposed project area contains sub-areas that are experiencing variously “rapid deforestation” on the one hand, and almost no deforestation at all on the other. This appears to have created an overall confusion in the proposal, reflected in some of the proposed objectives and activities. It may also have led to some of the manipulations and anomalies that have arisen in relation to the formulation of the proposed project’s ‘baselines’ and deforestation projections (see section 2.3.5 below).

2.3.2 The programme area

The programme area is all of the proposed future Mai Ndombe province, covering 12.3m hectares. According to the revised ER-PIN document of March 2014, around 9.8m hectares of this is forest, 8.8m of which is described as ‘primary wet tropical forest’ (see Table 2). According to the DRC Government’s presentation in June 2013, the programme would feature “*province-wide enforcement and incentives, as well as being an umbrella for projects targeting specific drivers and actors*”. The programme area is said to have a population of 1.9m, many of which are subsistence farmers. The main types of land usage found in the project area, as presented in the March 2014 version of the ER-PIN, are summarised in Table 3.

Table 2 - Vegetation Cover in the future Mai Ndombe jurisdiction¹⁴

Land Cover Strata			
Hansen et al. Stratification	Stratification ER Program	Crown Cover (%)	Area (ha)
Primary Forest	Primary Forest (PF)	75% - 100%	8 834 641
Secondary Forest	Secondary Forest (SF)	51% - 75%	1 012 909
Woodland	Non Forest (NF)	26% - 50%	1 919 435
Non Forest	Non Forest (NF)	1% - 25%	521 483
Water and Other Non Forest	Non Forest (NF)	0%	348 471
Total			12 288 468

¹³ GoDRC, DRC ER-PIN, An emissions reduction programme ideas note for the Democratic Republic of Congo, Paris June 24-25, presentation by MECNET.

¹⁴ GoDRC, draft DRC ER-PIN, March 7th 2014

Table 3 - Land uses in the proposed programme area¹⁵

Type of land use	Area (million hectares)
Forest (i.e. logging) concession	2.4
Conservation Concession (i.e. the WWC REDD concession)	.29
Agribusiness concession and farm owners	>1.5
Protected areas	2.04
Mining concessions, infrastructure	<0.01
Community customary lands without official designation "Afforested"	4.34
Community customary lands without official designation "Non-Afforested"	2.58
TOTAL	12.39

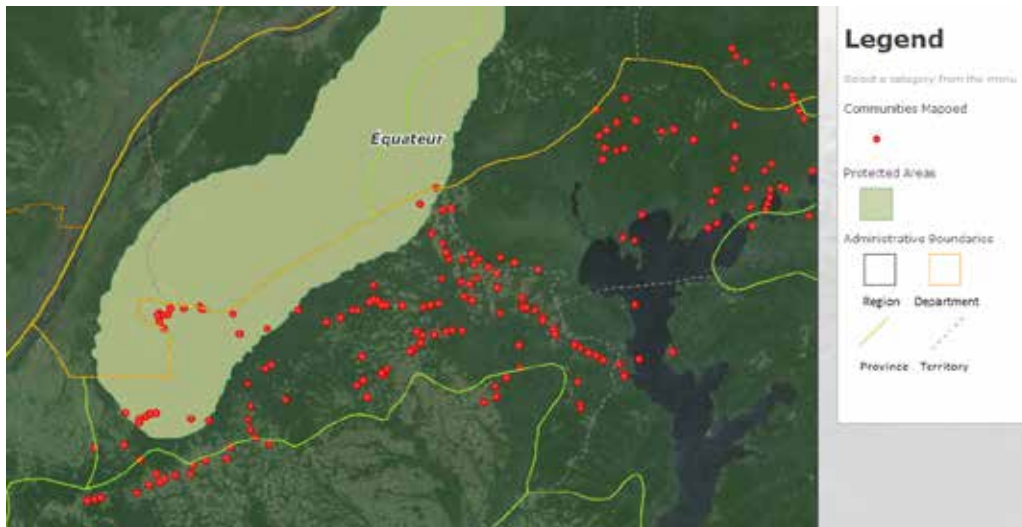
Comparison of these two tables shows inconsistencies. For example, the 8.8m hectares claimed to be 'primary wet tropical forest' would have to include almost all of the areas that are currently in use as logging concessions and community owned customary lands. In both cases it is unlikely that the forest could be considered as 'primary' in any normal sense of the term. As a basis for any calculations of carbon stocks and flows, the above categories would therefore have to be called into question. A more realistic assessment of likely carbon stocks and flows would have to be based, at a minimum, on assessment of the status of the vegetation cover *within each of the main forest designations* given in Table 3.

The document also fails to give adequate information about the extent and type of all the existing uses and designations within the area, and their relationship to each other. According to participatory mapping undertaken in parts of the area by the Rainforest Foundation UK and its local partner organisations over the last three years, the entire area is likely to be subject to occupation and customary rights and usages. The presence and areas of customary usage have already been precisely mapped for more than one hundred communities in one part of the project area, as shown in Figures 3 and 4.

Furthermore, analysis using RFUK's MappingForRights.org platform indicates numerous significant overlaps of existing usage and tenure designations, as shown in Figure 5: some areas are subject to at least four existing designations, claims or attributions, not including as a REDD project. Figure 5 shows, for example, that parts of the Lac Tumba-Ledima National Park, shown in light green to the far left of the map - are already subject to designation as a strictly protected area, logging concessions and oil exploration concession, as well as customary claims (as shown in Figures 3 and 4). At least 90% of the proposed project area falls within oil exploration blocks.

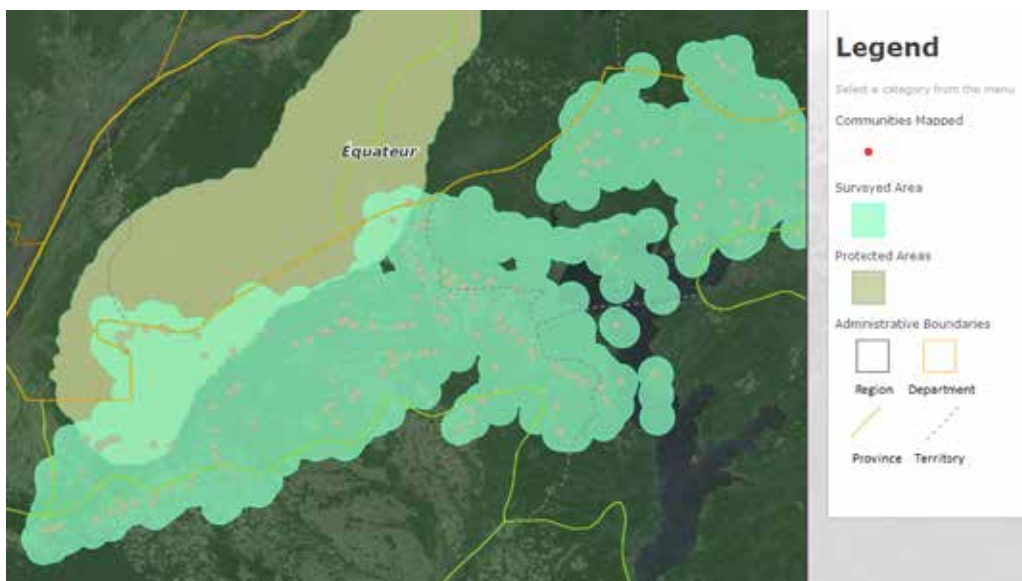
¹⁵ GoDRC, draft DRC ER-PIN, March 7th 2014

Figure 3 – showing part of proposed project area to west and north of Lac Tumba, including Tumba-Ledima National Park, and indicating location of communities so far mapped independently.



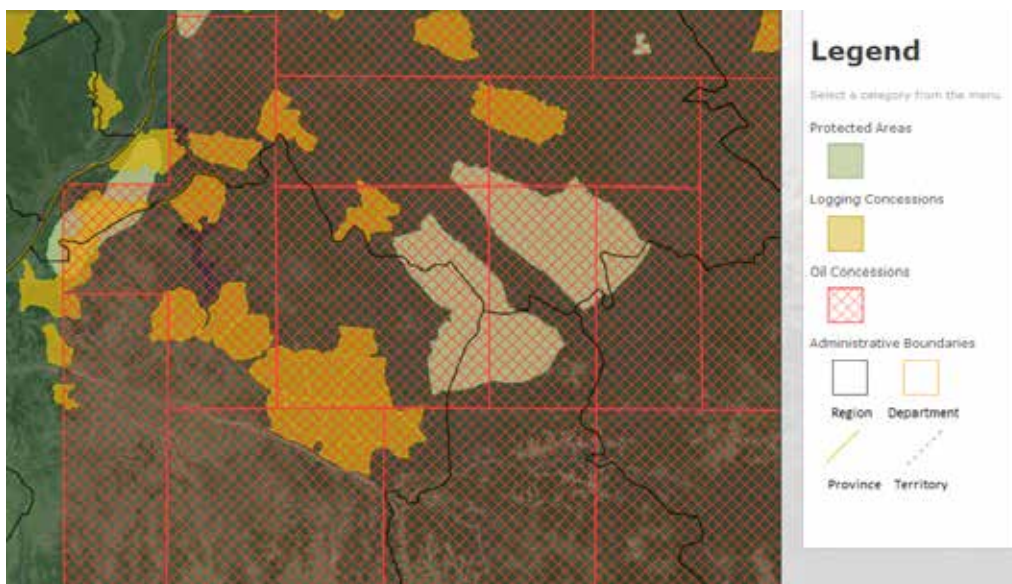
Source: Rainforest Foundation UK, www.MappingForRights.org

Figure 4 – showing part of proposed project area to west and north of Lac Tumba, including Tumba-Ledima National Park, with indicative areas of customary rights, usage and claims, so far mapped independently.



Source: Rainforest Foundation UK, www.MappingForRights.org

Figure 5 – Overlapping of concessions and leases within the proposed project area



Source: Rainforest Foundation UK, www.MappingForRights.org

The implications of this are profound, especially in terms of potential distribution of any benefits from any eventual ER Programme, including that:

- There are clearly many overlapping rights to the forest, the precise extent of which are not entirely known (especially in terms of customary claims), though these could be determined. These need to be fully described in the ER-PIN and addressed in the plan for distribution of benefits.
- DRC legislation does not at present provide a clear structure for how the various rights to forest – both formal and customary - relate to forest carbon 'ownership', nor how such overlaps would be treated in terms of income from REDD projects. This is therefore an aspect of 'REDD-readiness' which would need to be addressed before the ER-PIN could proceed on a sound basis.
- Some of the overlaps of claims, attributions and rights - such as between strictly protected areas and community customary rights - will require careful reconciliation on the ground, and may need to be addressed through specific measures, including revision of park management plans etc. This could be a protracted process, but failure to do so could lead to serious conflict in the future.
- The possibility of future widespread exploration for oil within the proposed area might need to be calculated into the ER-PIN and addressed through specific prescriptions.

Box 2 – The Wildlife Works Carbon project - REDD ‘hot-air’ carbon credits?

Within the programme area, there are already some ongoing REDD-related activities, notably a project covering nearly 300,000 hectares, now run solely by the San Francisco-based project development and management company, Wildlife Works Carbon.

In 2011, a Canadian carbon offsets development company called Ecosystems Resources Associates (ERA) acquired the ‘rights’ to what it called ‘The Mai Ndombe Property’ in order to develop it as a REDD project. The area consists of two former concessions previously controlled by the logging company BIMPE. These concessions had been cancelled under the ruling of an Interministerial Commission in 2008 as being ‘Titres non-convertibles’ (non-convertible titles) - three years before the WWC (or ‘ERA’, as it was at the time) project had started. Even though any logging that had been taking place in the concessions had already been cancelled several years before ERA arrived (and there is no evidence that much logging had been taking place there in any case), ERA claimed originally that it would generate 700,000–1,000,000 tonnes of credits annually through the cessation of logging. In August 2011, the figure was increased to 1.5 to 3.0 million tonnes per year.” The certification of the ERA/WWC project under the VCS scheme by Det Norske Veritas (DNV) notably failed to recognise the absence of ‘additionality’ in the scheme, and was apparently not informed about the timing of the cancellation of the logging titles in relation to the commencement of the REDD project.

Although the ERA/WWC project is the most advanced area in Mai Ndombe in terms of implementation of a REDD project, there are serious concerns about the extent to which local communities are aware of and fully informed about the implications of the project. A visit to the project area in 2012 by the Forest Peoples’ Programme found a high degree of confusion and uncertainty about the aims and likely outcomes of the project, and little evidence that the principle of Free Prior and Informed Consent had been upheld. Reports from local NGOs working within the area suggest that there has been insufficient explanation to local communities of what the notion of carbon credits is about, resulting in much doubt and fear. It is reported that, following the entry into the area of staff connected to the ERA project with various electronic measuring equipment, and a subsequent long dry season, local people interpreted this as ERA having ‘stolen the rain’ because the gases that their equipment emitted has caused the rain to disappear and the trees to dry up.

Up until December 2013, through a part-owned intermediary organisation, the Forest Carbon Group, German power utility Hessische Stadt und Elektrizitaetswerke (HSE) had a 30% stake in ERA’s Canadian parent company, and was investing directly in the Mai Ndombe project. A certain proportion of the credits generated by the project would thus end up being owned by the power utility. In December 2013 all of ERA’s interests (including ERA Congo s.p.r.l) were sold to Wildlife Works Carbon, which is now the sole owner of the ‘rights’ to the project. However, ERA (or rather Offsetters Climate Solutions Inc, as ERA’s parent company is now known) retained the right to buy 500,000 of the credits generated by WWC, which are expected by the end of 2014, and which will go to the German power utility.

Contrary to the requirements of a Prime Ministerial decree of May 2011, the contract for ERA’s (and now WWC’s) Mai Ndombe REDD project has never been made publically available.

2.3.3 Forest classification and zoning in the programme area

DRC's 2002 Forest Code stipulates that all forest areas should be ascribed to one of three major designations ('forêts classées', 'forêts de production permanente' and 'forêts protégées'), each of which carries with it a prescription for permissible uses and forest management activities. Recognising the importance of forest zoning in the preparations for REDD, DRC's 2010 'Readiness Plan for REDD' stated that:

*"The forestry zoning process is today quite in progress in the DRC...It's worth highlighting that participatory and community mapping in forest areas is a necessary way to enhance local capacities for REDD, and to so recognize the importance and role of participatory zoning in the REDD strategy...[...]...Forest zoning should be fully achieved in the landscapes of the Equator, Bandundu and Oriental provinces (45M ha) and for forest zoning in the other provinces."*¹⁶

In fact none of this zoning has taken place. The process to conduct a national forest 'macro-zoning' programme in DRC in order to implement the provisions of the Forest Code is so far limited to three pilot provincial efforts (in Maniema, South Kivu and Katanaga) being implemented by GIZ. There have been no zoning programmes in Bandundu/Mai Ndombe. Thus the only parts of the proposed project area for which classification can be reasonably determined are those which have been *de facto* 'zoned' by dint of them already having been designated for a particular use (such as logging concessions and strictly protected areas). However, the classification designation for around half of the forest within the programme areas is yet to be determined.

The future zoning process could potentially have a profound impact on the medium/long-term use of this currently undesignated forest, but it is now known when or if zoning will be conducted in Mai Ndombe, as the national zoning process is still in its pilot stage. This highlights the kinds of problems and uncertainties that arise with the submission of ER-PINs before a meaningful 'REDD-readiness' phase has been completed.

2.3.4 Programme goal, objectives and activities

The main goal of the proposed programme is "A model provincial green development program that provides alternatives and rewards performance to address the challenges of climate change, poverty reduction, natural resource conservation and protection of biodiversity"¹⁷. The objectives of the proposed programme are to:

1. Achieve a reduction in emissions of 10-15m tCO₂e/yr.
2. Maintain and enhance **biodiversity and ecosystem services**.
3. **Statutory and customary rights** to lands, territories and resources are recognised, respected and strengthened.
4. REDD+ benefits are shared equitably and improve **long-term livelihood security and well-being** of stakeholders with special attention to the most vulnerable groups.
5. Mobilize immediate, adequate and predictable **resources to reward performance in priority forest areas** in an equitable, transparent, participatory and coordinated manner.

According to the DRC Government presentation in June 2013, the main activities in the programme area would consist of:

- Agroforestry on degraded land to sustainably produce food and fuelwood.
- Agricultural intensification as a strategy to phase out slash-and-burn agriculture.
- Bush fire control (major regeneration of primary forest expected).
- Reforestation.
- Community forestry and conservation.
- Incentivize logging sector to reduce emissions through reduced-impact logging, forest certification, etc.

16 GoDRC, MECNT, Readiness Plan for REDD, 2010-2012, R-PP Final Version. v.3.1 July 15th, 2010

17 GoDRC, draft DRC ER-PIN, February 3rd 2014.

2.3.5 Drivers of deforestation, baselines and projections

As noted above in Section 2.3.2, the document does not demonstrate that the proposers have a clear idea of the land use designations within the area, or the vegetation types and forest conditions. The same appears to apply to the analysis of land use *changes* and its causes. The apparent misconceptions and errors about the drivers of deforestation in the document feed through to the proposed baselines and hence the entire calculation of the possible carbon benefits of the project.

The latest version of the proposal refers to a recent national estimate of deforestation at 0.34%, and suggests that this is relevant to the proposal as *“This deforestation was not distributed evenly throughout the country, but is particularly concentrated in locations near large cities. Deforestation is known to be particularly higher in locations near large cities such as Kinshasa’s savannah belt, which includes the Mai Ndombe program area.”* The document implies that what is purported to be happening in the area closest to Kinshasa can also be applied across the entire project area: *“The ER Program focuses on [an] area starting 200km from Kinshasa, where the savannah belt meets rainforests. As the closest major rainforest to Kinshasa, this region is under significant pressure for food, wood energy, and timber products to support a large and rapidly increasing urban population and rural communities.”*

No evidence is produced to support any assumption that the kinds of pressures which may well be operating in the savannah/forest interface (which accounts for less than 10% of the proposed project area) apply more widely. Most of the *high forest* in Mai Ndombe is in fact at least 400km and up to 600 km from Kinshasa and, as the document notes elsewhere, is mostly very inaccessible. This means that very different circumstances prevail in different parts of the proposed project area.

Furthermore, the document itself indicates high levels of uncertainty about what is actually driving deforestation in parts or all of the region. In an improvement to the document since the February draft, the March 7th version notes that *“No fully adequate assessment of drivers at the Provincial scale exists.”* Overall, the document presents various views of what is actually causing and driving deforestation, not all of which are consistent and none of them are particularly well supported with evidence. The 2012 and February 2013 versions of the document contained maps and text (incorrectly) suggesting patterns of land-use change. These have, however, been removed from the latest version of 7 March – which is therefore largely devoid of any geo-spatial analysis.

The March 7th version of the document has taken a much more nuanced approach to the establishment of reference emission levels (baselines), in recognition that very different processes and deforestation/degradation rates appear to be operating in different parts of the project area. Overall, however, the last version of the document (date) still seems unclear even about what levels of deforestation or degradation might apply in parts or all of the project area, and what is causing these. This raises questions about any assumptions that are made about potential remedies or the likely carbon emissions reductions that are likely to result.

Given the very different conditions that prevail across the proposed project area, questions need to be raised as to whether the entire future Mai Ndombe province really does represent a coherent area for a REDD project. The area in the south-west closest to Kinshasa (Kwamouth Territory) represents only about 10% of the total project area, and one could argue should be treated as a separate unit.

2.3.6 Tenure, rights and food security

The DRC presentation of the proposal in June 2013 indicated that *“forest tenure, community land tenure and legal recognition of community institutions”* (including for indigenous peoples) would be ‘co-benefits’ of the programme¹⁸. However, analysis of the objectives and the activities as shown above indicates that there are actually no meaningful activities planned in relation to what is arguably the most critical of the objectives, which is to *“recognise, respect and strengthen **statutory and customary rights** to lands, territories and resources”*.

Whilst the March 7th version of the proposal includes a more explicit statement of what is intended in relation to tenure rights, it remains vague and confused. The document states that:

“Land tenure activities will follow the main objectives and strategic principles of the National REDD+ Framework Strategy. This includes support for land tenure harmonisation and securing rights over the land to ensure that REDD+ investments are attractive and to contribute to the permanence of greenhouse gas emissions reductions,

18 GoDRC, DRC ER-PIN, An emissions reduction programme ideas note for the Democratic Republic of Congo, Paris June 24-25, presentation by MECNET.

for both project developers and other stakeholders such as rural households. Activities will be done based on the following categories: (1) Reform of the legal and regulatory framework, (2) Clarification of land rights, (3) Registration of land rights, (4) Strengthening of the capacity and (5) Conflict resolution.”

This does not appear to appreciate that the primary challenge is, as noted in section 2.3.2, that the entire area is almost certainly covered by customary tenure and usage claims, which remain unrecognised in national law, but are likely to conflict in practice within any other formal designations which might be attributed. Any attempts to establish new tenure rights for “project developers” over those of customary rights owners are likely to be fiercely resisted – and could only be done with their Free Prior and Informed Consent. The proposers do not appear to appreciate that the five ‘categories’ of activities to be carried out together represent a major project in its own right. It also does not recognise that the “Reform of the legal and regulatory framework” is likely to be a politically highly controversial matter, especially in relation to community rights – for which there is, at present, no legal basis whatsoever. It is not at all clear who could be responsible for implementing such a programme of activities.

The revised document has added a new emphasis on participatory mapping. The recognition of the potential importance of such approaches is welcome, but the prescriptions are vague and confused. The document refers to two participatory mapping exercises which have been undertaken or are currently in process in the project area, though these are only applicable to small parts of the proposed area, whereas a much more extensive, independent, mapping exercise (i.e. done by the Rainforest Foundation UK), is not referred to.

The revised draft ER-PIN states that *“Participative cartography and zoning will be undertaken by communities to define areas for limitation of deforestation and degradation and to determine practical actions to achieve these goals.”* Curiously, whilst this is likely to lead to a *limitation* of use of subsistence farmland, and does not in itself promise any greater security over the land which communities would notionally be allowed to retain (which thus could potentially promote serious conflicts), the ER-PIN states that it believes this process would *“enhance broader commitment and engagement of all stakeholders towards the program objectives”*. The document further goes on to state that *“This action has the additional benefit of clarifying use and tenure rights over forests and forest resources and is an initial step towards recognition of these rights by the territorial and Provincial administration”*¹⁹.

In effect, what this is suggesting is that the process of limiting areas of clearance for farmland in order to make notional savings in carbon emissions would underpin some future (but unspecified) process towards the “recognition of these rights” – whereas actually what it would be doing could be the exact opposite, by potentially limiting or *extinguishing* customary rights. Not only is this extremely muddled if not outright dishonest planning, but it would be a perverse inversion of any normal process to secure customary rights. Such a process would map and recognise *existing* rights *before* some process of potentially zoning or limiting use of those lands was undertaken.

In relation to this proposed limitation of subsistence farming, and in the absence of any credible explanation of how this would be done, the project’s expectations seem wholly unrealistic. Apart from being an essential part of local communities’ livelihoods, rotational farming is an important cultural aspect of the communities of this region, having been practiced (broadly sustainably) for perhaps 2,000 years. Any attempts by the project implementers to restrict subsistence rotational farming would have to be preceded by very specific measures to ensure that the livelihoods could be maintained – otherwise this project is likely to lead to grave hardship amongst communities, and this in turn could lead to conflicts. It would also have to be demonstrated that changes to subsistence rotational farming could be achieved without *increasing* carbon emissions.

Whilst the critical issue of forest community’s tenure remains vague and unconvincing the description of planned efforts to protect biodiversity is more substantial. The document states that:

*“To ensure significant biodiversity co-benefits are produced, the ER Program will include monitoring programs to aid in species management and conservation (e.g, locally important or threatened species including bonobo, forest elephant), protection of landscape connectivity for species movement between savannah and forest blocks, and campaigns to reduce overhunting, especially in the case of large mammals....The main current threat to biodiversity in DRC is bushmeat commercialization and wildlife trafficking, as well as the lack of alternative employment. The latter will be addressed as a matter of high and immediate priority with law enforcement over the whole ER program area with local support from communities. Protecting wildlife means mitigating human-wildlife conflict, which in turn results in improved livelihoods. It also provides the opportunity for employment in many areas that surround the monitoring, reporting and enforcement of wildlife laws, and can lead to increased revenue through wildlife tourism..”*²⁰

19 FCPE, draft DRC ER-PIN, February 3rd 2014

20 FCPE, draft DRC ER-PIN, March 7th 2014

The approach outlined could have serious impacts on forest communities. Whilst the proposal recognises that bushmeat is a critical food resource for local communities, it proposes that “*law enforcement over the whole programme area*” (to prevent hunting) would be a priority. The document neglects to mention that such programmes – usually associated with strictly protected areas – have been the source of endemic conflict with local communities throughout DRC’s forests (and more widely within the Congo Basin). Whilst not providing any immediate carbon benefits, such conflict is likely to undermine local support for the wider objectives of the project. Whilst the section on biodiversity makes vague promises about ‘reducing human-wildlife’ conflict, it does not state whether humans in the area would benefit from this change (or present any evidence that they are currently suffering from it). The suggestion that local communities could benefit from wildlife protection through ecotourism is nothing more than a platitude to try and justify what will otherwise almost certainly have negative impacts on local livelihoods; ecotourism has almost nowhere provided any meaningful incomes in such remote and poorly known regions with such difficult local conditions.

Whilst the document states that the programme will not seek to “*stop the market*” for charcoal, it does not explain how the impact of what it describes (probably inaccurately) as “*illegal charcoal production by small charcoal producer groups*” will be reduced through the proposed ‘Eco-Charcoal Programme’. The proposal overlooks the experiences elsewhere that it is very difficult without harsh ‘command and control’ measures to reduce local use of what is perceived as a abundant ‘free’ wood resources and instead restrict charcoal production to more expensive ‘sustainable plantations’. Even if successful, the replacement of small-scale artisanal charcoal production by larger-scale organised production could have negative impacts on the livelihoods of many thousands of poor people.

The March 7th version of the document places emphasis on livelihoods and the project’s potential to overcome poverty, stating that it will “*use a comprehensive integrated REDD+ Jurisdictional approach to support community-level natural resource management and associated investments to improve rural peoples’ livelihoods in the Province*”²¹ (emphasis added). However, taken together, the stated and implicit prescriptions in the proposed project would represent a major assault on the key livelihood activities (rotational farming, hunting and charcoal production) of many of the 1.9 million people living in the area. Along with a failure to properly ascribe any tenure rights, the proposed project could thus be setting the stage for at worst conflict and at best reducing the food security for local communities. Despite the potential seriousness of this situation, the proposed project’s prescriptions for alternative livelihoods are unconvincing - the introduction of ‘agroforestry’ schemes at scale, for example, has nowhere been demonstrated successfully in DRC or the Congo Basin more widely, whilst bushmeat hunting is an important cultural practice and has been fiercely defended against the efforts of even very long-running projects to curtail it.

These aspects of the proposed project need fundamental reconsideration. The impacts on local livelihoods of all the measures, both singly and combined need to be detailed, along with the proposed income-substitution measures.

Unless there are genuine and far reaching changes in the way the ER-PIN actions proposed in the pilot project area deal with local livelihood activities, there is a very real risk of massive and perverse outcomes that could amount to serious weakening of food security for over a million forest dependent people. In short, without radical rethink of the design of the project and a more targeted approach to combat the underlying drivers of forest loss, the ER-PIN could exacerbate poverty in Mai Ndombe.

The FCPF would do well to examine closely the lessons from GEF evaluations and the IEG review of the World Bank loans to the forest sector that demonstrate that “*alternative livelihoods*” are fraught with complexities and unknowns, rarely deliver anticipated benefits and often leave forest peoples worse off and more vulnerable following forest conservation interventions.²² Rather than seeking to “*transform*” local economies, “*limit*” forest use or place blanket restrictions on local livelihoods, an approach based on sustainable use and respect for customary systems of land use should be adopted using approaches that work with rights holders to build sustainability in the use of land and other resources.

21 FCPF, draft DRC ER-PIN, March 7th 2014

22 See, for example, Griffiths, T (2006) *The Global Environment Facility (GEF) and its Local Benefits Study - A critique* FPP, Moreton in Marsh

2.3.7. Whither policy changes?

According to the FCPF's 'completeness check' for the DRC ER-PIN, the DRC government "demonstrates a high-level and cross-sectoral political commitment to the ER Program, and to implementing REDD+"²³. However, as noted above, the implementation of a credible proposed ER programme would rely on a process of forest zoning taking place within the proposed project area, but no such zoning has taken place or is yet planned for the area.

The ER-PIN document states that the proposed programme will rely on various other policy measures being undertaken by the Government. For example, under the section 'Emission-reducing activities that directly generate VERs', it is stated:

"Community forest management. Community forest concessions ...will be promoted. Forest management schemes resulting from this program will be developed in collaboration with community stakeholder groups... to maintain a balance between the interests of the local communities and the government."

However, the proposal neglects to mention that there is currently no legal basis for community forestry in DRC. A draft decree has been with the Minister for approximately four years, but has met opposition both within the government and externally. It is not at all clear when or if such a decree is likely to be passed, and thus any prescriptions relating to community forestry remain highly uncertain and speculative.

For the reduction of 'planned deforestation', the proposal suggests that for conversion of large scale forest to commercial agricultural use, such as for oil palm "*as these activities tend to be policy driven, they must initially be addressed by policy initiatives if they are to be avoided at all.*" However, there is no indication as to how likely such policy changes are, perhaps because in the current climate, they are most improbable.

Similarly, in relation to the reduction of the impacts of logging, it is stated that "*Policy change - primarily conservation concessions issuance - that can rival logging concession income, and enhancing rule of law represent the primary strategies for controlling logging for export.*" Such policy change similarly seems at present to be little more than wishful thinking.

It is notable that none of the policy changes suggested in the document as necessary for successful implementation of the project are described in the section of the document entitled '*Enabling activities [to] lay the groundwork for emission-reducing interventions*'. It thus appears that there is a serious gap between what policy changes are implicitly expected for the project, and those which are explicitly recognised and addressed. None of the suggested policy changes are being meaningfully addressed through the REDD-Readiness process in DRC which is currently underway.

2.3.8 REDD in a vacuum?

A further serious weakness in the proposal is that it says nothing about the wider developmental and planned context pertaining over the relevant area (and this is not required by the ER-PIN template). The ER-PIN template (section 6.3, "Consistency with national REDD+ strategy and other relevant policies") requires that proposers describe "(c) *How the activities in the proposed ER Program are consistent with national laws and development priorities.*" Whilst the proposal discusses some (broadly positive) developments related to REDD programmes, the above requirement is completely ignored.

There is nothing, for example, about any national or regional integrated development plans which may exist, any strategic infrastructure programmes or projects, any foreseeable changes in markets or factors of agricultural production, likely demographic changes etc, any of which might have significant impacts on the forest, for better or worse. Several such regional and national plans as well as bilateral and multilaterally-funded programmes are likely to shape the future of Mai Ndombe province – one of these being an EU-funded programme to increase food production in Kwamouth Territory, the part of the project area which seems to be of highest concern and suffering the highest rates of deforestation (see section 2.3.5)²⁴ As noted in the introduction to this report, the DRC government is considering lifting its 12-year moratorium on the allocation of new logging titles. For reasons which are acknowledged in the ER-PIN proposal, parts of the proposed project are likely to be targeted for commercial timber extraction should the allocation of new logging concessions resume. This could have major impacts on the carbon fluxes in the programme area.

23 FCPF, Completeness Check of DRC ER-PIN, Seventh Meeting of the Carbon Fund (CF7), Paris, June 24 -25, 2013

24 Projet de Développement Agricole du Bandundu, Conseil agricole et rural de gestion (CARG) du Territoire de Kwamouth, Ministère de l'agriculture, pêche, élevage et développement rural Province du Bandundu, Février 2010

2.3.9 Risk assessment – addressing risks or side-stepping them?

A number of risks are identified in the document, but there is no specific assessment of how these can be addressed and mitigated. For example, it is stated that:

“Addressing reversal risks is a key factor to the success of the ER Program. This will be achieved by directly addressing the agents and drivers of deforestation and forest degradation and implementing activities that lessen the need for forest destruction.”²⁵

However, as noted above in section 2.3.5 and 2.3.6 the proposal does not actually address the drivers of deforestation, merely the agents, and the prescriptions for addressing these are vague and unconvincing. In fact the ‘risk assessment’ merely repeats a statement of the intended project activities, and does not consider the possibly consequences should these prove infeasible or ineffective.

As also noted above, the document states explicitly or implicitly that various policy changes are required in order to ensure effective project implementation. However the proposal does not include a risk assessment of whether such changes are likely to happen, or what would be the consequences if they did not occur.

2.4 The DRC ER-PIN in relation to the ER-PIN methodological framework

The Carbon Fund Methodological Framework as approved by the Carbon Fund Participants Committee in November 2013²⁶ relates principally to the requirements of a submitted Emissions Reduction *Programme*, rather than an ER Programme *Ideas Note (ER-PIN)*. However, in the views of the authors, an ER-PIN should at least describe how a future ER Programme following from an ER-PIN will address the requirements of the Methodological Framework (MF). While the MF contains a series of gaps and potentially harmful provisions (see below), the present draft DRC ER-PIN still appears to fall short in meeting its benchmarks in a number of respects, as summarised in Table 4.

25 FCPF, draft DRC ER-PIN, February 3rd 2014, p23

26 FCPF Carbon Fund Methodological Framework, November 2013

Table 4: Comparison of selected requirements of the CF Methodological Framework with the contents of the draft DRC ER-PIN

MF requirement	Compliance of DRC ER-PIN (based on 7 March version)
<i>Criterion 26: The ER Program describes how the ER Program addresses key drivers of deforestation and degradation.</i>	The revised draft ER-PIN admits that there is no clear and credible analysis of key drivers of deforestation and degradation. Given this, it is unsurprising that there are no steps described as to how these would be addressed.
<i>Criterion 27: The ER Program has undertaken and made publicly available an assessment of the land and resource tenure regimes present in the Accounting Area.</i>	The assessment of the land and tenure regime within the project area is very incomplete, and there is no credible statement of how such an assessment would be conducted in the development of an ER Program.
<i>Criterion 28: The ER Program provides a description of the benefit-sharing arrangements for the ER Program</i>	A description of how benefit-sharing arrangements could be determined has been included.
<i>Criterion 30: The benefit sharing arrangements are designed in a consultative, transparent, and participatory manner appropriate to the country context.</i>	There has been no discussion with local stakeholders about benefit-sharing arrangements, but this is proposed in the latest document.
<i>Criterion 35: The Program Entity demonstrates its authority to enter into an ERPA and its ability to transfer Title to ERs to the Carbon Fund.</i>	The draft DRC ER-PIN does not address the question of ultimate ownership of any carbon credits generated in the project area, partly because the requisite legislation does not exist, but also partly because the forest tenure situation in the areas is complex and not entirely known. The ER-PIN does not address the risk of such legislation failing to be agreed, nor set out any mitigation measures if such legislation is not adopted by the DRC Government.

It should be noted that while the current FCPF MF contains elements and criteria on tenure and participation, it remains narrowly focused on carbon benefits. There are also major concerns among civil society organisations that it contains provisions that risk creating a perverse incentive for countries to nationalise carbon stocks without requiring clear and solid protections for community customary rights to land and forest resources (see especially MF indicators 36.1 and 36.2).²⁷

²⁷ <http://www.forestcarbonpartnership.org/sites/fcp/files/2014/January/FCPF%20Carbon%20Fund%20Meth%20Framework%20-%20Final%20Dec%202013%20posted%20January%202014.pdf>

3. Conclusions and key findings

This critical review of the draft DRC ER-PIN (March 2014) generates a series of findings and lessons, which uncover serious on-going weaknesses in the operation of the FCPF and now involving a wide array of so-called “delivery partners” (implementation agencies). Key findings are that the FCPF Carbon Fund is:

- Following a fast-track course to push through ER-PINS without adequate due diligence, apparently in an effort to see ER-PINs approved in 2014, while progress with readiness in forest nations remains slow and incomplete.
- Suffering from serious contradictions in the sequencing of operations that risk causing major violations of agreed UNFCCC and FCPF standards and safeguards that could result in severe negative impacts and impoverishment of forest peoples.
- Rushing public consultations and only allowing very short timelines for civil society to comment on different versions of the ER-PIN prior to so-called ‘validation meetings’.
- Turning a blind eye to serious flaws in the validation procedure for ER-PINs, including absence of controls to prevent undue government pressure on civil society participants to accept ER-PIN plans and a lack of independent verification of the credibility of the validation process and outcome.
- In danger of overlooking serious errors and gaps in approaches to carbon accounting, additionality and leakage.
- Lacking robust analyses for the definition and protection of carbon rights.
- Allowing the development of ER-PINs that lack essential data concerning the proposed project areas – such as the status, attribution and tenure of the forest within it.
- Not paying adequate attention to customary rights to land in ER-PIN processing and design and failing to compile reliable tenure baseline information, while omitting concrete action plans to secure community land rights.
- Using flawed and contested analyses of deforestation drivers in ER-PIN design, which lack disaggregated data analysis at the level of the pilot area and often blame communities for forest damage without valid justification.
- Making important commitments to apply the FPIC standard in the pilot project area, but without agreeing practical operational FPIC procedures with potentially affected communities and rights holders.
- Applying a Methodological Framework that has an overly narrow focus on carbon benefits and contains provisions that provide perverse incentives for countries to nationalise forest carbon stocks, without due respect for community rights to land and resources, including carbon.

Recommendations:

To address the problems addressed above, we call upon the Carbon Fund Participants Committee to:

- a) Put in place a moratorium on the further processing of ER-PINs until contradictions in FCPF sequencing have been addressed and core readiness requirements in pilot countries have been met, including time-bound governmental action plans to secure community rights to land, territories and resources.
- b) Adopt measures to ensure that governments and the major partners in ER-PIN development follow required standards for multistakeholder consultation as outlined by EU and local NGOs involved in the FLEGT process.²⁸
- c) Strengthen social and poverty risk assessments across CF operations, including inclusion of a robust Risk Assessment Table in ER-PIN design, incorporating all the social, rights and environmental risks explicitly or implicitly raised in the document and proposed ER actions.
- d) Ensure that all ER-PINs contain thorough assessment of the existing customary land uses and rights within the proposed area, including a detailed analysis of the likely impacts on local people's livelihoods.
- e) Update ER-PIN guidelines so that they require that project proponents demonstrate compliance with applicable international obligations and adherence to key standards, including FPIC, alongside robust plans for the implementation of the UNFCCC Cancun Safeguards.
- f) Revamp the procedure for deforestation analyses in pilot areas, including solid requirements for community participation in deforestation analysis and the development of proposals for action to tackle the indirect causes of forest loss.
- g) Undertake an urgent review of the FCPF 'validation' process for ER-PINs to pinpoint problems and enable review of the findings by the FCPF Governing Body and civil society and put in place corrective measures, including third party verification procedures.
- h) Ensure further revision of the Methodological Framework to ensure rights of local communities to land, territories and resources are being recognised and greater attention is given to non-carbon benefits.
- i) Make substantial changes to the procedures of the CF Participants Committee for the assessment of ER-PINs to ensure ample time for careful review and rigorous quality control.

28 http://www.fern.org/sites/fern.org/files/2008.06_Consultation%20Requirements%20under%20FLEGT_EN.pdf

Annex 1

Comparison of concerns raised in June 2013 CF PC meeting and changes made in February 2014 revised draft ER-PIN

Issue raised by Carbon Fund Participants Committee	How/if addressed in the revised proposal in February 3 rd version of the document
Need for a better explanation of the Reference Levels, especially for degradation	Further clarification has been provided, and the basis of establishing the reference level changed to accommodate the large variations on conditions that exist across the proposed area. However, the overall reference level would still be dependent on a proposed stratification according to vegetation type, land use and allocations/designations, as well as the underlying drivers of deforestation/degradation applying to each of these. There is no more evidence that the proposers have a firm understanding or basis for analysis of these.
Description of the planned institutional set up for the National Fund, and information on how funds would channel down to local communities	First part addressed, the second not.
Description of the composition of the Comité de Direction	Addressed.
Better explanation of how the proposed program would address the identified drivers of deforestation, in particular drivers related to small-scale agricultural expansion, charcoal production and mining, and how benefit-sharing would be aligned with the activities proposed to address these drivers	<p>No clear description of drivers of deforestation provided, and indeed acknowledgement is made that no such clear analysis exists.</p> <p>More information is provided on what activities will be undertaken to address what are assumed to be the causes of deforestation, but again not evidence is produced to show that these identified causes are genuine, nor are there any convincing explanations of how the proposed activities will address these, based on any previous experience or empirical evidence.</p>
Description of the status of ongoing land tenure reform	A description is provided of the relevant current laws pertaining to land tenure, but question of actual or possible tenure reform remains unaddressed.
Detail on how potential associated institutional capacity challenges will be overcome, given that the program target area, Mai Ndombe, is not yet a “politically operational” province	Not addressed.

<p>Description of improved stakeholder participation in the design of the program, including at the ER-PIN stage</p>	<p>Stakeholder participation has notionally been better, but there have still been inadequacies resulting in lack of scope for proper engagement by relevant stakeholders. Local stakeholders appear not to have been involved or even informed at all.</p>
<p>Mid-term Report... will provide important context on governance aspects related to REDD</p>	<p>The MTR was submitted to the FMT in July 2013¹. Whilst the report notes that, whilst various bureaucratic developments have taken place, <i>“Improvement is needed in the institutional and organizational settings in order to take into account the progress in the preparation for REDD+ while learning from past difficulties”</i>.</p> <p>The report claims that <i>“The national REDD process is highly participatory, consultative, transparent, and inclusive”</i> yet this has not applied to the recent development of the ER-PIN.</p> <p>In reporting on the ‘Implementation Framework’, the report neglects to mention that several key policy and forest governance processes remain stalled or are advancing only very slowly, such as the Decree on Attribution of Community Forests, and the national forest zoning process.</p>

(Footnotes)

1 Mid-Term Progress Report of the Democratic Republic of Congo and Request for Additional funding from the Forest Carbon Partnership Facility (FCPF), National REDD+ Coordination, July 2013

