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Charity Registration Number: 208223

**Energy, Environment and Resources EER PP 2014/03**

# Illegal Logging in the Democratic Republic of the Congo

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April 2014

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## SUMMARY

This paper presents an assessment of levels of illegal logging and related trade in the Democratic Republic of the Congo (DRC), the state of forest governance, and the response from the government and private sector to the issue of illegal logging. Using both primary research and secondary sources, the study assesses the situation using a set of standardized indicators previously developed by Chatham House, including: an assessment of the country's policy framework and enforcement; an experts' perception survey; wood balance analysis; trade data analysis; assessment of media coverage; and an assessment of levels of certification and legality verification.

The DRC has one of the world's largest expanses of tropical forest. Although the deforestation rate is relatively low compared with that of many other tropical countries, it is among the highest in the Congo Basin and is rising. Only around 10% of the DRC's forests are currently designated for logging and official log production remains low in relation to the area of forest.

Although nearly all industrial logging and export is licensed in some way, there is plentiful evidence of widespread and serious breaches of regulations in the production of much of this timber. At present, it is unlikely that any of the DRC's timber production could meet EU due diligence requirements.

Less than 10% of the DRC's area of active industrial logging is independently verified legal and/or sustainable, a much lower proportion than in most other tropical forest countries. A confused regulatory environment and lack of rule of law make reliable independent verification almost impossible.

The proportion of the DRC's timber exports that are destined for sensitive markets is declining very rapidly, although it remains high compared with some other major tropical timber producers.

Nearly 90% of logging in the DRC is illegal or informal, small-scale logging to supply domestic and regional markets. The volume of this harvesting is estimated to have doubled in the last six years, in response to a growing population and income levels. The actual log harvest in the DRC is now around eight times the official harvest.

The DRC government's response to illegal logging has been very poor, reflecting the poor overall level of governance in the country. Insufficient political will and corruption were the two factors considered by most respondents to an expert survey to be the greatest impediments to an improved response.

There are a range of problems affecting governance of the sector. Although the 2002 Forest Code includes many best-practice elements, a number of key implementing regulations are still missing, creating loopholes and critically undermining the law's intent. Transparency of forest-related information is also very low. Forest law enforcement structures in the DRC are fundamentally flawed in all important respects: enforcement is under-resourced and badly coordinated, and infractions therefore rarely uncovered; and penalties applied are insufficient to dissuade illegal practices. A failure to collect forestry taxes is serving to compound a severe lack of resources for forest monitoring and enforcement.

On a more positive note, multi-stakeholder engagement in forestry decision-making is better than in many other countries. There have also been some minor improvements in the government response recently – for example, in addressing the issue of illegal logging taking place through the abuse of artisanal permits. However, there has been less progress in this area than in other countries and there are few additional improvements in the pipeline.

Priorities for improvement should include increased transparency, completion of the regulatory framework and improved enforcement of regulations governing industrial harvesting. A new chain of custody system must be expanded nationwide. Improved collection of forestry taxes and fines could substantially increase the resources for forest administration, although donor assistance will continue to be needed for the foreseeable future.

The moratorium on new industrial logging licences in the DRC must be retained until the legal framework is complete and governance substantially improved. A new deadline must be set for the remaining original industrial logging concessions to complete the 'conversion' process; and those that fail to meet that deadline must be cancelled. Any illegally issued artisanal logging licences that remain valid should be revoked.

Continued high-quality independent monitoring of forest law enforcement and governance is also essential and must be supported by donors and government.

The DRC and the EU must continue to work towards agreeing a Forest Law Enforcement, Governance and Trade (FLEGT) Voluntary Partnership Agreement (VPA), but recognize that a huge amount of work will be needed before legality licences can be issued.

The majority of harvesting in the DRC is currently illegal artisanal logging for domestic and regional markets. It is important that steps are taken to bring this large industry under formal control. The draft Community Forestry Decree is a key measure that could serve to formalize domestic timber supplies. It must be signed into law; and a huge effort must be made by government and donors to fast-track its widespread and effective implementation.

## ACKNOWLEDGMENTS

This report was researched and written by Sam Lawson. Research assistance was provided by Laura Wellesley, and the research was overseen by Alison Hoare.

Chatham House would like to thank Théo Gata and his team at the Centre for Support of Sustainable Management of Tropical Forests (CAGDFT), who assisted with data collection in the DRC.

James Hewitt (Consultant) kindly provided assistance with the trade data, including measuring trade data discrepancies and sensitive market share.

Chatham House would like to thank Guillaume Lescuyer, Theodore Trefon, Raoul Monsembula and Filip Verbelen for reviewing and providing comment on a draft of this report.

This study was conducted with funding gratefully received from the UK Department for International Development (DFID).

The final results contained in this report represent the views of the authors, not those of the consultants, reviewers or funders.

## GLOSSARY OF TERMS

CAGDFT	Centre for Support of Sustainable Management of Tropical Forests
DGF	<i>Direction de la Gestion Forestière</i> (Directorate-General for Forests, a subdivision of the MECNT)
DRC	Democratic Republic of the Congo
EU FLEGT	European Union Forest Law Enforcement, Governance and Trade (EU programme on FLEGT)
LAS	Legality Assurance System (required as part of EU FLEGT VPA)
MECNT	<i>Ministère de l'Environnement, Conservation de la Nature et Tourisme</i> (Ministry of the Environment, Nature Conservation and Tourism)
OFAC	<i>Observatoire des Forêts d'Afrique Centrale</i>
OI-FLEG	Independent Observer of Forest Law Enforcement and Governance
REDD+	Reducing Emissions from Deforestation and Forest Degradation (the plus referring to the role of conservation, sustainable management of forests and enhancement of forest carbon stocks)
REM	Resource Extraction Monitoring
VPA	Voluntary Partnership Agreement (bilateral agreement with the EU)

## BACKGROUND TO THE STUDY

Chatham House has developed a methodology and a series of standardized indicators for assessing illegal logging and related trade, and associated forest governance, in countries that produce, trade and consume illegally sourced timber. The indicators look at the nature and extent of the problem, the attention it receives, and the response by both the government and the private sector.

Twelve countries were assessed in 2008–09, including five producer countries (Brazil, Cameroon, Ghana, Indonesia and Malaysia). The results showed that illegal logging had declined in three of these countries (Brazil, Cameroon and Indonesia), but that it remained a serious problem in all of them. The results, published in 2010, have helped drive and target further efforts to tackle the problem.

During 2012–13 Chatham House expanded the assessment to three new producer countries: the Republic of Congo, the Democratic Republic of the Congo (DRC) and Papua New Guinea. The indicators used to measure the situation in these countries include: a survey of experts; reviews of relevant media coverage; wood balance analysis to estimate illegal harvest volumes; analysis of discrepancies in trade data between exporter and importer states; collection and analysis of enforcement and forestry tax data; collection and analysis of data on voluntary verification and certification by timber companies; and a detailed and structured assessment of the response of government, both in terms of policy and implementation. This report presents the findings for the DRC.

## THE DRC'S FORESTS AND TIMBER

The DRC is one of the world's largest rainforest nations. The country has more dense forests than all other Congo Basin countries combined. More than half of the DRC's massive land area is covered by dense forest – 115 million hectares, an area twice the size of France.<sup>1</sup> This represents 7% of the world's total tropical forest area. The DRC ranks fifth in the world for animal and plant diversity, and its forests are home to a number of large mammals found nowhere else, including the okapi, eastern lowland gorilla and bonobo.<sup>2</sup> The majority of the DRC's 68 million people are dependent on the country's forests for their livelihood.

The DRC has a relatively low recent historical deforestation rate compared with countries in Southeast Asia and Latin America, but the rate is increasing rapidly and is the highest among the countries of the Congo Basin (twice that of Cameroon and four times that of Gabon). The annual deforestation rate in 2000–05 was double that during the previous decade.<sup>3</sup> The rate increased further in 2005–10, particularly in primary forests. Almost half a million hectares of forest are currently being lost each year.<sup>4</sup> The DRC also had the highest rate of forest degradation of any Congo Basin country during 2000–05 and this rate is also increasing rapidly.<sup>5</sup> Recent studies have pointed to slash-and-burn agriculture and artisanal logging as the principal direct causes of deforestation, with demographic growth and poor governance being key underlying factors.<sup>6</sup>

Only around one-tenth of the DRC's forests are currently designated for logging – a much lower proportion than those of other Congo Basin countries.<sup>7</sup> Official recorded log production in the DRC declined dramatically during the war years from 1999 to 2003, and has only recently returned to pre-war levels of around 0.3 million cubic metres per year. This remains very low by comparison

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1 de Wasseige, C, *et al.*, (2012): *The Forests of the Congo Basin: State of the Forest 2010*. Luxembourg: Publications Office of the European Union, Table 1.1.

2 Debroux, L., *et al.*, (eds.), (2007), *Forests in Post-Conflict Democratic Republic of Congo: Analysis of a Priority Agenda*, CIFOR; World Bank; CIRAD.

3 de Wasseige C, *et al.*, (2012): *The Forests of the Congo Basin*, Table 1.2.

4 *Ibid.* Table 1.4.

5 *Ibid.* Table 1.2.

6 MECNT, DRC/UN-REDD, (2012): *Synthèse des études sur les causes de la déforestation et de la dégradation des forêts en République Démocratique du Congo, Version Finale*. Kinshasa: MECNT.

7 This is not to suggest that 100% of the DRC's forests could or should be designated for logging: large areas are protected, while other areas are otherwise unsuitable.

with other Congo Basin countries and in relation to the scale of the DRC's forests,<sup>8</sup> and is only half what the country was producing at its peak in the early 1990s.<sup>9</sup> During the war 'conflict timber' provided finance to a number of the armed groups involved. Money from timber sales has continued to fuel the ongoing rebel activity in the eastern DRC ever since the war officially ended.<sup>10</sup> In its most recent report, the UN Group of Experts on the DRC recorded that the Allied Democratic Forces (ADF), an Islamist rebel group active in North Kivu province, was deriving profits from timber exports to Uganda. The same report noted that the ADF has links with the Somali militant Islamist organization Al-Shabaab.<sup>11</sup>

Since the signing of peace accords in 2003, there have been major revisions to laws and regulations governing logging in the DRC, under pressure from, and with the assistance of, international donors. Following a process of review, most of the logging concessions in existence when the war ended (almost all of which were by then inactive) were annulled. The total area of logging concessions fell from more than 40 million hectares in 2000 to less than 12 million hectares a decade later.<sup>12</sup>

In all, 10 large logging companies are responsible for around 90% of all licensed harvesting in the country.<sup>13</sup> More than three-quarters of the DRC's timber production is exported as logs, and most of the remainder is exported as sawn timber.<sup>14</sup> Just two large logging companies – SIFORCO and SODEFOR – are responsible for more than half of all officially recorded harvesting and exports.<sup>15</sup> Very little secondary processing takes place in the country. Two-thirds of the logs harvested are of just four species: sapele (*Entandrophragma cylindricum*), wenge (*Millettia laurentii*), iroko (*Milicia excelsa*) and afrormosia (*Pericopsis elata*),<sup>16</sup> the last of which is listed in Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Until 2007 more than 90% of the DRC's timber exports were destined for the EU, but this proportion has declined rapidly: in 2012 only 40% of timber exports were to the EU, while a further 40% went to China. As in other Congo Basin countries, the DRC's domestic market is mostly supplied by artisanal timber (i.e. harvested using simple technology). Large volumes of this timber are also exported from the eastern DRC to neighbouring countries, but are not recorded in official statistics.<sup>17</sup> In an attempt to bring the artisanal logging sector under formal control, the government has issued an increasing number of artisanal logging permits, but most such permits have been issued illegally to companies and used for industrial-scale logging (see pp. 25-26).<sup>18</sup>

The DRC's official Readiness Preparation Proposal (R-PP) of 2010 under the enhanced Reducing Emissions from Deforestation and Degradation (REDD+) initiative accepts that illegal logging is an important direct cause of deforestation and degradation.<sup>19</sup> The DRC had a donor-funded Independent Observer of Forest Law Enforcement and Governance (OI-FLEG) in place between December 2010 and April 2013. The country is also in the process of negotiating a Voluntary Partnership Agreement (VPA) on Forest Law Enforcement, Governance and Trade (FLEGT) with the EU.

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8 DGF data for 1993–2012, obtained and analysed by Chatham House.

9 Debroux *et al.*, (2007): *Forests in Post-Conflict Democratic Republic of Congo*; de Wasseige C., *et al.* (2012): *The Forests of the Congo*.

10 SCR, (2013): *UN Panel of Experts' reports to UN Security Council, 2003–13*, <http://www.securitycouncilreport.org>.

11 UN Security Council, (2013): *Midterm report of the Group of Experts on the Democratic Republic of the Congo*, S/2013/433, pp. 21–22.

12 WRI/MECNT, (2010): *Atlas forestier interactif de la République Démocratique du Congo – version 1.0: Document de synthèse*, Washington DC: WRI, p. 22.

13 DGF data for 2010, obtained and analysed by Chatham House.

14 DGF data for 2010, as published by ATIBT; figures converted to RWE.

15 DGF data for 2010, obtained and analysed by Chatham House.

16 DGF data for 2011, published by OFAC, analysed by Chatham House.

17 See Forests Monitor (2007): *Timber Trade and Poverty Alleviation in the Upper Great Lakes Region*, Cambridge: Forests Monitor and WWF Uganda, (2012): *Timber Movement and Trade in Eastern Democratic Republic of Congo, and Destination Markets in the Region*, Kampala: WWF.

18 REM, (2013): *Final Report of IM-FLEG in DRC*, [http://www.observation-rdc.info/documents/REM\\_IMFLEG\\_2013\\_report\\_DRC.pdf](http://www.observation-rdc.info/documents/REM_IMFLEG_2013_report_DRC.pdf)

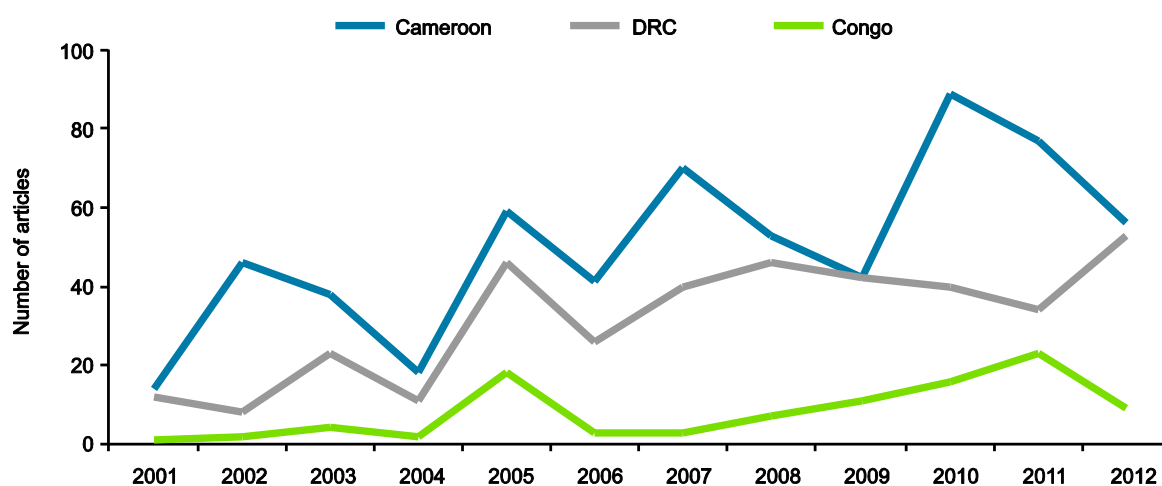
19 MECNT, (2010): *DRC, Readiness plan for REDD, 2010-2012*, Kinshasa: MECNT.

## MEDIA ATTENTION

All of the Congo Basin countries, including the DRC, receive a fraction of the attention paid to the issue of illegal logging in other major tropical forest countries such as Indonesia and Brazil. Among the countries of the Congo Basin, international media coverage of illegal logging in the DRC is higher than it is for the Republic of Congo, but lower than for Cameroon (see Figure 1). Chatham House results from the Republic of Congo suggest that the contrast with that country may in part reflect the different extent of the problem there. Available data suggest that illegal logging in the DRC is significantly worse than in Cameroon, however, so the difference there is more likely to be related to the additional attention and efforts being paid to the issue in the latter.

International attention to illegal logging in the DRC increased to a new high in 2012. This was driven by increased research and campaigning by international NGOs, including WWF, Greenpeace and Global Witness. An indirect cause was the work of the OI-FLEG in exposing large-scale illegal industrial artisanal logging in the country (which was then picked up and publicized by the NGOs).

**Figure 1: Coverage of illegal logging in Congo Basin countries in international English-language media, 2001–12**



Source: Factiva.

Coverage within the DRC between April 2010 and March 2012 was also very limited, compared with the level of domestic media attention to the issue seen in some other producer countries that Chatham House has examined. Examining coverage by two daily web-based news outlets (okapi.net and digitalcongo.net), one weekly newspaper (*Le Potentiel*), one twice-weekly newspaper (*Les Dépêches de Brazzaville*, Kinshasa edition), and one bi-monthly newspaper (*Journal Mongongo*), Chatham House found a total of just 13 relevant articles over the two years (see Table 1). Almost all of the articles stem from the work of NGOs involved in monitoring and trying to help tackle the problem. Just one article related to an enforcement action – the arrest in December 2011 of a civil servant in the Ituri district of Orientale province for involvement in illegal logging. The researchers noted that the amount of media coverage did increase substantially after March 2012, just outside the assessment period. This was due to the release of relevant reports by the OI-FLEG and by the international NGOs Greenpeace and Global Witness.

**Table 1: Coverage of illegal logging in one daily and one weekly newspaper in the DRC (number of relevant articles)**

Category	April 2010– March 2011	April 2011– March 2012
Extent, nature and impacts of illegal logging	4	5
Focus country government response (policies)	2	1
Enforcement	0	1
Focus country private sector response	0	0
Others/none of the above	0	0
Total	6	7

Source: Review by Chatham House partner of coverage on the news websites *Okapi.net* and *Digitalcongo.net*, and coverage in newspapers *Le Potentiel*, *Les Dépêches de Brazzaville (Kinshasa edition)* and *Journal Mongongo*.

## GOVERNMENT RESPONSE

### Policy assessment

Chatham House uses a structured system for assessing the existence, design and implementation of those laws, policies and regulations generally considered necessary to minimize illegal logging and ensure good forest governance in high-risk countries. Around 50 policy areas are assessed and scored, gathered under 12 major headings. The assessment provides a baseline against which future progress can be measured. The results for each major heading are summarized below.

#### *High-level arrangements*

There has never been an official government review of the nature, extent and drivers of illegality in the timber sector in the DRC, nor is there any official plan of action regarding how to tackle illegal logging and improve forest governance. Various aspects have been studied by third parties, however. The country's official R-PP (outlining the current forest situation and how the country proposes to improve it as part of climate mitigation efforts under REDD+) does include some proposed measures regarding illegality and poor governance, but does not include any meaningful discussion of the causes. There is also a timber production and marketing control programme (Programme de Contrôle de la Production et de la Commercialisation des Bois – PCPCB), which might be described as a form of action plan, but Chatham House was unable to obtain a copy of this. There are no systems for ensuring coordination among relevant agencies and ministries. The OI-FLEG has noted that government action on the issue suffers from a lack of coordination and collaboration between relevant government departments.<sup>20</sup> Multi-stakeholder consultation regarding forest sector decision-making is better in the DRC than in some other countries,<sup>21</sup> and there was consultation in the development of the R-PP, but it is not clear what level of consultation was involved in development of the PCPCB.

#### *Legislative framework*

Following the widespread conflict of the late 1990s and early 2000s, the DRC's framework of legislation on forests has been completely rewritten. The fundamental legal framework does incorporate a great deal of best practice in terms of good forest governance (including, for instance, requirements for public tendering of harvesting licences, and respect for the rights of local communities) and has been praised by experts.<sup>22</sup> However, the process is not yet complete: while

20 REM, (2012): *OI-FLEG DRC, Annual Report 2012*,

[http://www.rem.org.uk/documents/FM\\_REM\\_CAGDF\\_OIFLEG\\_Rapport\\_Annuel\\_2012.pdf](http://www.rem.org.uk/documents/FM_REM_CAGDF_OIFLEG_Rapport_Annuel_2012.pdf)

21 Global Witness, (2012): *DRC Forest Transparency Report Card*, <http://www.foresttransparency.info/drc/2012>.

22 CIFOR/CODELT, 23 May 2013, 'For DR Congo's forests, legislation is only part of the solution'.



there is a core forest law (the Forest Code of 2002), only 37 of 45 implementing regulations have been promulgated<sup>23</sup> and there is no overarching forest policy. The OI-FLEG has stated that the lack of a forest policy is 'one of the main causes of the disorganisation affecting the DRC's forest management system'.<sup>24</sup> The independent monitor recently carried out a detailed review of the DRC's forest legislation and regulation which identified 14 'significant gaps and inconsistencies' in the regulatory framework (see Table 1 below).

**Table 2: Gaps and inconsistencies in the regulatory framework governing forestry in the DRC, identified by the OI-FLEG**

	Legal Issue
1	Absence of regulation defining and organizing forest zoning
2	Regulatory inconsistencies in ACIBO (industrial logging authorization) maximum size allocation
3	Absence of regulation concerning the deforestation tax rate
4	Absence of regulation to facilitate local community participation in forest management
5	Absence of regulation in practical artisanal logging operations
6	Absence of regulation for community forest operations
7	Absence of regulation for timber export procedures
8	Absence of regulation for applying logging tax to industrial concessions' timber
9	Inconsistency on the reforestation tax rate
10	Absence of regulation for licensing artisanal loggers to operate
11	Inconsistency on MECNT* presence at export sites
12	Absence of regulation for damages and interest calculation
13	Absence of regulation for national forest planning
14	Inconsistency between the 2002 Forest Code and the constitution of 2006

Source: REM, OI-FLEG DRC, Annual Report, 2012.

\* Ministry of the Environment, Nature Conservation and Tourism.

Neither are the forestry laws and regulations that do exist being properly implemented.<sup>25</sup> The 2002 Forest Code and subsequent decrees required that all logging concessions be reviewed against a set of criteria, and that those that did not meet the criteria should be cancelled; those that did should be 'converted' into modern logging contracts that require logging companies to produce proper management plans and conclude agreements with local people, as well as meeting other financial and technical criteria. This process was supposed to have been completed more than 10 years ago,<sup>26</sup> but to date only about a third of the concession area that avoided cancellation has completed the conversion process.<sup>27</sup> Unconverted logging concessions continue to be allowed to operate, while those that have been converted are being allowed to operate under the same 'transitional' arrangements being applied to unconverted concessions.<sup>28</sup> As a result, none of the industrial logging in the DRC is actually being carried out under the regulatory provisions of the new forest regime. The extent to which the conversion process has been properly followed has also been questioned. For instance, the OI-FLEG noted that a number of concessions were

23 CIFOR/CODELT, 23 May 2013, 'For DR Congo's forests, legislation is only part of the solution'.

24 REM, (2012): OI-FLEG DRC, Annual Report 2012.

25 Ibid.

26 The 2002 Forest Code set a deadline of 29 August 2003, while a subsequent decree set a revised deadline of 24 October 2006. Both deadlines were missed and no new deadline has yet been set.

27 Chatham House calculation, based on figures for area covered by the 24 'converted' logging contracts published by MECNT as of February 2012.

28 REM, (2012): OI-FLEG DRC, Annual Report 2012.

approved for conversion by the forest minister despite having been found not to meet the necessary criteria by the committee empowered to decide this.<sup>29</sup>

There are several contradictions between the forest laws and other relevant legislation, including laws governing oil and gas, water, mining and agriculture. There are also inconsistencies between the 2002 Forest Code and the 2006 constitution with regard to the level of decentralization. Lack of clarity as to the roles of central and provincial governments was one of the factors that enabled the widespread recent abuse of artisanal logging permits (see pp. 25-26).

### *Checks and balances*

The right of the public (specifically local communities and NGOs) to take civil action through the courts if the government fails to abide by its own forest laws is explicitly noted in the 2002 Forest Code (Article 134). It is not clear to what extent this right has been tested, however.

Sanctions for forest officials responsible for breaching legislation are clearly defined in regulations, and range from disciplinary action to criminal sentences. Relevant provisions are included in generic laws relating to the civil service as a whole, and also in decrees specific to forestry. However, there are no documented cases of these provisions being applied to date. The internal control and audit department (*Direction de Contrôle et Vérification Interne* – DCVI) within the MECNT is responsible for monitoring and investigating internal corruption, but its inspectors have limited authority and must pass any cases to superiors or to the Ministry of Justice for follow-up. Even if cases were successfully brought, the penalties defined in the forest regulations are insufficiently dissuasive. The forest law in the DRC does place limits on the discretionary power of the forest minister, especially with regard to issuance of harvesting licences. However, in the case of the recent illegal issuance of artisanal logging licences (see pp. 25-26), the minister apparently ignored these limits and approved licences that he was not empowered to issue. The minister also appeared to exceed his powers when he approved a number of logging concessions to enter the conversion process (see pp. 8-10), despite their having been rejected by the committee empowered to assess the relevant criteria.<sup>30</sup>

In terms of internal performance monitoring, this would appear to be under the auspices of the DCVI. However, it is not clear to what extent this body carries out meaningful internal auditing. As regards external government oversight, there are various relevant bodies that could in theory provide oversight of the forest service and take action where it was failing to implement, enforce or abide by the law, but all are generally considered to be 'toothless'.<sup>31</sup> The Court of Auditors reports to the head of state and the National Assembly, but is poorly resourced and not sufficiently independent of the executive.<sup>32</sup> The General Inspectorate of Finance, also under the president's office, is responsible for auditing public bodies but is also rendered of little value by limited resources, lack of access to information and insufficient political backing.<sup>33</sup> The National Assembly can also form its own investigative commissions, and there is already a permanent environment and natural resources commission. Once again, however, the legislature has been unable to fulfil its role as a monitor in this respect because of lack of access to information and insufficient high-level political support.<sup>34</sup>

One important form of check and balance that has recently been in place in the DRC is the EU-funded independent monitor. The OI-FLEG was first put in place in 2010 (operated by the NGO Resource Extraction Monitoring – REM), but has encountered major difficulties in implementation. No OI-FLEG mission reports were signed off on for publication by the DRC government until late 2012. The monitoring mission came to an end in early 2013. At the time of writing, the future

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29 REM, (2012): *Note de Briefing: Delai de Conversion des Anciens Titres Forestiers en Contrats de Concession Forestière, Impact sur le Contrôle Forestier*, [http://www.observation-rdc.info/documents/NB\\_conversion\\_OIFLEG\\_RDC\\_REM\\_2.pdf](http://www.observation-rdc.info/documents/NB_conversion_OIFLEG_RDC_REM_2.pdf).

30 Ibid.

31 PricewaterhouseCoopers (PwC), (2012): *Implementing REDD+ in the Democratic Republic of Congo: How to manage the risk of corruption*. A report commissioned by NORAD prepared by PwC in collaboration with NORAD and UNDP.

32 Ibid.

33 Ibid.

34 Ibid.

continuance and possible structure and funding of independent monitoring in the DRC was uncertain.

### *International engagement*

The DRC began formal bilateral negotiations with the EU in October 2010 to establish a FLEGT VPA. The process was stalled between September 2011 and August 2012, principally because of presidential and legislative elections in the DRC,<sup>35</sup> but it has since been restarted. A technical commission (including three civil society representatives) is now working to refine the two draft legality grids<sup>36</sup> (one on industrial and one on artisanal logging), the legality definition and the legality assurance system (LAS).<sup>37</sup> There has been poor participation by higher-level officials of the forest administration in the negotiations to date, and no engagement by members of the National Assembly.<sup>38</sup>

According to the OI-FLEG, the most significant obstacles to concluding and implementing a VPA relate to the institutional and legal context within which forest exploitation is conducted in the DRC, whereby the administration continues to use transitional arrangements (allowing concessionaires that do not yet have the required management plans to continue harvesting) that contradict the 2002 Forest Code. The maintenance of a 'two-tier system', according to the OI-FLEG, 'makes the design of a reliable legality matrix and a real system of traceability for artisanal wood, in particular, very difficult'.<sup>39</sup>

### *Supply and demand*

The existence of a timber processing sector with a capacity far greater than can be supplied by legal harvests can be a major driver of illegal logging. There is no system in place in the DRC to ensure that timber processing capacity does not exceed the legal supply of timber (one of Chatham House's standard policy indicators). However, since processing capacity remains very limited, and logging companies are if anything resisting government incentives to increase capacity, an excess of processing capacity is unlikely to be a driver of illegal logging for the foreseeable future. Chatham House sought to obtain detailed information on processing capacity (including lists of individual mills, with capacity for each) for this study, but the government declined to provide these data.

### *Tenure and use rights*

Although it establishes the primacy of written law over customary law, and affirms that the nation's forests are state property, the 2002 Forest Code broadly recognizes the customary and traditional use rights of local and indigenous communities.<sup>40</sup> The Code requires industrial loggers to respect the traditional rights of local people to use forest resources and requires them to delineate areas for community development in their land use plan. However, while the number is steadily increasing, very few of the converted logging concessions have developed land use plans for their forests, and many other concessions remain active despite still not having completed the conversion process. Any maps of concessions that do exist are difficult to obtain, despite transparency requirements in legislation.<sup>41</sup> In relation to artisanal logging, loggers are only supposed to be able to operate with the formal agreement of local communities, but the lack of clarity over customary land rights has led to regular conflicts between communities over who has the authority to sign agreements (conflicts that are exacerbated by the lack of functioning formal systems for resolving such disputes).<sup>42</sup> The only mechanisms in place for resolving conflicting or overlapping property rights

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35 Global Witness, (2012): *DRC Forest Transparency Report Card*.

36 Legality grids are tables that list all the laws and regulations included in the legality definition, and describe what steps are to be taken to check that these have been complied with.

37 FERN, (2013): *EU Forest Watch FLEGT-VPA Special Issue*, Brussels: FERN.

38 Global Witness, (2012): *DRC Forest Transparency Report Card*.

39 REM, (2013): *Final Report of IM-FLEG in DRC*.

40 Global Witness, (2012): *DRC Forest Transparency Report Card*.

41 Personal communication with in-country partner.

42 REM, (2013): *Final Report of IM-FLEG in DRC*.

over forests relate to industrial logging concessions,<sup>43</sup> and even these are poorly implemented in practice. Conflicts between communities and industrial loggers are widespread in the DRC and often turn violent (see pp. 18-19).

A draft Decree on Community Forests allows local communities and indigenous peoples to claim commercial use rights for an area of forest. This has the potential to improve forest governance in the DRC, through providing for the greater involvement of rural people in forest management, but the government has delayed signing the regulation for more than two years. A process of 'macro-zoning', also started in the DRC in 2012, has potential, as such a process is essential to improving land use planning and reconciling the competing interests of mining, timber production, agriculture and conservation. The government has not yet clarified whether local communities will be consulted as part of this process, or confirmed that the notion of free, prior and informed consent (FPIC) will be used to identify and map traditional and customary use of forests. Nevertheless, civil society is increasingly involved in the steering committee for the national zoning plan.<sup>44</sup>

### *Chain of custody*

Beginning in 2010, a new independent chain of custody system has been implemented in selected provinces in the DRC by the international verification company *Société Générale de Surveillance* (SGS). The system includes all best practice elements, including tamper-proof barcodes and computerized databases that allow reconciliation of timber volumes at different points in the supply chain. The chain of custody system (PCPCB) is tied to a new forest management information system also developed by SGS (SIGEF – see p. 15). While the system follows best practice, it has a number of fundamental flaws. First of these is that, owing to resource constraints, it only covers a limited number of provinces of the DRC. Some important timber producing provinces, including Bandundu and Equateur, are not covered by the system. Even within those provinces that are included, coverage is sparse. A key element of the system design is the checks that take place at the point of export; however, recent NGO investigations have shown that at one important port, Kinkole, SGS checks only take place on Monday–Friday, yet activity continues throughout the weekend. At that port, Greenpeace observed log ends being removed with a chainsaw and new markings painted on – an apparent attempt to 'launder' illegal logs.<sup>45</sup> The forest agency's own enforcement officers, meanwhile, are not authorized to operate at border posts, a bizarre situation given that customs officers do not have the necessary skills to be able to measure timber volumes or check species.<sup>46</sup>

It is also unclear how the new system can safely determine legality of exports anyway, since, according to the OI-FLEG, the regulations governing the export of logs and sawn timber are still not complete.<sup>47</sup> Unless tax collection improves dramatically, it is also unclear how the new chain of custody and database system will be funded once the existing donor funding expires and the system is handed over to the forest administration by SGS.

### *Transparency*

In its most recent detailed assessment of forest-related transparency, the NGO Global Witness rated the DRC the poorest performer among the seven producer countries assessed.<sup>48</sup>

The DRC's constitution of 2006 includes a general right of the public to information, but what this means in practice remains unclear, since the government has yet to pass more detailed laws and regulations. Neither does the 2002 Forest Code include clear provisions for transparency: the only factor for which it requires publication are the tenders for granting new logging concessions. A

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43 Decree No. 103/CAB/MIN/ECN-T/15/JEB/09 AM of June 16, 2009.

44 Global Witness, (2012): *DRC Forest Transparency Report Card*.

45 Greenpeace, (2013): *Cut it Out: Illegal Logging in the Democratic Republic of Congo (DRC)*, Kinshasa: Greenpeace Africa.

46 REM, (2013): *Final Report of IM-FLEG in DRC*.

47 Ibid.

48 Based on the proportion of measured aspects of transparency judged green, yellow and red. Other countries assessed were Cameroon, Ghana, Liberia, Peru, Ecuador and Guatemala. For more information see individual country reports at <http://www.foresttransparency.info/report-card/2012/>.

decree passed in 2011 requires publication of all contracts pertaining to natural resources signed by the government and companies, but this has been only partially adhered to in relation to forest concession contracts: not all contracts have been published, and those that have were published much later than legally mandated.<sup>49</sup>

Although there is as yet no legal requirement for transparency of other forest-related information, and no annual reports are currently produced by the forest authority, some information has nevertheless been published. Official national maps are available to the public showing the general areas of existing forest concessions. Concession contracts for 24 converted concessions were published online in 2012, along with forest management plans for 12 of these. Some newly signed contracts have yet to be published, however. Five-year operations plans have also not yet been published. These include important details needed by third parties to judge whether logging is legal. The Forest Code requires that they are shared with local affected communities, but this rarely occurs. While legislation passed in 2011 requires environmental impact assessments to be carried out for development projects, there is not yet any implementing regulation and transparency requirements remain unclear.

Although transparency of information concerning industrial concessions has improved slightly, most new logging in recent years has been under 'artisanal' permits illegally issued for large-scale logging by commercial enterprises (see pp. 25-26). Transparency of information regarding these permits is almost zero: there are no maps, no copies of contracts and no management plans or other data. Since the provincial as well as the central authorities have been issuing these permits, even the central government does not appear to have a full picture of what is happening.

No enforcement-related information is published, and it is generally difficult or impossible to obtain on request. Chatham House researchers were provided with only a small subset of the data requested for this study (see pp. 16-17). Both SGS (which is developing the timber traceability system – see p. 12) and the OI-FLEG have often found it impossible to ascertain what has become of cases of illegality that they have brought to the attention of the authorities. Some data on forest revenues were published in 2011, following pressure from donors, but these were incomplete and the government appears to have stopped publishing such data in 2012 – a step back in terms of transparency. Chatham House was unable to obtain the data needed for its own analysis of forestry-related revenue collection (see p. 17). The OI-FLEG has noted that the general lack of forest transparency in the DRC 'encourages and maintains an environment in which corruption can persist'.<sup>50</sup>

#### *Allocation of rights to harvest*

An essential element of good forest governance is procedures for allocating harvesting rights that follow best practice in minimizing opportunities for corruption and in ensuring that local people's rights are properly considered. The DRC's Forest Code of 2002 does require open, competitive bidding for new logging concessions, with inappropriate bidders (such as those with very poor past compliance records) excluded. How well these requirements might be implemented has yet to be formally tested, however, since there has been a moratorium in place on the issuance of new logging concessions since the Forest Code was promulgated. Some new logging concessions were, controversially, issued after the moratorium was signed in May 2002, but this action was justified by the government on the (widely questioned) grounds that the relevant decree was not actually published until July 2004.<sup>51</sup> Most of these new concessions were subsequently cancelled as part of the concession review process, although a number were allowed to continue. Failure to abide by concession allocation rules was a major reason for the cancellations. Competitive, public bidding is, furthermore, not required for artisanal logging licences meant for small-scale harvesting, and this loophole has been exploited by large industrial logging companies to circumvent both the moratorium and the competitive bidding requirements (see pp. 25-26).

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<sup>49</sup> Unless otherwise referenced, information in this subsection is drawn from the Global Witness, (2012): *DRC Forest Transparency Report Card*.

<sup>50</sup> REM, (2013): *Final Report of IM-FLEG in DRC*.

<sup>51</sup> Greenpeace, (2008): *Logging Sector Briefing for the Democratic Republic of Congo, DRC logging review: The carving up of the Congo continues*, Amsterdam: Greenpeace International.

While it does not count as new allocations of rights to harvest, implementation of the one-off process for conversion of old concessions into new ones under the 2002 Forest Code (which similarly requires assessing companies against criteria) has been poor (see pp. 8-10).

The 2002 Forest Code and its implementing decrees (particularly Presidential Decree No. 05-116 of 2005) include provisions for consultation with local people prior to the classification of forests (including zoning of particular areas for selective logging) and in the preparation of forest management plans for logging concessions. The actual granting of individual logging concessions does not require consultations, let alone full, prior, informed consent, but logging concession contracts (once granted) cannot be finalized until 'social agreements' (*cahier des charges*) have been reached with local communities. These agreements include specific actions that the logging company will undertake on behalf of local people, such as constructing roads, clinics or schools. In practice, however, this requirement is poorly implemented. Logging contracts are often signed without social agreements being in place, and the government does not carry out proper checks to ensure that agreements submitted by the logging companies were properly negotiated and agreed with local communities. Most existing concessions continue to be allowed to operate despite still having yet to complete the conversion process, which includes social agreements. A number of serious conflicts have arisen in the DRC in recent years between local people and logging companies, as a result of logging companies allegedly failing to provide the services to local people that had been agreed to as a condition of logging (see the example of SIFORCO discussed on pp. 18-19). In addition, the requirements that do exist for consultation with, and provision of services to, local people only apply to industrial logging concessions and not to artisanal logging permits.<sup>52</sup> Even the consultation procedures that are allowed for with regard to logging concessions do not meet the standard of FPIC, despite the DRC having made commitments to FPIC in international conventions.

#### *Law enforcement*

Forest law enforcement structures in the DRC are fundamentally flawed in all important respects. Enforcement is so under-resourced and ill-coordinated that infractions are rarely uncovered. Even where they are, the penalties applied are insufficient to dissuade those responsible from continuing to behave illegally.

Forest law enforcement is massively under-resourced in the DRC. A review by Global Witness recently concluded that 'forest law enforcement is almost non-existent' because of the lack of sufficient financial and human resources. No meaningful improvement was found to have occurred in 2012 compared with the previous year.<sup>53</sup> The OI-FLEG records that while regulations require that each logging concession is visited at least four times a year, very few missions are ever undertaken, so most concessions go unmonitored. The number of properly empowered enforcement officials (*officiers de police judiciaire* – OPJs) is, according to the OI-FLEG, 'derisory, given the size of the national territory'.<sup>54</sup> Enforcement officers represent just 1% of the total staff of the MECNT, and most are based in cities, many miles from the logging concessions that they are meant to be monitoring. In Orientale province, there is just one OPJ to cover 170,000 square kilometres of forest – an area one-third the size of France. Those officers who do exist are poorly trained. When the new forest law enforcement system was enacted in 2009, the authorities were supposed to zone the territory and create law enforcement brigades and control points, but none of this has yet occurred. These resource constraints are exacerbated by a lack of communication and coordination between central and provincial authorities.<sup>55</sup>

Forestry regulations in the DRC include potentially significant and dissuasive administrative sanctions, including (for some offences) the withdrawal of logging licences, but these have never been applied in practice. Instead, all offences are dealt with by means of a financial penalty (a combination of fines and damages). The maximum fines for most penalties defined in law are relatively low, however; they are not kept in line with inflation, and the actual amounts of fines and

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<sup>52</sup> Global Witness, (2012): *DRC Forest Transparency Report Card*.

<sup>53</sup> Ibid.

<sup>54</sup> REM, (2013): *Final Report of IM-FLEG in DRC*.

<sup>55</sup> Ibid.

damages demanded are massively understated through mismanagement and apparent corruption.<sup>56</sup>

The OI-FLEG has characterized the procedure for the calculation of damages for illegal logging offences in the DRC as 'ridiculous': the current method leads to charges of around \$8 per cubic metre illegally harvested, while the value of the wood involved is likely to be between 12 and 129 times that (the large variation in this estimate being due to uncertainties about the species involved). In the neighbouring Republic of Congo, damages are assessed at \$200 per cubic metre.<sup>57</sup> Fines, meanwhile, are 'settled' for amounts much less than allowed under forestry regulations, which state that the minimum amount demanded should be no less than half of the maximum fine allowed for a particular offence.<sup>58</sup> Most such settlements are not properly processed. The OI-FLEG found that the payments being demanded by forest officers were 'akin to corruption' and in 'complete violation of the existing law'.<sup>59</sup>

As a result of these issues, the OI-FLEG concluded that there is a risk that 'those guilty of significant forest infractions, such as illegal felling on a large scale for example, will incur financial penalties that are a fraction of the profits they may already have made on the operation'.<sup>60</sup>

### *Information management*

The World Resources Institute (WRI) international NGO has been working with the MECNT on a map-based forest information system for the DRC. The current output is the DRC Interactive Forest Atlas, which includes information on industrial logging concessions. While the system has significantly improved transparency and proved very useful, it does not, however, include all relevant government agencies and only incorporates a limited range of relevant information. It is also unclear the extent to which this system serves to improve internal information management within government, as opposed to improving transparency of information to the broader public. Information management within the MECNT remains very poor, as demonstrated by the reports of the OI-FLEG.

### *Financial management*

Financial management within the forest sector in the DRC is generally poor. Large amounts of forest revenues are foregone as a result (see p. 17). While there are a number of different agencies within the forest service with a role in collecting revenues, there is no unified system for monitoring revenue collected from the utilization of forest resources against revenue owed and investigating any discrepancies. No official external audits of the forest service have been published since the new Forest Code was adopted in 2002, and it does not appear that any have ever been carried out. As outlined on p. 10 above, the General Inspectorate of Finance is responsible for auditing public bodies but suffers from limited resources, lack of access to information and insufficient political backing; the Court of Auditors has also been similarly criticized. The Ministry of Finance has, however, set up a Technical Committee for the Monitoring and Evaluation of Reforms (CTR), which issues quarterly reports on the state of capture of revenue from the natural resources sectors, including mining, hydrocarbons and forests.

## **Perceptions survey**

In order to inform its assessment of the extent of illegal logging and the response of both the private sector and government in producer countries, Chatham House carries out perceptions surveys of a sample of relevant experts. A general survey is targeted at a mix of around 30 government, private sector, NGO and other respondents, while separate special surveys obtain

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56 Ibid.

57 REM, (2012): *Note de Briefing No.5: La Répression des Infractions Forestières en RDC: Evaluation des amendes, et des dommages et interest*, [http://www.observation-rdc.info/documents/Note\\_DI\\_OIFLEG\\_RDC\\_REM\\_5\\_2012.pdf](http://www.observation-rdc.info/documents/Note_DI_OIFLEG_RDC_REM_5_2012.pdf)

58 Ibid.

59 REM, (2013): *Final Report of IM-FLEG in DRC*.

60 Ibid.

information from the private sector and industry associations. The survey was carried out in the DRC in late 2012 and early 2013. A total of 32 responses were received in the DRC for the main survey: seven from government respondents, eight from private sector respondents, and the remainder from NGOs and other respondents. Chatham House's partner in the DRC was unable to obtain any responses to the private sector and industry association special surveys.

Almost all respondents considered that the response of the DRC government to illegal logging had been average or worse – a much worse judgment than was received in the Republic of Congo. Only one in 10 believed it to be completely ineffective, however. The most important impediments to an effective government response were felt by respondents to be insufficient political will, and corruption and lack of transparency. Most respondents felt that poor laws, and poor enforcement capacity and effectiveness were also very important.

Just over half of respondents considered that there had been at least a slight improvement in the response of government during the last year – much lower than the 85% recorded in the neighbouring Republic of Congo.<sup>61</sup> Very few thought the improvement was significant. A substantial minority of all respondents, and a majority (60%) of NGO respondents, felt that the government's response had actually become much worse. In terms of changes in different aspects of the response, a majority of respondents believed that political will to tackle the issue had increased during the last year, while only 16% felt that it had declined. Private sector and government respondents were very positive about changes in political will, while NGO/other respondents were more divided. For all other areas of government response (combating corruption and improving transparency; strength and cohesion of laws; quality of information management; enforcement capacity; and enforcement effectiveness), views were mixed: around half considered that things were unchanged, a quarter that things had improved and a quarter that things had worsened.

## Enforcement data

Chatham House sought to obtain various types of detailed enforcement data from the MENCT covering a number of years, but only a few pieces of relevant data were supplied, mostly for 2012, and it is difficult to draw conclusions from these. According to data provided to the Chatham House partner by the MENCT, 115,000 cubic metres of timber were seized during 2012. If true, this would mean that the DRC authorities were seizing about a third as much timber each year as is officially recorded as legally harvested – a huge proportion, although still only around 5% of the total volume of timber estimated to be being harvested illegally in the country each year (see wood balance estimates on p. 22). There are, however, reasons to doubt the veracity of the figure reported. First, the volume does not correlate with the figure provided for the value of timber seized (\$1.4 million); and second, the only large seizures during the same year that Chatham House was able to document from other sources total less than 3,000 cubic metres.<sup>62</sup> These three seizures were from three companies that had been illegally issued with artisanal logging permits.<sup>63</sup>

According to MENCT financial reports, around \$161,000 in fines were collected in 2010, two-and-a-half times the figure in the previous year (\$64,000). Full data for subsequent years were not available, although data for the final quarter of 2012 (which records \$313,000 of 'fiscal penalties and fines') suggest the total value of fines being issued each year has continued to rise.

Data from the MENCT show that 255 illegal logging cases were filed during 2012, but only two (less than 1%) resulted in prosecution. Both of these cases involved companies illegally issued with artisanal logging licences (these were the same cases from which timber was recorded seized). It is not clear what the other 253 cases were for, or why they were not prosecuted. Data were not available for the number of illegal logging cases filed and prosecuted in previous years. For the same year (2012), the OI-FLEG reported that 24 cases were opened as a result of its

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61 Lawson, S., (2014): *Illegal Logging in the Republic of Congo*, London: Chatham House. Note that this perceived improvement was against a very low baseline.

62 These seizures were from three companies carrying out industrial logging under artisanal logging licences in Bandundu province: 890 cu m was seized from YIFA Sprl, 1,207 cu m from TERCO and 450 cu m from Song Ling Wood. (Source: MECNT data collected by partner for Chatham House.)

63 REM, (2013): *Final Report of IM-FLEG in DRC*.



investigations, but that only one had been closed, and in half the cases the forest administration itself did not know the outcome.<sup>64</sup>

The independent monitor has examined the process by which penalties are issued to companies found to have breached regulations (see pp. 14-15), but has not collected or analysed national-level data.

### Revenue collection rates

Failures by government to invoice and collect forestry taxes properly, and by companies to pay them, are a useful indicator of the level of forest governance in a country. Chatham House sought to obtain and analyse data on the amounts of forestry-related taxes in the DRC that ought to have been paid, amounts that were invoiced and amounts that were actually paid over the last few years. The only data available, however, were figures for the amounts paid, so no useful analysis was possible.

The OI-FLEG has also attempted to analyse the extent to which forestry-related taxes are being paid.<sup>65</sup> The independent monitor was only able to obtain data on three of the five major forestry taxes, so the analysis was incomplete, but it was nevertheless able to demonstrate that large amounts of potential revenue were being lost. In total, the OI-FLEG concluded that at least \$3.4 million in assessed taxes went uncollected in 2010 (representing 28% of all amounts due). The figure for 2011 was lower (\$1 million, or 7% of amounts due), but it is unclear to what extent this can be counted as an improvement. Most of the discrepancy appears to arise from the government not invoicing the full amounts due, rather than the companies failing to pay them. For instance, the OI-FLEG has found that the area tax is being charged only for the exploitable area of each concession, whereas by law it should be charged for the entire area. The logging tax, on the other hand, is being calculated based on flat rates per cubic metre, whereas it should be calculated as a percentage of the value of each species.<sup>66</sup>

The OI-FLEG calculations of uncollected revenues are based on amounts due for legally authorized logging volumes in industrial concessions. Since actual harvest volumes are much larger, the real revenue collection rate is even lower. Examining a sample of data for 85 licensed logging operations, the OI-FLEG found that actual recorded harvests exceeded authorized harvests by 19% – an excess, unauthorized harvest of some 39,000 cubic metres. Most of the excess related to three major commercial species: sapele, sipo and iroko, and most related to just three of the 20 companies involved.<sup>67</sup> The OI-FLEG has also found that no permit tax, logging tax or reforestation tax has been being paid on the large volumes of illegal semi-industrial ‘artisanal’ harvesting occurring recently (see pp. 25-26).<sup>68</sup>

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64 REM, (2013): *Final Report of IM-FLEG in DRC*.

65 REM, (2013): *Note de Briefing: Analyse de la Fiscalité Forestière*, [http://www.observation-rdc.info/documents/REM\\_OIFLEG\\_2013\\_taxes\\_DRC.pdf](http://www.observation-rdc.info/documents/REM_OIFLEG_2013_taxes_DRC.pdf)

66 REM, (2013): *Final Report of IM-FLEG in DRC*.

67 Ibid.

68 Ibid.

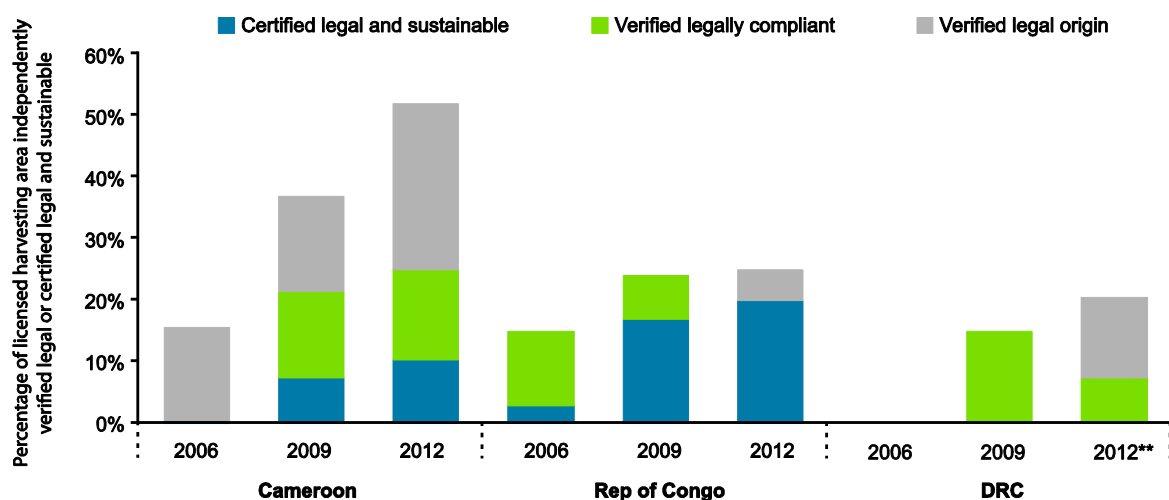
## PRIVATE SECTOR RESPONSE

### Voluntary verification and certification

In order to demonstrate that they are harvesting legally, logging companies in high-risk producer countries can seek to obtain independent third-party verification of legality, or certification of both legality and sustainability, under one of a number of established schemes. Data on successful voluntary verification and certification are used by Chatham House as an indicator of the response of the private sector to illegal logging. Data are collected and calculated on the areas verified and certified to different standards over time under different schemes; the proportion this represents of total logging area; and (where this can be estimated from other sources) the proportion of total log production verified or certified. For further information on the various systems, please see Chatham House's 2010 illegal logging indicators report.<sup>69</sup>

The DRC is falling further and further behind other Congo Basin countries in terms of voluntary independent verification of legality and sustainability of industrial logging. At present, just 8% of the DRC's licensed logging concession area is verified legal and none is certified sustainable. By comparison, more than half of Cameroon's production forest was verified or certified at the end of 2012, as was a quarter of that in the Republic of Congo. When inactive logging concessions are stripped out of the equation,<sup>70</sup> the proportion verified in the DRC rises to 20% as of the end of 2012, but a large amount of this is only to a low standard (see Figure 2) and has since been terminated.

**Figure 2: Proportion of licensed harvesting area\* independently verified legal or certified legal and sustainable in selected Congo Basin countries, 2006–12**



Source: Chatham House analysis of data from FSC, SGS TLTV, Smartwood, BV OLB.

Note: Verified legally compliant (VLC) is a higher standard than verified legal origin (VLO), which essentially only checks that a company has a licence to harvest. For a full description and discussion of these terms, see Chatham House (2010).

\* For the DRC, since a majority of licensed concessions have not been active for some years, the proportion relates to active logging concession area instead of total licensed area.

\*\* All of the VLO-verified area was terminated in early 2013.

69 Chatham House, (2010): *Illegal Logging and Related Trade: Indicators of the Global Response*, London: Chatham House, Section 4.2, pp. 70–78.

70 According to the OI-FLEG, only 28 of the 80 licensed concessions in the DRC were active during 2011–12. Chatham House analysis shows that these concessions cover approximately 4.8 million ha, of the total concession area of 12.6 million ha. The analysis does not include the area of logging under artisanal permits, since almost all of these were issued illegally and figures for the total area concerned are also unclear.

One reason for the slower growth in independent verification and certification in the DRC is that donor investment in supporting certification has been more limited than in other Congo Basin countries. Efforts to expand verification and certification have also been held back by the incomplete and conflicting regulatory arrangements, and by the history of conflict between logging companies and local communities. A number of verifications have been issued, only to be rescinded when problems arose. The DRC's two largest logging companies are SIFORCO and SODEFOR, which between them accounted for 60% of the industrial concession harvest in 2011.<sup>71</sup> Both have been pursuing independent verification and certification in their active concessions, and both have encountered serious difficulties in this.

Two concessions held by SIFORCO, until recently owned by the Swiss hardwood giant Danzer Group, which obtained Verification of Legal Compliance (VLC) from SGS in 2007 also obtained Forest Stewardship Council (FSC) Controlled Wood (CW) certification (a lower standard than full FSC certification, which requires, *inter alia*, that logging is legal and does not breach local people's rights) in late 2010. In April 2011, however, a simmering conflict between the company and a local community in the concessions boiled over; a number of villagers were beaten and raped by police, and one of the villagers subsequently died as a result.<sup>72</sup> The community had been taking direct action to halt the company's activities, in protest against its failure to fulfil contractual promises to improve village infrastructure. FSC terminated the CW certificate in early 2012 and, after an independent investigation which found the company to be culpable, in May 2013 completely dissociated from Danzer,<sup>73</sup> which had owned SIFORCO at the time the events took place (SIFORCO was sold in February 2012).<sup>74</sup> The concessions concerned also lost their SGS VLC verification, although SIFORCO does still hold VLC certificates for other concessions in the DRC. In April 2013 a criminal complaint against one of Danzer's managers was filed in Germany by international NGOs, alleging human rights abuses in the case.<sup>75</sup>

SODEFOR, which is also European-owned, obtained both independent Verification of Legal Origin (VLO) (under the Rainforest Alliance's SmartWood scheme) and FSC CW certification in January 2011 for three concessions. The CW certification was withdrawn after just three months because of unresolved conflicts between the company and local communities, as well as failures to manage areas deemed High Conservation Value Forest (HCVF) properly.<sup>76</sup> A few months later a joint mission of the OI-FLEG and forest officials found that the company was illegally harvesting tree species that it was not permitted to harvest in one of the concessions previously CW-certified.<sup>77</sup> An independent inquiry by FSC also concluded that the certification should never have been issued and reprimanded the certifier.<sup>78</sup> The SmartWood VLO was also terminated in early 2013.<sup>79</sup>

All of the verifications that have been revoked in the DRC have been exposed through research and advocacy by NGOs. While some verifications remain valid at the time of writing, these have not been the subject of research by NGOs, and there is a strong chance that similar issues exist but remain unexposed.

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71 Chatham House calculation from DGF data for 2011 published by OFAC.

72 Greenpeace, (2011): *Stolen future: Conflicts and logging in Congo's rainforests – the case of Danzer*, Amsterdam: Greenpeace.

73 FSC, 21 May 2013, 'Forest Stewardship Council Dissociates from the Danzer Group'.

74 Danzer sold SIFORCO to the Blattner Group in February 2012.

75 Global Witness, 25 April 2013, 'Criminal complaint accuses senior manager of Danzer Group of responsibility over human rights abuses against Congolese community'.

76 Barume, A. et al., (2012): *Formal complaint by Greenpeace against SODEFOR's association with FSC: Complaints Panel Report*.

77 REM, (2011): *Rapport de mission de terrain no. 2, Observation Indépendante de la mise en application de la loi forestière et de la gouvernance (OI-FLEG)*, [http://www.observation-rdc.info/documents/Rapport\\_REM\\_002\\_OIFLEG\\_RDC.pdf](http://www.observation-rdc.info/documents/Rapport_REM_002_OIFLEG_RDC.pdf).

78 Barume, A. et al., (2012): *Formal complaint by Greenpeace against SODEFOR's association with FSC: Complaints Panel Report*.

79 Rainforest Alliance reported to Chatham House that the verification was terminated on 21 February 2013.

## Perceptions survey

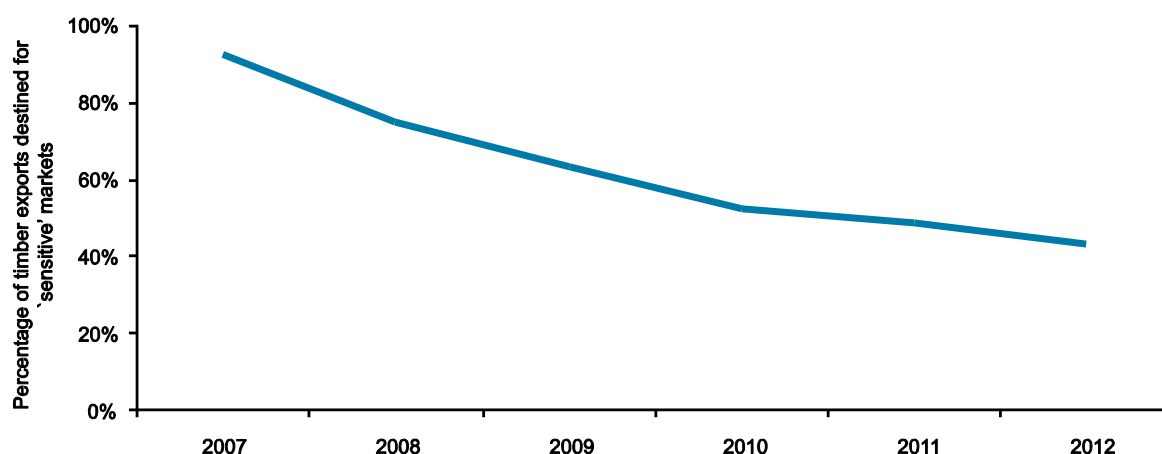
More than 80% of respondents in the perceptions survey considered that large-scale concessionaires and manufacturer/exporters in the DRC serving sensitive markets were at least aware of the illegal logging issue. However, only around half felt that these companies had either taken action or were under pressure to act – a significantly lower proportion than in the neighbouring Republic of Congo. Around half of respondents believed that those companies serving sensitive markets had improved their response within the last year under review. Few respondents felt the concessionaires supplying less sensitive markets were yet under any pressure to act, and almost none believed that the concessionaires solely supplying less sensitive markets had improved their response in the last year. None of the private sector respondents in the DRC completed the addendum survey targeted solely at private sector respondents, so no data are available for those questions.<sup>80</sup>

## Sensitive market share

There is a danger that the potential impact of efforts to prevent imports of illegally sourced wood in some consuming countries may be undermined by ‘leakage’, whereby the wood is simply diverted to less sensitive markets. Equally, shifts in trade towards less sensitive markets (even if driven by other factors) can serve to undermine the influence that more sensitive markets have. For these reasons, Chatham House tracks the proportion of exports from producer and processing countries that are destined for sensitive markets, examines the extent to which any changes may be due to increased sensitivities over legality, and analyses what changes in sensitive market share may mean in terms of the response to the problem.

Until quite recently, almost all of the DRC’s official timber exports were destined for European markets. In 2007 90% of exports (in terms of roundwood equivalent volume – RWE) were sent to Europe. This proportion has fallen dramatically in the years since, however, as exports to Europe have declined while those to China and elsewhere have grown. In 2011, for the first time ever, the DRC exported a majority of its timber (51%) to less sensitive markets outside of Europe and North America (see Figure 3). Most of the Chatham House perceptions survey respondents believed that increased sensitivities regarding legality in sensitive markets were at least a minor factor driving this shift, although other (unspecified) factors were considered to be more important.

**Figure 3: Share of DRC timber exports destined for ‘sensitive’\* markets, 2007–12**



Source: Destination country import data, various sources, analysed by Chatham House.

\*‘Sensitive’ markets are assumed to be Europe, North America and Australia/New Zealand.

<sup>80</sup> These private sector questions seek views on the importance of legality concerns relative to other factors in driving competitiveness, and on companies’ own experiences with receiving requests from customers regarding legality and in demonstrating legality through third-party verification and certification.

Given the failure of voluntary independent verification in the DRC, this trend can be expected to be further spurred by the entry into force of the EU Timber Regulation (EUTR), which prohibits imports of illegally sourced wood and places strict requirements for due diligence on legality of wood imports. On current trends, the DRC will have ceased exporting to Europe altogether by the end of the current decade, most probably before any EU FLEGT VPA can be agreed and implemented. Although a VPA encompassing all exports (as all existing VPAs do) could be beneficial even if almost none are destined for the EU, this rapid trend towards less sensitive markets does bring with it a risk that the incentive for the DRC government to take the necessary steps may diminish.

## LEVELS OF ILLEGAL LOGGING

### Wood balance analysis

Chatham House has made the first ever attempt at a wood balance analysis for the DRC. A wood balance analysis compares legal timber supply (official legal harvest plus imports) with actual consumption (real exports and real domestic use). The extent to which consumption exceeds legal supply gives an indication of the extent of illegal logging.

This analysis, which is restricted to log and sawnwood supply and demand, suggests that in 2011 the actual harvest in the DRC (2.4 million cubic metres) was more than eight times the official legal harvest (0.3 million). The balance (2.1 million cubic metres) was logged illegally in excess of official licensed and recorded harvest volumes (see Table 2). This suggests that *at least 87%* of logging in the DRC in 2011 was illegal.

**Table 3: Wood balance analysis of unlicensed logging in the DRC, 2005–11 (all figures in cubic metres, unless otherwise stated)**

	Approved production	Legal Supply			Total Consumption			B minus A (=Un-licensed logging)	Un-licensed %
		Actual legal harvest (1)	Imports RWE (2)	Total (A)	Exports RWE (3)	Domestic use RWE (4)	Total (B)		
<b>2005</b>		169,946	25,000	194,946		835,796	835,796	640,850	77
<b>2006</b>		155,009	25,000	180,009	471,604	1,042,106	1,513,710	1,333,701	88
<b>2007</b>	334,942	310,000	25,000	335,000	479,645	1,206,141	1,685,786	1,350,786	80
<b>2008</b>	804,448	353,247	25,000	378,247	449,983	1,427,684	1,877,667	1,499,420	80
<b>2009</b>	555,129	373,284	25,000	398,284	330,401	1,394,618	1,725,019	1,326,735	77
<b>2010</b>	672,688	249,539	25,000	274,539	367,679	1,655,272	2,022,951	1,748,412	86
<b>2011</b>	842,832	293,096	25,000	318,096	403,400	2,003,993	2,407,393	2,089,297	87

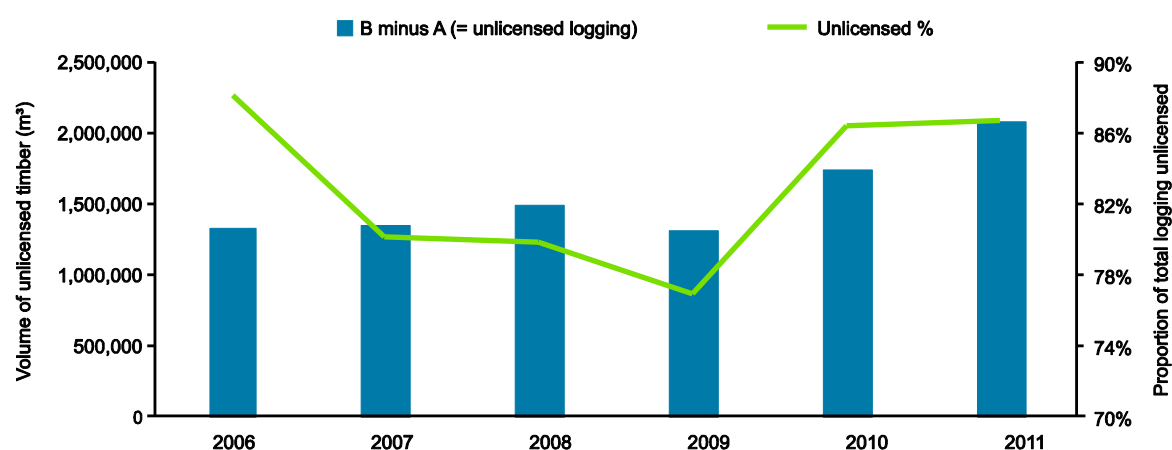
Sources: (1) Government figures for formal log production reported by OFAC and in *The Forests of the Congo Basin: State of the Forest 2010*; (2) Estimate of log and sawn timber imports based on analysis of source country export data on UNCOMTRADE. Most imports are from Zambia and S Africa; (3) Government figures reported by Association Technique Internationale des Bois Tropicaux (ATIBT), plus estimate of RWE volumes exported from the eastern DRC to neighbouring countries (200,000 m<sup>3</sup> cu m/yr – not captured in official export statistics) based on *Forests Monitor (2007)* and *WWF Uganda (2012)*; (4) Figure for total urban consumption, calculated from 2009 survey of consumption in Kinshasa (Mbemba, M. et al., (2010), extrapolated to total urban population and extended to other years based on changes in GDP and urban population.

These figures only include illegal logging in excess of licensed harvest; since many types of illegalities occur within declared harvests and are not captured by wood balance analysis, the

estimates of illegal logging produced should be considered as low-end figures for the proportion of total production that is illegal in some way. Given that other evidence shows that there are many illegalities within declared production (see pp. 24-25), it is likely that the real amount and proportion of illegal wood production is higher. The vast majority of the illegal production measured by the wood balance analysis is small-scale artisanal logging, supplying domestic markets or for export from the eastern DRC to neighbouring countries. Chatham House has produced its own time-series estimates of the scale of urban consumption of informal artisanal timber, extrapolating from a 2009 survey of consumption in Kinshasa<sup>81</sup> using data on GDP and urban population. The resultant figures match well with provisional data from new surveys of consumption of such timber in Kinshasa and Kisangani,<sup>82</sup> and suggest that total urban consumption has almost doubled in the five years to 2011 (see Table 2). Total legal (recorded) exports of industrially harvested timber have never exceeded the officially recorded legal harvest.

The wood balance analysis suggests that the volume of timber harvested illegally in the DRC increased by 60% between 2009 and 2011, following a brief decline in 2008 as a result of the financial crisis (which reduced economic activity and hence overall timber demand) (see Figure 4). The proportion of timber harvested illegally has also risen over the same period, because illegal artisanal logging has increased (due to population and economic growth) while legal harvest has declined.

**Figure 4: Wood balance estimates of unlicensed logging in the DRC, 2006–11**



Source: See wood-balance analysis in Table 3.

### Trade data discrepancies

In some cases, differences between volumes of timber reported as legally exported by a producer country and ‘mirror’ import statistics from destination countries can be used to detect and track changes in illegal export. A detailed analysis was not possible for the DRC because no timber export data broken down by destination country were available. Collated export and import data (combining all destination countries) show no significant discrepancies for trade in logs up to 2010. Considerably more sawn timber is reported as imported from the DRC by destination countries than is officially recorded as exported by the DRC, but this appears to be due to exports from the similarly named Republic of Congo being misclassified as originating in the DRC (a reverse

<sup>81</sup> Mbemba M., et al., (2010): *Étude sur l’approvisionnement de la Ville de Kinshasa en bois d’oeuvre informel*. Rapport interne, Kinshasa: FORAF, cited in Lescuyer, G. et al., (2010): ‘Le secteur informel du sciage artisanal en RD Congo : L’enjeu d’une analyse nationale’ in Benneker et al., (eds) (2012): *Le bois à l’ordre du jour: Exploitation artisanale de bois d’oeuvre en RD Congo : Secteur porteur d’espoir pour le développement des petites et moyennes entreprises*, Wageningen:TROPENBOS.

<sup>82</sup> Chatham House analysis of provisional survey results from Cerutti, P., et al, (2013): ‘Exploitation artisanale du bois d’oeuvre en RDC’, presentation to PRO-FORMAL, Kinshasa, 17–18 June 2013.

discrepancy exists for the Republic of Congo). Large volumes of (mostly illegally harvested) timber are traded from the eastern DRC to neighbouring countries without being recorded in official export statistics,<sup>83</sup> but the importing countries are also failing to capture these volumes in reported trade figures, so they do not lead to trade data discrepancies.

Anecdotal information suggests that since 2010 significant volumes of logs from illegally issued artisanal logging permit areas have been being smuggled out of the country, including through 'pirate ports' in Bas-Congo province. Most of the timber is thought to be destined for China.<sup>84</sup> Because of the lack of detailed official export data, however, this presumed smuggling could not be confirmed or quantified.

## Expert perceptions

### *Nature and extent of the problem*

A majority of respondents to the expert perceptions survey considered that illegal logging was the main driver of both forest degradation and deforestation in the DRC. Every single respondent felt that it was at least a major driver of degradation. In terms of deforestation, this prevailing view runs counter to more in-depth recent research on drivers of deforestation in the country, which suggests that slash-and-burn agriculture is the principal driver (although artisanal logging is also important).<sup>85</sup> The reasons for this discrepancy are unclear. As regards degradation, there is independent evidence supporting the contention that logging is a key driver, although it does not distinguish legal from illegal.<sup>86</sup> Illegal logging was also believed by more than 80% of respondents in the expert perceptions survey to be a major, or the main, cause of negative social impacts on forest communities – more so than legal logging or legal clearance for agriculture.

A higher proportion of respondents considered illegal industrial logging to have a major impact in terms of forest degradation, deforestation and associated negative social impacts than felt the same about other types of illegal logging (such as illegal clearance for agriculture or mining, or illegal artisanal logging).

More than 90% of respondents felt that at least 40% of timber harvesting in the DRC is illegal. Most (22 of 31) respondents felt the true figure was between 60% and 80%. Perhaps surprisingly, respondents to the survey from government and the private sector judged the problem to be as bad as did NGO respondents. The overall estimate, averaging the broad range of views, was of an illegal logging extent of 63%.<sup>87</sup> Although this is one of the highest estimates produced from a perceptions survey undertaken by Chatham House in a producer country, the wood balance analysis suggests that it may nevertheless be an underestimate. The difference may be due to some respondents not considering small-scale artisanal logging when judging the overall proportion of harvesting that is legal and illegal.

### *Recent changes*

A small majority of respondents felt that there had been a slight improvement in the overall situation as regards illegal logging in the DRC in the last year, but far fewer thought the situation had improved relative to five years ago, suggesting that the balance of opinion is that the situation deteriorated but has now improved again. This probably reflects the situation with illegal artisanal

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83 Forests Monitor, (2007): *Timber Trade and Poverty Alleviation in the Upper Great Lakes Region*; WWF Uganda, (2012): *Timber Movement and Trade in Eastern Democratic Republic of Congo, and Destination Markets in the Region*.

84 Greenpeace, (2013): *Cut it Out: Illegal Logging in the DRC*.

85 MECNT, DRC/UN-REDD, (2012): *Synthèse des études sur les causes de la déforestation et de la dégradation des forêts en République Démocratique du Congo*.

86 Zhuravleva, I., et al., (2013): Satellite-based primary forest degradation assessment in the Democratic Republic of the Congo, 2000–2010, *Environ. Res. Lett.*, 8: 024034.

87 The simple average and the weighted average (which equalizes for different numbers of respondents from each major group) came out as the same value. The averages for each major group were government (65%), private sector (63%) and NGOs/other (63%).

logging permits, problems with which began in 2009 but began to recede in 2012 after pressure from the OI-FLEG, NGOs and donors.

Oddly, while only a quarter of respondents considered that the overall situation as regards illegal logging had worsened since 2007 (and another quarter felt it had improved), when asked about volumes of illegal timber harvested, more than half felt that illegal logging had actually increased, and less than 10% felt it had decreased. One in five respondents reckoned that illegal harvests had increased by more than 40% during that period. Wood balance analysis supports these more pessimistic experts, suggesting that illegal harvest increased by 55% during that time. It may be that those respondents giving the most pessimistic assessment were considering small-scale unlicensed artisanal logging, whereas those giving more optimistic assessments were thinking only in terms of industrial harvesting.

Half the respondents felt that illegal logging by concessionaires had reduced in the last year, and less than 10% believed it had worsened. A majority of respondents considered all other aspects of the problem had remained unchanged. For all these other areas, slightly more respondents felt that matters had improved than believed things had worsened – with the exception of illegal logging by unauthorized companies, in the case of which a large minority (30%) felt that the situation had worsened and very few thought it had improved.

#### *Drivers of recent improvements; impacts of VPA*

A wide range of factors were cited by respondents as having been important in driving improvements in the last year. Some 80% of respondents considered that the negotiation and implementation of the FLEGT VPA was at least a minor factor in driving improvements, although the most important factor identified was information supplied by local and international NGOs. Surprisingly (given the DRC still has very large areas of intact primary forest),<sup>88</sup> respondents felt on average that exhaustion of timber resources was at least as important a factor as the VPA. They may have been referring to exhaustion of the most prized species within active logging areas or near to major urban centres and transport routes.

## **Other measures of illegality**

#### *Independent monitor findings*

Between December 2010 and April 2013 an independent monitor was in place in DRC. With a mandate from the DRC government, the OI-FLEG carried out field investigations and reviewed data to identify and measure illegal activity in the forest sector and analyse the enforcement response. The OI-FLEG was not specifically required to collect data that can be used for measuring the extent of illegal logging nationwide and how this has changed over time. The limited time period during which the OI-FLEG was operational in the DRC also restricted the potential for doing this. Instead, the information collected by the monitor can only provide a snapshot or baseline of the scale of illegalities.

In total, the OI-FLEG visited 21 industrial logging sites between July 2011 and August 2012. This included 18 of the 28 industrial logging concessions that were active during the period (65%). The results demonstrate systematic illegal activity and breaches of regulations by industrial loggers in the country.<sup>89</sup>

During these investigations, it found 11 cases of failure to mark logs or stumps; six cases of logging above permitted volume; four cases of felling unauthorized species; four cases of failure to comply with social causes; four cases of failure to pay area tax; three cases of logging without a permit; three cases of logging under-diameter trees; and one case of logging without a concession.<sup>90</sup> In one of the most egregious cases, the monitor found that SIFORCO had exceeded its permitted

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<sup>88</sup> de Wasseige C, et al., (2012): *The Forests of the Congo Basin*, Table 1.4.

<sup>89</sup> REM, (2013): *Final Report of IM-FLEG in DRC*.

<sup>90</sup> Ibid.



logging volumes in two concessions in a manner that was ‘quasi-systematic and massive’, with an excess of 12,000 cubic metres recorded in the first few months of 2011 alone.<sup>91</sup> One of the concessions involved had nevertheless been able to obtain an FSC CW certificate, which was supposed to guarantee legality. (This was later withdrawn – see pp. 18-19) Another company was found to be cutting trees more than 12 kilometres outside its concession area.<sup>92</sup>

The OI-FLEG emphasized that since its investigations at any particular logging site are by no means exhaustive, this catalogue almost certainly does not capture all of the illegalities that have been taking place. It nevertheless paints a sobering picture of the poor level of legal compliance.

Additional data and analysis from the OI-FLEG related to enforcement, revenue collection and artisanal logging are detailed elsewhere in this report.

### *Illegal industrial artisanal logging*

The most blatant form of illegality with regard to industrial logging in the DRC in recent years has been the widespread misuse of artisanal logging permits. These permits are supposed to be issued for small-scale logging by DRC nationals using simple technology. Since 2010, however, they have been issued illegally to companies for industrial logging, circumventing the moratorium on issuance of industrial logging licences that has been in place since 2002.

Examination of documentation related to artisanal permits by the OI-FLEG showed that of the volume licensed between 2010 and 2012, 94% (77,800 cubic metres) had been issued illegally to a company instead of an individual. The OI-FLEG field investigations at artisanal logging sites also demonstrated that authorized volumes not being respected, logs not properly marked and taxes not being paid. The independent monitor concluded in early 2013 that during its two year term, it had ‘not encountered one example of artisanal logging that could be considered strictly legal’.<sup>93</sup>

Additional investigations by local and international NGOs have further documented the problems with abuse of artisanal logging permits. A 2012 report by Global Witness documented up to 10 different breaches of regulations in the issuance of these permits, and field investigations uncovered evidence suggesting that permitted volumes were being substantially exceeded. Global Witness described official oversight of compliance with permitted artisanal logging as being practically non-existent.<sup>94</sup>

Data collected from the MECNT by Chatham House for this report shows that volumes of artisanal logging licences being issued have declined from a peak in 2010. In 2012 permits were issued for around 23,000 cubic metres of harvesting.<sup>95</sup> During that year the DRC authorities did take some actions in response to the problems with artisanal logging licences. Three companies had a total of around 2,500 cubic metres of logs seized, and eight artisanal logging permits were revoked.<sup>96</sup> A ministerial decree clarified that the responsibility for issuing the licences lies solely with the provincial authorities. However, serious problems continue to exist.<sup>97</sup>

There are no published estimates of the volume of timber being illegally harvested under artisanal logging permits. Based on the volumes actually permitted, and the proportion of these that were issued illegally, at least 25,000 cubic metres per year are being illegally harvested under these permits. The industrial artisanal logging involved is highly geographically concentrated, with around 75% taking place in the province of Bandundu near Kinshasa and most of the remainder in

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91 REM, (2013): *Rapport de mission de terrain n°1*, [http://www.observation-rdc.info/documents/Rapport\\_REM\\_001\\_OIFLEG\\_RDC.pdf](http://www.observation-rdc.info/documents/Rapport_REM_001_OIFLEG_RDC.pdf).

92 Ibid.

93 REM, (2013): *Final Report of IM-FLEG in DRC*.

94 Global Witness, (2012): *The art of logging industrially in the Congo: how loggers are abusing artisanal permits to exploit the Democratic Republic of Congo's forests*, London: Global Witness.

95 DGF/MECNT, (2012): *Activity Report 2012*.

96 The three seizures were of 890 cu m from YIFA Sprl, 1,207 cu m from TERCO and 450 cu m from Song Ling Wood; the eight cancelled permits were issued to companies CAB and CEBA, and to individual Ets Ngoy Ndjolo in late 2011 and early 2012. All of these enforcement actions were in Bandundu province. The TERCO and YIFA cases were subsequently prosecuted and fines issued. (Source: MECNT data collected by partner for Chatham House.)

97 REM, (2013): *Final Report of IM-FLEG in DRC*; Greenpeace, (2013): *Cut it Out: Illegal logging in the DRC*.

neighbouring Equateur.<sup>98</sup> While individual case studies suggest that permitted volumes are being exceeded, this is impossible to quantify precisely. Even if the true volumes are between two and three times the licensed volumes, however, they would still be dwarfed by both official industrial production (300,000 cubic metres per year) and unlicensed artisanal logging for domestic markets (2.2 million cubic metres per year).

## Summary

Using all of the information collected by Chatham House, it is possible to classify timber harvesting in the DRC under a number of major categories in terms of legality (see Figure 5). This shows that the vast majority of timber harvesting in the DRC currently (87%) is small-scale artisanal logging. All of this logging is 'illegal' in that it does not comply with national laws, although it is often described instead as 'informal'. While most artisanal timber is consumed within the DRC, a significant minority (at least 10%) is exported to neighbouring countries.<sup>99</sup> The amount of this timber that is being harvested is increasing rapidly, along with the urban population and increased GDP: Chatham House estimates (extrapolating from surveys of consumption in urban centres carried out in 2009<sup>100</sup> and 2012<sup>101</sup> – see pp. 21-22) that the volume thus harvested in 2011 was more than double that harvested six years earlier. The proportion that it represents of total national harvesting also increased slightly between 2005 and 2011 (see Figure 5). As many studies and most observers have agreed, given its importance in employment and incomes, and in the absence of alternative timber sources, the answer to this logging is to seek to formalize rather than eradicate it.

By comparison with the unlicensed 'real' artisanal logging, the recent surge of illegally licensed industrial logging occurring under artisanal logging permits (see pp. 25-26) represents quite a small percentage of total logging in the DRC (see Figure 5). The majority of industrial logging is still being carried out under concession licences. While this logging is carried out under licence, the information from the investigations of the OI-FLEG (see pp. 24-25) suggests that much – or perhaps most – of this timber is illegal in some way. Since 2005 a small proportion of this logging has been independently verified as legal; however, given recent events in the concessions concerned (see pp. 18-19), this timber cannot be considered risk-free either. At present, it is unlikely that any of the DRC's timber production could plausibly meet EU due diligence requirements.

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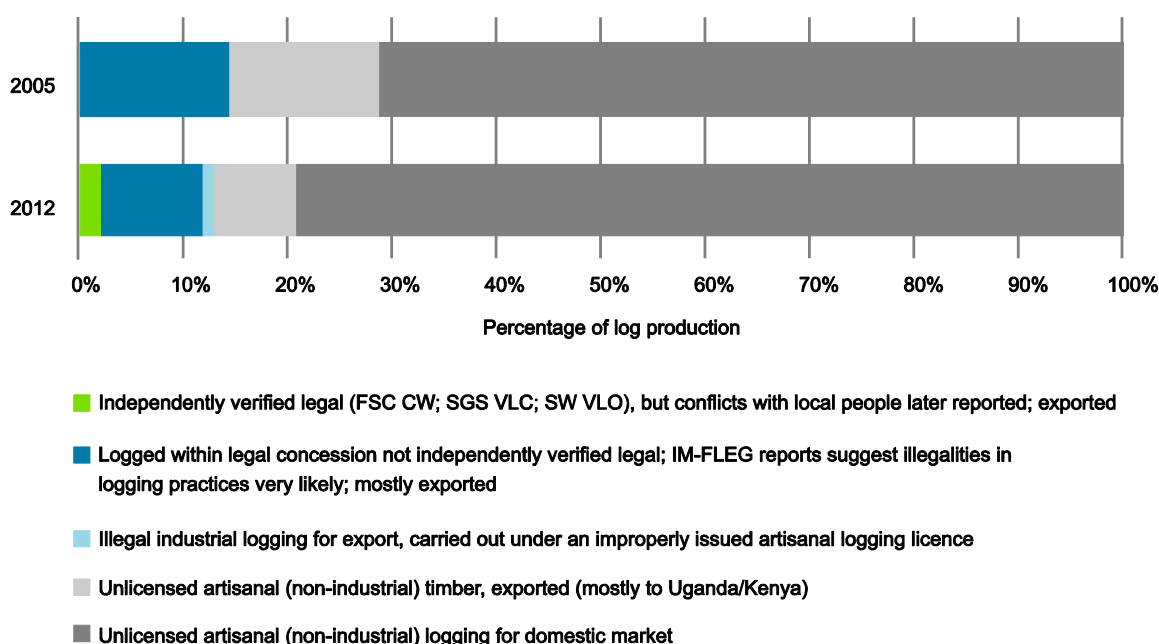
98 DGF/MECNT, (2012): *Activity Report 2012*.

99 See Forests Monitor, (2007): *Timber Trade and Poverty Alleviation in the Upper Great Lakes Region*; WWF Uganda, (2012): *Timber Movement and Trade in Eastern Democratic Republic of Congo, and Destination Markets in the Region*.

100 Mbemba M., et al., (2010): *Étude sur l'approvisionnement de la Ville de Kinshasa en bois d'oeuvre informel*, cited in Lescuyer, G. et al., (2010): 'Le secteur informel du sciage artisanal en RD Congo : L'enjeu d'une analyse nationale' in Benneker et al., (eds) (2012): *Le bois à l'ordre du jour: Exploitation artisanale de bois d'oeuvre en RD Congo : Secteur porteur d'espoir pour le développement des petites et moyennes entreprises*.

101 Chatham House analysis of provisional survey results from Cerutti, P., et al, (2013): 'Exploitation artisanale du bois d'oeuvre en RDC'.

**Figure 5: Typology of log production in the DRC, 2005 and 2011 (proportion of timber volume harvested)**



Source: Volume of production independently verified as legal in 2011 estimated as 20% of total licensed harvest (DGF data), based on proportion of licensed harvesting area independently verified (see pp. 18-19); volume of logging within legal concessions not independently verified legal estimated as the balance (80%) of total licensed harvest; illegal industrial harvesting under artisanal licence in 2011 estimated at 25,000 cubic metres RWE (see pp. 25-26); volume of unlicensed artisanal logging for export assumed to be 200,000 cubic metres RWE in 2011 (based on WWF Uganda, 2012), and 175,000 cubic metres RWE in 2005 (based on Forests Monitor, 2007); volume of unlicensed artisanal logging for domestic markets estimated based on surveys of domestic markets (see wood balance analysis on pp. 21-22).

## CONCLUSIONS AND RECOMMENDATIONS

The DRC is one of the world's poorest countries and is recovering from recent nationwide conflict. Corruption in the DRC is reckoned to be among the worst in the world, and all key general governance indicators are low. In this context, it is perhaps no surprise that forest governance is very poor. Governance of other sectors is as bad or worse. On the other hand, industrial logging and forest conversion in the DRC remain relatively limited compared with the scale of the country's forests. Unlike some other tropical forest countries, there is still a lot of valuable forest worth saving, and the pace at which what remains is being degraded and destroyed is still sufficiently slow that there is time to turn things around.

The 2002 Forest Code provides a good platform on which to build a system of good forest governance (something that cannot be said of core forest law in many other countries), and the moratorium on new industrial logging concessions continues to provide vital breathing space during which forest governance can be improved. Reform of the forest sector has slowed almost to a standstill in recent years, however, and renewed political will is needed in order to reinvigorate the process.

There are major deficiencies in all aspects of forest governance. Priorities for improvement should include increased transparency, completion of the regulatory framework and improved enforcement of regulations governing industrial harvesting. The new chain of custody system must be expanded nationwide.

Another important focus should be the improved collection of forestry taxes and fines (the details of which have been outlined by the OI-FLEG), since this could substantially increase the resources for

forest administration and result in a positive feedback loop. Donor assistance will continue to be needed for the foreseeable future, however. The moratorium on new industrial logging licences in the DRC must be retained and enforced until the legal framework is complete and governance substantially improved. A restoration of high-quality independent monitoring of forest law enforcement and governance is also essential, and must be supported by donors and government.

Experience from other countries has demonstrated that the negotiation and implementation of a FLEGT VPA can serve to address many of the deficiencies in forest governance outlined in this report. This study suggests that the VPA in the DRC is already having a small beneficial effect, even though it has yet to be finalized or implemented. The DRC and the EU must continue to work towards negotiating and agreeing a FLEGT VPA, but recognize that a huge amount of work will be needed before legality licences can be issued and resist pressure to ignore issues or weaken standards in order to speed things up.

Although appropriate attention should continue to be paid to export-led industrial logging, it must also be recognized that the majority of harvesting in the DRC is currently illegal artisanal logging for domestic and regional markets. It is important that steps are taken to bring this large industry under formal control. The draft Community Forestry Decree is a key measure which (if properly formulated and implemented) could serve to formalize domestic timber supplies. It must be signed into law; and a huge effort must be made by government and donors to fast-track its widespread and effective implementation, avoiding the mistakes made with similar legislation in Cameroon. In relation to industrial logging, a new deadline must be set for the remaining original industrial logging concessions to complete the conversion process, and those that fail to meet that deadline must be cancelled. Any illegally issued artisanal logging licences that remain valid should be revoked.

## **ABOUT THE AUTHOR**

Sam Lawson is an independent researcher and founding director of Earthsight, an organization that specializes in researching and investigating environmental and social crime and injustice. He has been researching and investigating illegal logging and associated trade for 15 years, for various international NGOs and development agencies, and is the author of a number of influential reports on the subject. He has researched illegal logging in many countries across Asia, Latin America and Africa, and has been actively engaged with international initiatives to tackle the problem. In his role as Associate Fellow within the Energy, Environment and Resources Programme at Chatham House, he led the organization's work on illegal logging indicators between 2006 and 2013.