



global witness

# EXPORTING IMPUNITY

How Congo's rainforest is illegally  
logged for international markets

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## EXECUTIVE SUMMARY

Democratic Republic of Congo (DRC) is home to vast swathes of the world's second largest rainforest. A critical resource on which the livelihoods of millions depend, it is also a habitat for countless species, and of crucial importance to the global climate. One of the major threats facing this forest comes from illegal and uncontrolled logging, which has also sometimes been associated with alleged human rights abuses against local populations. This report shows that illegalities are rife across DRC's logging sector and that government oversight of logging operations is almost non-existent. Laws introduced in the EU and US to reduce demand for illegal timber are so far having little impact. At least US \$21 million (€ 19.5 million) worth of high-risk timber was shipped to those markets from DRC in 2014.

Independent Forest Monitors, mandated by the DRC government and funded by the European Union, have undertaken monitoring missions to dozens of logging operations since 2011. Civil society organisations, both Congolese and international, have also produced several reports documenting breaches of the law in logging concessions. This report includes a full analysis of monitoring missions undertaken between 2011 and 2014 to give the most comprehensive picture yet of the nature and extent of illegal logging and associated human rights

abuses in DRC. This detailed research is brought together for the first time with data on the international trading routes for DRC timber, showing the global reach of DRC's tainted timber business. **This shows how all industrially logged timber being harvested in the DRC and traded internationally should currently be regarded as at a very high risk of being illegal.**

Illegal logging in DRC has often been portrayed as being limited to the 'artisanal' timber sector, but surveyed experts suggest that it is illegal industrial logging that is acting as a major driver of forest degradation and deforestation. A thorough examination of the evidence reveals that illegalities are also widespread in the country's industrial logging concessions, where companies are plundering DRC's forests to export timber to international markets on a large scale.

Independent monitoring missions found illegalities in every industrial logging concession that they visited between 2011 and 2014. The abuses documented range from the non-payment of taxes; logging outside of permitted areas or far in excess of permitted volumes; fraudulent marking of timber; and flouting rules intended to promote "sustainable" logging. An examination of the logging contracts in place shows that over a dozen have been awarded in contravention of the legal framework, and many others appear to lack legally-required annexes such as a forest management plan or social agreement.



In a number of cases loggers have been accused of complicity in human rights abuses committed by the police against communities, including beatings and rapes, and in one case the death of a community member. These incidents have in general followed protests about companies' failure to respect social agreements signed with forest communities. Such disputes are common. Six of the 15 companies inspected by independent monitors were found to be in breach of their social agreements.

This situation is aggravated by an almost complete lack of government enforcement of laws designed to protect DRC's forests. Extremely weak government oversight, compounded by the vast and remote nature of DRC's rainforest means that these reported violations are likely to be just the tip of the iceberg. There are too few inspectors, they are ill-equipped and face huge logistical challenges. Fines are so low that Independent Forest Monitors have stated that they actually incentivise logging illegally.

The European Union Timber Regulation came into force in March 2013, banning companies from placing illegally harvested timber and wood products on the EU market, and requiring them to exercise due diligence in order to mitigate risks to a negligible level that timber has been illegally harvested. Similar laws are also in place in the US and Australia.

But despite these new laws, and a wealth of evidence of illegal logging, international traders are seemingly undeterred by the high-risk of sourcing from DRC. Analysis of trade data shows that, while much timber is now exported to China as the world's number one processing hub, Europe remains a significant market for Congolese timber. Our projections show that the EU accounted for just over 21% of DRC's direct timber exports in 2014, timber that is worth over US \$ 20 million (€ 18.6 million). France and Portugal remain the biggest recipients of DRC timber after China. Belgium, the UK and Spain each imported at least half a million US dollars' worth of timber from the DRC in 2014, as did the US, which introduced its own laws against imports of illegal timber in 2008.

In light of the extensive documentation in the public domain, buyers and enforcement authorities have no excuses for continuing to turn a blind eye to illegality and abuses on such a massive scale. A rigorous enforcement of timber trade laws in importer countries would be dissuasive, leaving non-compliant companies open to reputational damage, confiscation of timber, and even criminal charges. In this way, authorities could substantially contribute to promoting respect for the rule of law, both in their own countries and in DRC, while protecting one of the world's last primary tropical rainforests.

# RECOMMENDATIONS

## To the DRC government:

- Maintain the moratorium on the allocation of new logging concessions, on the grounds that officials of the Environment Ministry do not currently have the means and capacity to police widespread illegalities in the sector.
- Impose deterrent sanctions as laid out in the legal framework, including the revocation of logging concessions that have not been attributed in line with the law or where repeated illegalities occur<sup>1</sup>.
- Report publicly on the outcome of cases filed against companies as a result of joint missions undertaken by forestry officials and Independent Forest Monitors.
- Draft a plan of action to tackle failures in forest governance including ultra vires decision-making by government ministers (as occurred during the conversion process), for broad consultation with concerned parties and forest sector donors.

## To international timber traders and importers:

- Conduct proper due diligence or due care in relation to all sourcing of timber or derived products that originate in DRC. This means identifying the types of illegality that are common in DRC, many of which are summarised in this report, and seeking positive proof that these are not occurring in the concession of origin, for example through a full independent audit.
- In order to comply with the requirements of the relevant EU, US and Australian legislation, to abstain from importing into those jurisdictions timber or derived products that is illegal or at risk of illegality. All timber from DRC should currently be seen as having a very high risk of illegality.
- Companies importing manufactured wood products such as furniture, flooring or joinery from major processing nations like China should ensure they are able to establish where the timber was originally harvested. If those products contain timber species that are common in DRC, such as Wenge, Tola, Padouk and Sapelli, these should be considered at risk of illegality until proven otherwise. Companies should conduct exactly the same standard of risk analysis and mitigation as if they were importing raw timber directly from DRC.
- Refrain from importing the CITES-listed species Afrormosia given that the DRC is currently banned from exporting CITES species.

## To Competent Authorities under the EU Timber Regulation:

- Actively investigate EU timber importers who are sourcing timber from DRC or derived products, with a view to establish (a) whether they are guilty of importing illegal, timber or derived products and (b) whether they have established and are applying a due diligence system that mitigates the risk of illegality to a negligible threshold. Given the prevalence of illegal harvesting and corruption in DRC—documented herein and elsewhere—only on-the-ground, third-party verification may serve as an effective risk mitigation strategy.

## To the US Fish and Wildlife Service:

- On the basis of the widespread illegalities laid out in this report, to conduct an investigation of US timber importers that are buying timber from DRC or derived products to ascertain their compliance. As set out above, given the prevalence of illegal harvesting and corruption in DRC—documented herein and elsewhere—only on-the-ground, third-party verification may serve as an effective risk mitigation strategy.

## To Chinese authorities:

- As an interim measure, ensure that the State Forest Administration's forthcoming guideline on timber trade and investment contains a clear statement that Chinese companies that import, trade and process wood must not purchase illegal timber and that companies using timber from high risk areas must carry out thorough due diligence on their supply chains. This due diligence should include companies reporting publicly on what checks they carry out and the findings these checks yield.
- Introduce legislation which prohibits the import, trading and processing of illegally harvested timber and products derived from such wood, and which contains a requirement that companies using timber from high risk areas carry out thorough due diligence on their supply chains. This due diligence should include companies reporting publicly on what checks they carry out and the findings these checks yield.

# INTRODUCTION

Democratic Republic of Congo (DRC) has become a country synonymous with conflict, weak or failing institutions and endemic poverty. But it is also a country with abundant natural resources, including vast swathes of the world's second largest rainforest. In addition to supporting millions of people, this forest is a critical habitat for many animal species, and of crucial importance to local, regional and global climates. Nonetheless, it is under serious threat.

With a complete absence of forest law enforcement and sanctions for those who violate them, logging companies have had free rein to plunder the rainforest for decades, with scant regard for its human or environmental consequences.

Corruption runs high. DRC was ranked 154th out of 175 countries in Transparency International's 2014 Corruption Perception Index<sup>2</sup>. The forestry sector is no exception, with Resource Extraction Monitoring (REM) – at that time the DRC's officially mandated Independent Forest Monitor (IFM) – reporting in 2013 that the general lack of forest transparency in the DRC “encourages and maintains an environment in which corruption can persist”<sup>3</sup>.

The sector is marked by the legally questionable allocation of logging titles and widespread illegalities in terms of forest management and logging operations. A lack of law enforcement and an environment of impunity persists. In the words of one IFM report, “law enforcement failures can be seen at virtually all levels and take a multitude of forms; it is, however, rare for legal proceedings to be commenced, which undermines the credibility of the law in the eyes of the different actors, resulting in widespread fraud and illegal logging”<sup>4</sup>.

This report demonstrates why, on the basis of the evidence available, all industrially logged timber in the Democratic Republic of Congo (DRC) should currently be regarded at a very high risk of being illegal.

The report's findings are based on inspections carried out between 2011 and 2014 in twenty-eight forestry concessions across DRC, half of the country's total concessions, operated by the country's biggest logging companies. These inspections were carried out by REM, the Independent Forest Monitor (IFM) officially mandated between 2010 and 2013, by the DRC-based *Observatoire de la Gouvernance Forestière* (OGF), which took over as the IFM in 2013, and by five reported inspections by civil society and community-led forest monitors. This detailed research is brought together for the first time with data on the international trading routes for DRC timber, showing the global reach of DRC's tainted timber business.

Twenty-four different types of illegalities were found during these inspections (see page 15). More shockingly, illegalities were found in every logging title or concession visited by independent monitors.

On this basis, Global Witness urges the DRC government and relevant international law enforcement agencies to ramp up law-enforcement measures against companies illegally harvesting DRC timber, as well as those who illegally trade in this timber internationally. Global Witness also urges international buyers to acknowledge that DRC tropical timber is contributing to a culture of corruption and impunity within DRC.





### Box 1: Impunity in DRC's logging sector: why it matters

#### Communities are paying the price

The livelihood of an estimated 40 million people in DRC are linked to the country's forests, but industrial forest exploitation inhibits their socio-economic prospects through the depletion of the fundamental resources on which they depend. Social agreements, already with tenuous development prospects, are negotiated by logging companies with local communities, only to be breached afterwards. This not only denies local communities the few benefits they have been promised, it also generates conflicts that can result in violence and human rights abuses against community members.

#### The environment is being degraded

The Congo Basin contains the world's second largest rainforest—a life-giving resource not just for millions of the region's inhabitants, but through its climate-regulating functions, for the planet as a whole. Over half of this forest is located in the Democratic Republic of Congo (DRC), accounting for seven percent of the world's total tropical forest area.\*

DRC suffers from one of the highest deforestation and degradation rates in the Congo Basin, and the problem is getting worse—a cause for alarm given that it has the fifth greatest diversity of animals and plants in the world, and its forests are home to a number of large mammals found nowhere else, including the okapi, eastern lowland gorilla bonobo, and forest elephant.\*\*

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

\*\* Sam Lawson (Chatham House), Illegal Logging in the DRC, 2014, p2;

Table 1: IFM mission reports analysed

Report	Concessions visited	Government mandated or non-mandated mission.
REM, Rapport de Mission 1, July 2011 <sup>5</sup>	CFT (047/11 formerly GA 018/03), La FORESTIERE (003/11 formerly GA 002/93), TRANS-M (018/11 formerly GA 033/05, GA 035/05), SAFBOIS (008/11 formerly GA 091/03, 034/04), FORABOLA (042/11 formerly GA 011/03), SIFORCO (GA 025/04, 029/11 formerly GA 002/89), SODEFOR (036/11 formerly GA 023/03).	Mandated
REM, Rapport de Mission 2, October 2011 <sup>6</sup>	NBK Service (011/11 formerly GA 041/05), SODEFOR (061/14 formerly GA 019/03, 035/11 formerly GA 021/03, 039/11 formerly GA 028/03), ITB (005/11 formerly GA 002/01).	Mandated
REM, Rapport de Mission 4, August 2012 <sup>7</sup>	BAKRI BOIS CORPORATION (004/11 formerly GA 045/04), ITB (012/11 formerly GA 030/05), SOFORMA (015/11 formerly GA 005/03), SCIBOIS (020/11 formerly GA 093/03).	Mandated
OGF, Rapport de Mission 1, October 2013 <sup>8</sup>	LA FORESTIERE (003/11, formerly GA 002/93), COTREFOR (018/11 formerly GA 033/05), FORABOLA (042/11 formerly GA 011/03), SODEFOR (037/11 formerly GA 020/03).	Mandated
OGF, Rapport de Mission 2, April 2014 <sup>9</sup>	SEDAF/SIFORCO (052b/14 formerly GA 002/98), SAFO (010/11 formerly GA 001/95), COTREFOR (GA 035/05), SIFORCO (GA 025/04).	Mandated
GASHE, Les illégalités dans l'exploitation industrielle du bois dans la province de l'Equateur, May 2014	SICOBOIS (033/11 formerly GA 032/04, 014/11 formerly 042/04), COTREFOR (009/11 formerly GA 34/05), COTREFOR (GA 035/05), SODEFOR (036/11 formerly GA 023/03) et SOFORMA (043/11 formerly GA 008/11)	Non-mandated
Global Witness, Greenpeace, GASHE, RRN, Briefing Note: Legal concerns regarding timber from the logging concession of Bakri Bois Corporation (Democratic Republic of Congo) in relation to enforcement of the EUTR, September 2013.	BAKRI BOIS CORPORATION (004/11 formerly GA 045/04)	Non-mandated
CRONGD Bandundu, field reports submitted to Global Witness, 2014.	ITB (005/11 formerly GA 002/01), Compagnie de Bois (021/11 formerly GA 018/95)	Non-mandated
Global Witness, Rapport d'Investigation des Opérations Forestières et réalisation des Contrats des Obligations Sociales, July 2013. (Submitted to Minister of the Environment).	SICOBOIS (033/11 formerly GA 032/04, 014/11 formerly GA 042/04), SODEFOR (036/11 formerly GA 023/03), COTREFOR (GA 035/05), SEDAFA/SIFORCO (052b/14 formerly GA 002/98)	Non-mandated
Greenpeace, Import of timber from the DRC: high risk business for Europe: A case study in the port of Antwerp: the blocking, investigation and subsequent release of illegal Afrormosia wood for Belgian timber traders (Analysis of legal issues related to Tala Tina logging title), June 2013 <sup>10</sup> .	TALA TINA (GA 003/04)	Non-mandated



## SECTION 1

# DRC'S INDUSTRIAL LOGGERS: A CATALOGUE OF ILLEGALITY

The existence of illegal logging in DRC is no secret. But while the problem is often portrayed as being confined to the “artisanal” logging sector<sup>11</sup>, a closer examination reveals that illegalities are rampant in industrial logging concessions, where companies are plundering DRC's forests to export timber to international markets. Surveyed experts agree that it causes major forest degradation and deforestation<sup>12</sup>. These companies currently control around 110,000km<sup>2</sup> of rainforest, an area the size of Bulgaria.

## Inspections by independent forest monitors found illegalities in all logging operations visited between July 2011 and May 2014

Foreign-owned, industrial logging companies extract around 113,000 metric tonnes of timber every year, worth an estimated US \$ 95 million<sup>13</sup>. Few benefits from this multi-million dollar business remain in DRC, the second poorest country on earth<sup>14</sup>.

Nearly all industrial logging and timber exports from DRC are, at first glance, ‘licensed’ in some way, and may therefore appear legal. Nevertheless, in logging concessions visited by expert observers, companies have been found in breach of the norms and regulations set out in the country's Forest Code and other legal texts. Inspections by independent monitors found illegalities in all logging operations visited between July 2011 and May 2014. Abuses range from incorrect documentation, to an absence of legally required log markings, to violations of social, environmental and fiscal obligations. Since around half of the country's logging operations have never been visited by official or civil society monitors, there is therefore no authoritative evidence that these operations are compliant with the law.

Although a variety of documentation is provided to international buyers as proof of legality, in view of the persistent culture of corruption and impunity in the country, as well as the abundant evidence presented in this and other independent reports, it would appear that none of DRC's current timber production meets international timber trade laws<sup>15</sup>.

But now, thanks to the sheer amount of field research carried out by independent forest monitors and civil society organisations on these illegalities—freely available to anyone involved in DRC's timber trade—companies and law enforcement authorities can no longer turn a blind eye to the systematic plundering of one of DRC's most precious resources.

## The logging concession system

There are currently 57 industrial-scale logging concessions in DRC<sup>16</sup>, covering an area of 10,840,328 hectares. The law requires holders of these titles to have a five-year logging management plan, and contractual social agreements with communities affected by their operations to fund roads, schools, clinics or other social projects<sup>17</sup>. In addition, they must obtain annual cutting permits, and are required to develop a full 25 year forest management plan within four years of signing their concession contract. Since 2002 a moratorium has been in place that prevents the Environment Ministry from handing out new logging concessions<sup>18</sup>.

Six logging companies are responsible for over 70% of all timber exports from DRC<sup>19</sup>. Of these, just two—SIFORCO (previously a member of FSC) and SODEFOR—are responsible for around half of all officially recorded harvesting and exports. Both stand accused of human

rights abuses, and along with several other industrial loggers in DRC, are also reportedly responsible for a long list of violations of DRC's forest laws.

## Logging with artisanal permits

A second type of permit—the Artisanal Logging Permit (ALP)—was created in 2006<sup>20</sup> to regulate and formalise the small-scale, artisanal logging sector. However, the illegal abuse of these permits for industrial and semi-industrial logging has been well documented<sup>21</sup>. According to a review of artisanal permits conducted by the official Independent Forest Monitor, 94% of ALPs were allocated illegally between 2009 and 2011, as the permits were issued to companies instead of individual artisanal loggers<sup>22</sup>. This category of logging permit currently makes up a small but significant proportion of the Congolese timber reaching the international market—and in particular China—accounting for around 10% of total exports.

“Although logging companies are the main perpetrators of infractions, they are primarily exploiting the lack of state presence on the ground, the authorities’ lax attitude with regard to violations of the regulatory and legislative texts, the lack of monitoring, and the derisory financial penalties. All these factors combined result in a proliferation of illegal logging.” Source: REM, Independent Forest Monitor, 2013





## Box 2: Due diligence: what it requires

Due diligence requires traders to know the origin of the timber they trade in-sometimes down to the concession of harvest-the species, and other evidence of whether it was produced in line with the laws of the country where it was harvested. Companies placing timber or wood products on the EU market have sole responsibility for carrying out due diligence in accordance with the EU Timber Regulation (EUTR) (see Box 7). Certification schemes do not remove the traders' responsibility to carry out due diligence, and traders must take into account the overall risk of illegal logging in the country of harvest.

Risks must be identified and reduced, including assessing the country of origin's corruption level, as well as examining business risk indices or other governance indicators. An understanding of the country's forest laws and ways in which they are most commonly broken is also necessary. A logging permit, concession contract or export permit alone should not be viewed as proof of legality, particularly when it comes to timber sourced in countries where breaches of forest law are widely documented. The EUTR requires that due diligence systems include the following:

- Access to relevant information about the timber (e.g. species, origin, information indicating legal harvest),
- Assessment of the risk that the timber was logged illegally (criteria for assessment including the prevalence of illegal harvesting and complexity of supply chain),
- Mitigation of the risk, if the identified risk is greater than negligible.

# OPEN SEASON ON DRC'S FORESTS: WEAK REGULATORY ENFORCEMENT

With unfettered access of foreign companies to the spoils of industrial logging matched only by the almost complete lack of government enforcement of laws designed to protect this natural resource, the country's former official Independent Forest Monitor has described the DRC's forest sector as marked by the "proliferation of illegal logging"<sup>23</sup>.

Without exception, IFM missions to DRC logging concessions (see Box 3) have found legal violations. Extremely weak government oversight is compounded by the vast and remote nature of DRC's rainforest. The violations documented so far are likely to be just the tip of the iceberg.

## Causes of weak enforcement

Global Witness' 2007 study on forest governance<sup>24</sup>, undertaken at the request of the DRC government, found a complete absence of meaningful control by the forest authorities, leading to an "anarchic situation" in the sector. There has been little improvement in the level of enforcement since then. REM, during its tenure as IFM from 2011 to 2013, confirmed these findings<sup>25</sup>. In 2014 insufficient political will and corruption were the two factors that most respondents, in an expert survey by Chatham House<sup>26</sup>, saw as the greatest impediments to improving the government's management of the forestry sector.

**"During its two-year term, the IM has not encountered one example of artisanal logging that could be considered strictly legal."**

Source: REM, Independent Forest Monitor, 2013

The main causes of the regulatory void in DRC's forests include:

- An absence of logging oversight by the authorities—there are too few inspectors, they are ill-equipped and face huge logistical challenges. According to DRC's Independent Forest Monitor, "(logging) concessions are often isolated, and the only vehicles available there belong to the loggers. Inspection missions are therefore dependent on the goodwill of those loggers"<sup>27</sup>. The number of personnel is woefully insufficient. For example, in the forest province of Equateur there are only two sworn forest inspectors or one per 169,594km<sup>2</sup>, an area equivalent to the size of Tunisia<sup>28</sup>.
- The chain of custody control system currently being piloted in some areas is not fully operational, so there is no traceability mechanism to verify a company's claims as to the timber's origin<sup>29</sup>. The risk of corruption is high and authorities cannot be relied upon to detect illegalities.
- Penalties, even if applied, are too weak to act as a deterrent. Fines for illegal logging are so low that they have been described by officially-mandated forest monitors as "actually motivating companies and individuals wanting to operate illegally"<sup>30</sup>. Loggers are meant to be fined US\$8 for the illegal logging of a cubic metre of tropical timber that could be worth over a hundred times that amount<sup>31</sup>. Moreover they are rarely collected as required by law. In the few cases where laws are enforced, the "out-of-court fines" are generally informal—"akin to corruption"—and often in "complete violation of the existing law" according to the IFM's analysis<sup>32</sup>. No industrial loggers have had their titles revoked, despite numerous breaches of the law, including those referred to in this report.



A logging barge in Bandundu province, DRC. © Global Witness

### Box 3: Inspections on which this report is based

Since 2011 DRC has had an officially mandated Independent Forest Monitor (IFM), whose role is to monitor and report on illegal logging and to make recommendations on how it can be addressed. The IFM's role is officially recognized by DRC's Environment Ministry, government inspectors accompany each field mission and various inspection reports are adopted by a reading committee that includes a number of government officials. The work of the IFM has been funded by the European Union and DfID. From 2011 to 2013 the role of IFM was played by Resource Extraction Monitoring (REM), a UK NGO, after which time it was taken over by *Observatoire de la Gouvernance Forestière* (OGF), a DRC-based organization.

Between July 2011 and May 2014, the IFMs carried out joint inspections with the National Control Brigade (NCB) on 22 logging titles or concessions. Civil Society and community-led monitors visited six further titles (see Table 1 for full references). In total, this represents around half of allocated logging titles. Between them, the 15 logging companies visited hold titles or concessions covering 82% of the forest area allocated to industrial logging.

Illegalities presented in this report are based on independent monitoring missions conducted by:

- REM Between July 2011 and August 2012 carried out four joint missions with the National Control Brigade (NCB), inspecting 17 titles held by 11 logging companies. In addition, they inspected seven 'artisanal' logging titles held by different companies.
- In October 2013, REM's successor as Independent Monitor, local NGO OGF carried out one joint mission with NCB to four logging concessions in 2013. A second OGF mission took place in April 2014.
- Local and international civil society organisations, including Congolese NGOs CRONGD and GASHE, and international NGOs Global Witness and Greenpeace, which have conducted a number of research visits to Bandundu and Equateur provinces.

# SIX COMMON WAYS DRC'S INDUSTRIAL LOGGERS BREAK THE LAW

Field visits and investigations by DRC's official Independent Forest Monitors, and civil society and community-led independent monitors (see Box 3) have revealed widespread, systemic violation of DRC's forest laws by industrial loggers.

In total such monitoring visits have been conducted to 28 of DRC's industrial logging concessions between July 2011 and May 2014 (see Table 1). Every single one of these visits uncovered legal violations of some description. However DRC is a vast country and there are considerable logistical challenges involved in visiting its forest regions. As a result almost half of the country's concessions have never been visited by independent monitors.

An analysis of existing IFM reports points to six types of illegality that are common across the industrial logging sector.

## 1. Logging companies routinely breach operational regulations

Forestry laws in DRC—designed to regulate when, where and how much loggers may cut, and to ensure some degree of traceability of the logs harvested—are routinely broken.

The range of operational infractions documented relate to the false or incorrect marking of felled timber, a failure to respect the authorised harvesting volumes of particular species, as well as logging without the necessary permits.

Over-harvesting of timber is widespread, underlining the lack of regard for environmental sustainability in the logging industry. Logging companies are required to obtain cutting permits that establish the volume of various timber species that they can harvest. Companies often seem to pay little heed to these legal limits. Independent Forest Monitor reports from 2011 and 2014 have documented the illegal over-harvesting of 39,291 m<sup>3</sup> of timber worth almost €8 million. Given that monitoring visits to DRC's logging concessions have been far from exhaustive, these figures are likely to represent the tip of the iceberg.

Legal problems are often found in relation to annual cutting permits, namely what the current Independent Forest Monitor OGF describes as “the non-respect of deadlines as specified in the regulations”<sup>33</sup>. The late request and delivery of annual cutting permits—including the retrospective granting of permits after logging has begun—is extensively documented in IFM reports. For example, Global Witness documented one example of a 2012 permit that was issued to the logging company

Table 2: volume and value of illegally harvested timber from industrial loggers documented by government-mandated IFM reports:

IFM report	Logging companies concerned	Volume of illegally logged timber	Value of illegally logged timber
REM Report 1, July 2011	La Forestière, SAFBOIS, TRANS-M, FORABOLA, SIFORCO	2,563.563 m <sup>3</sup>	€ 995,262
REM Report 2, October 2011	ITB, SODEFOR	2,397.919 m <sup>3</sup>	€348,880
REM Report 4, August 2012	FORABOLA, SODEFOR, COTREFOR	1,495.545 m <sup>3</sup>	€ 387,747
OGF Report 1, October 2013	SIFORMA, ITB	3,403 m <sup>3</sup>	€ 823,871
OGF Report 2, April 2014	SEDAF / SIFORCO, SAFO	29,431 m <sup>3</sup>	€ 5,391,031.79
<b>TOTAL</b>		<b>39,291.027</b>	<b>€ 7,946,791.79</b>

Sicoboïs in 2013, i.e. the year after the logging had taken place. The markings on logs that had already been felled had apparently been falsified by hand, so that they bore the new permit number. These allegations were submitted to the French authorities responsible for enforcing the European Timber Regulation (EUTR) in October 2013, which are currently examining them.

An analysis of existing independent forest monitoring reports reveals that of the 15 companies that were visited:

- 10 companies were found to have logged without authorisation,
- 9 were found not to have respected social agreements signed with local communities.
- 8 had violated regulations on the marking of logs and stumps for traceability purposes
- 7 logged in excess of the permitted volumes,
- 5 had committed documentary fraud or irregularities in establishing records.

The biggest companies—both with respect to area of forest under concession and timber harvested—CFT, FORABOLA, SIFORCO, SODEFOR, SOFORMA, COTREFOR, ITB and SICOBOIS, have all been identified as committing the most serious legal violations<sup>34</sup>, namely:

- logging without permits (CFT, FORABOLA, SIFORCO (SEDAF), SODEFOR, SOFORMA),
- logging of non-authorised species (FORABOLA, SODEFOR, SIFORCO (SEDAF), SOFORMA),
- non-marking of logs or falsification of log markings (ITB, SICOBOIS, SODEFOR, COTREFOR),
- exploitation of timber in excess of authorised volumes (FORABOLA, ITB, SIFORCO, SODEFOR, COTREFOR),
- under-payment of forest taxes (CFT, FORABOLA, ITB, SIFORCO (SEDAF), SODEFOR, COTREFOR),
- failure to comply with their social obligations in affected communities (CFT, ITB, SICOBOIS, SIFORCO, SOFORMA, COTREFOR).

Global Witness contacted these companies to allow them to respond to these accusations. SODEFOR SOFORMA and Forabola responded denying having logged without permits, and claimed they were up to date with their fiscal and social obligations. SODEFOR and SOFORMA added that the exploitation of unauthorised species was due to minor and 'acceptable' human error. SODEFOR and FORABOLA stated that overharvesting in their concessions was due to the system of cutting permits under-estimating the size of certain tree species, pointing out that this has been noted as an issue by the IFM. Indeed, the IFM has noted that the forest administration and logging companies disagree on the current system, and has proposed a new system which has nonetheless not yet been adopted by the administration<sup>35</sup>.

The 100-plus cases of illegalities and irregularities mentioned above can be grouped into 24 main types of violation. These are spread over five major categories of legal regulations that are in force (see graph, page 15):

- Logging operations, including pre- and post-harvest
- Obligations concerning documentation and traceability
- Lack of capacity to operate or links with illegal loggers
- Social obligations
- Fiscal responsibilities

## **2. Many of DRC's logging concessions do not have a proper legal basis**

Due to the chaotic nature of forest governance in DRC, the existence of a signed logging contract does not guarantee that a logging concession is operating on a solid legal basis. The legal prerequisites for a logging contract are, in many cases, missing<sup>36</sup>.

Many of the country's concessions were granted arbitrarily by a government Minister who did not have the legal right to do so. Over a dozen more concessions are operating without the legally-required social agreement signed with local communities, or without legally required forest management plans. In all, over half of the concessions in DRC have these kinds of question marks over their legal status (see Annex).

## Nature and extent of violation of regulations by 15 logging companies in DRC



### Box 4: The logging titles that were illegally converted by the Minister of the Environment in 2011:

APC/TEMVO (007/87)  
 BEGO CONGO (021/05)  
 ENRA (020/05)  
 ITB (001/04 and 030/05)  
 Mega Bois (088/03)  
 Motema (036/03 and 037/03)  
 Safo (001/95)  
 Sefoco (008/93 and 028/98)  
 Tala Tina (003/04)  
 Trans-M/COTREFOR (033/05, 034/05 and 035/05)

Note: Global Witness contacted the companies listed above to allow them to respond to these allegations. SAFO, MOTEMA and SEFOCO responded that although their titles were not recommended for conversion by the Inter-Ministerial Commission they did not believe that the subsequent intervention of the Environment Minister to declare the titles convertible was illegal. The companies added that their logging titles were the subject of "special observations" by the Commission, which led to their cases being re-opened by the Minister





## 15 illegally-allocated concessions

In 2006, a legal review of logging titles was initiated. During this review, undertaken by an inter-ministerial commission, every logging title was analysed and either cancelled or declared convertible into a logging concession that would be managed in line with DRC's 2002 Forest Code. In August 2014 the Environment Minister declared this process closed<sup>37</sup>.

The Environment Minister's remit during this review was restricted to informing logging companies about the commission's decisions<sup>38</sup>. The relevant law also established that the Minister should proceed to cancel the titles of companies whose request for conversion had been rejected by the commission<sup>39</sup>. However, after the commission's decisions were made in January 2011, the Environment Minister re-opened the cases of 16 titles found non-convertible and arbitrarily declared 15 of them convertible into logging concessions. This decision increased the area of DRC's tropical forest opened to industrial logging by 2,723,275ha to a total of 14,938,935ha—an increase of 22%. A legal analysis published by the EU-funded Independent Forest Monitor in April 2012 sets out the irregularities in the process with respect to the letter and spirit of the law<sup>40</sup>. A coalition of Congolese NGOs stated at the time that this decision was "incomprehensible" and "risk(ed) discrediting the reform process"<sup>41</sup>.

## Many logging companies appear to be logging without having legally-required forest management plans and social agreements

The 2002 Forest Code obliges logging companies, when they are awarded a concession, to conclude two important legal requirements: to produce a five-year Forest Management Plan (*plan de gestion*) approved by the DRC's Forest Ministry<sup>42</sup>, and to sign a social agreement (*clauses sociales*) with local communities outlining social projects to be funded by the company<sup>43</sup>.

However, many companies in DRC have been logging for years without either a forest management plan or a social agreement in place. More recently, some companies have claimed to have these agreements in place, but cite a failure of the Ministry of the Environment to publish the contracts as required by law<sup>44</sup>. This means it is impossible to verify the existence of certain legally-required documents. At the time of writing, of the 57 concession contracts in place (see Annex for details)<sup>45</sup>:

- 13 are not accompanied by a published five-year forest management plan;
- 8 are not accompanied by a published social agreement.



### 3. Logging companies are breaching their social agreements with local communities

As outlined above, the 2002 Forest Code obliges logging companies to reach social agreements (*clauses sociales*) with communities living near logging operations, in order to fund the construction of schools, clinics or other social projects for the benefit of the local population<sup>46</sup>.

The social agreement is one of the most frequently violated legal requirements in DRC, according to our analysis of IFM reports. Sometimes failure to respect these agreements leads to disputes with communities that have tragic consequences (see Box 5). These agreements are a fundamental requirement of all concession contracts signed by the Minister in charge of forests, but their implementation seems to be of very little concern to logging companies.

- 9 of the 15 companies inspected by independent monitors were found to be in breach of legal requirements related to their social agreements.

For example, a 2013 visit by the Independent Forest Monitor to a logging concession operated by COTREFOR<sup>47</sup> documented the company's apparent failure to respect the social agreement they had signed, namely by:

- Refusing to share key documents with the community, including logging permits, maps and data on how much timber they had harvested.
- Failing to build a primary school and community centre that were specified in the social agreement.

Other ways in which companies commonly breach their legal obligations include failing to include important annexes that are required by law, such as the timetable and budget for the projects to be financed. Another common legal issue is the failure of companies to make an up-front payment of ten percent of the total costs of the projects that are outlined in the social agreement. This payment is required by law<sup>48</sup>, but is often neglected by companies<sup>49</sup>.

## Box 5: Violation of forest communities' rights

In 2011 in a logging concession belonging to SICOBOIS the community of Popolo in Equateur Province, seized a truck, a bulldozer and two chainsaws belonging to the company after frustrations grew because of SICOBOIS failure to implement agreements signed with the local community in 2006 and 2008. As a result, military personnel and police were sent to the village and arrested the Village Chief, and nine other community members. Victims were detained, beaten, and subsequently released after three days in prison without charge after payment of 20,000 Congolese francs each<sup>50</sup>.

In October 2013, tension arose between SICOBOIS and the community of Mombilo-Mopita after the company failed to compensate the local community for the loss of farmland used by the company to build a new camp. In the wake of these tensions, SICOBOIS workers allegedly abducted a man and a young woman—both arrestees were beaten. The original hospital report states that the woman was also raped, but this was later redacted from the report<sup>51</sup>.

SIFORCO, a former DRC subsidiary of Swiss-based DANZER<sup>52</sup>, has been accused of similar abuses<sup>53</sup>. In late April 2011, the community of Bosanga, Yalisika, protested against SIFORCO's non-respect of a social agreement signed in 2005. At the time, SIFORCO was a member of the Forest Stewardship Council (FSC). After villagers seized material from the company's logging site, Village Chief Maurice Ambena Zaingali negotiated with SIFORCO to return the seized material against assurances that the company would comply with its contractual obligations.

But before the equipment could be returned, 60 military and police arrived in Bosanga in a SIFORCO truck in the early hours of 2 May. It was alleged that Mr Ambena was arrested and taken away in a SIFORCO vehicle, after which police and military personnel raped three girls (aged 12, 13 and 15) and three women. Numerous beatings ensued. Police and military went from house to house seizing and destroying property. At least one house was burned to the ground. One villager was reportedly beaten so badly while his arms were bound that he died of his injuries later the same day.

Fifteen villagers were arrested and loaded into a SIFORCO truck, and transported to Bumba prison. En route, the vehicle stopped at SIFORCO's site at Engengele, and according to eyewitnesses, the police and military received money from SIFORCO. On 6 May, the detainees were freed by order of the Prosecutor at the Court of Appeal in Mbandaka. At no point did they see a document stating the reason for their arrest.

With concessions now totalling almost 2.3 million hectares, SODEFOR is the largest logging company in DRC. One particularly violent conflict with the community of Mbelo, in Equateur Province, happened after villagers blocked the company's access road to protest the company's failure to respect the social agreement reached with the community. On 13 March 2006, naval force and police personnel arrived in two SODEFOR vehicles with SODEFOR's local manager. They broke into villagers' homes, destroyed furniture, and arrested, handcuffed and beat 37 men. Thirty-eight women were also raped. One of the villagers died shortly after he was released from prison following the attack<sup>54</sup>. The population hid for two weeks in the forest while police secured the withdrawal of all logs from the forest<sup>55</sup>.

In May 2011, police intervened at SODEFOR's request to quash a protest by villagers in Bokongo community. A number of protesters were detained and one, a villager, reportedly died as a result<sup>56</sup>.

Global Witness has contacted the companies concerned by these allegations. SODEFOR responded stating that they were the 'powerless victim' of these conflicts, and that they were not able to comment further on events that are currently before the Congolese courts. SICOBOIS and SIFORCO did not respond.



#### 4. Collusion with artisanal loggers to harvest timber illegally for export

Since 2012 a number of NGOs have documented a growth in the illegal use of 'artisanal logging permits'. These permits are designed for small-scale community based logging, but have been illegally issued to companies and used as a cover for industrial or 'semi-industrial' logging. The permits have been used primarily to target the endangered species *Wenge* (*Millettia Laurentii*), in particular by Chinese and Lebanese companies. This practice breaks the law in as many as ten different ways (see Box 6), according to investigations by Global Witness, Greenpeace and DRC's Independent Forest Monitor<sup>57</sup>.

DRC's forests have in recent years seen a boom in what is described as 'semi-industrial' logging. According to a 2012 REM report, such operations represented more than 90% of DRC's holders of artisanal logging permits, and "comprises foreign-owned companies with significant technical and financial resources who use logging permits normally reserved for artisanal operators (private and accredited Congolese individuals) to industrially log timber in local community forests"<sup>58</sup>.

Although around 90% of the timber exported from DRC originates from companies with logging concessions, rather than those using artisanal permits, there is evidence that certain concession-based loggers are linked with companies using such artisanal permits, for example by providing them with equipment<sup>59</sup>. Furthermore, there is evidence of timber cut using illegal artisanal permits

finding its way into the supply chain of concession holders. In 2013 for example logging company Tala Tina, which has a concession in Bandundu Province, exported a shipment of Afrormosia—a valuable species of timber protected under the Convention on International Trade in Endangered Species (CITES)—to Belgium. In fact, Afrormosia is not a species that is found in Tala Tina's permit area, and the company was shown to have bought the timber from an artisanal logger whose permits were of dubious legality. A complaint by Greenpeace to the Belgian Competent Authority responsible for enforcing the EU Timber Regulation (EUTR) was unsuccessful as CITES timber is exempt from the EUTR, an exemption that has been criticised as a weakness<sup>60</sup>.

In a similar case in 2013, timber exported to Germany that purported to come from the DRC logging concession of a company called Bakri Bois was the subject of another EUTR complaint. NGOs, including Greenpeace and Global Witness, submitted evidence to German, Belgian and Czech authorities that Bakri Bois was complicit with an illegal 'artisanal' logger, lending it personnel and equipment. Some of this timber was later seized by the German authorities.

In another complaint to the French authorities regarding a shipment of timber to the French port of Caen, Global Witness presented evidence that the concession holder Sicobois was associated with illegal 'artisanal loggers', having discovered illegal timber in Sicobois' timber port near Kinshasa. The French EUTR authorities are examining these allegations.

## Box 6: How Artisanal Logging Permits (ALPs) are abused

The way ALPs are issued often contravenes the legal framework set in place to protect the forest, for example:

- By law, artisanal logging is only permitted to take place in communities' or farmers' forested areas and Community Forests, but as no such communal areas have yet been designated, artisanal logging cannot be contained within them.
- Protection for endangered tree species are ignored by officials issuing permits.
- Artisanal loggers are not registered with provincial authorities as required by law.
- In violation of the law, forest administration authorities in the capital Kinshasa sign permits instead of provincial governors.
- Permits have been illegally granted to non-Congolese individuals despite the law saying that they can only be granted to Congolese nationals.
- Permits have been granted to companies instead of individuals, which is not permitted by law.
- Loggers operate using industrial machinery, which is not permitted by the law.
- Operators often receive more than the maximum two permits per year.
- The official template for granting ALPs is not always used.
- There is no control to ensure authorised volumes are not exceeded.

Source: Global Witness, *Art of Logging Industrially: how loggers are abusing artisanal permits to exploit the Democratic Republic of Congo's forests*, 2012

## 5. Forest tax avoidance

Non-payment of forest taxes is yet another common illegality which has been documented across the sector in DRC. Official documents seen by Global Witness, for its 2013 report on forest sector tax avoidance, pointed to a shortfall of over US\$ 11 million in the Congolese Treasury's receipts of Forestry Surface Tax (*Taxe de Superficie*), DRC's main logging tax, during 2011 and 2012<sup>61</sup>. In 2012 the Surface Taxes received by the Treasury were only 10% of what should have been collected had the taxes been paid in full. Global Witness believes the shortfall can in part be explained by a deal struck between the logging industry and officials in the Ministry of Environment, Nature Conservation and Tourism (MECNT), which could have cost the country's treasury as much as US\$3 million per year. This deal is, in the words of the Independent Forest Monitor, "without any legal basis"<sup>62</sup>.

Documents seen by Global Witness, which are signed by an official from MECNT's Forest Management Department (Direction de Gestion Forestiere), show that in 2012 loggers were paying Surface Tax on just under nine million hectares of forest, despite the fact that at that time close to 15 million hectares of forest were allocated for logging<sup>63</sup>. The documents show that across the industrial logging sector Surface Tax was being calculated on the basis of an 'exploitable surface area' that is in most cases much smaller than the overall surface area of the concession. This deal contravenes the law and was effectively an illegal hand-out of over US\$3 million dollars to the logging industry for 2012. The companies approached by Global Witness for a response regarding this practice did not respond to the legal arguments about the legality of this

tax deal, but pointed out that officials had consented to the arrangement.

To take a specific example of the three concessions belonging to Sicobois<sup>64</sup>—a major importer of wood to France—the company should by law pay US\$197,375 based on the administrative surface area of 394,750 hectares. However, documents show that in 2012 they paid only US\$122,647 having negotiated a large discount on the basis that the 'exploitable surface area' of their concession is only 245,293 hectares.

## 6. Fake or falsified CITES permits used to launder illegally harvested protected species

DRC has the largest remaining stocks of *Afrormosia (Pericopsis Elata)*, a rare species of wood, but allows the harvest of significant quantities. It is threatened with extinction and is listed in Appendix II of CITES and can only be traded with valid CITES permits, based on established quotas, to prevent extinction.

DRC is currently banned from trading all CITES-listed species, including *Afrormosia*<sup>65</sup>. A recent joint report by UNEP and INTERPOL indicates that "DRC is rated by CITES as one of the two most problematic countries in Africa for illegal exploitation of natural resources"<sup>66</sup>.

Prior to the imposition of the CITES ban, the lack of law enforcement and endemic illegal logging in DRC resulted in uncontrolled exploitation and trade of *Afrormosia*. Careful monitoring is now necessary to ensure trading in *Afrormosia* ceases until further notice.

Given the history of fraud in Congolese CITES permits, timber traders and importers must continue to beware. In April 2014 the CITES Secretariat informed Parties to the Convention that a “large number of fake or falsified permits [were] apparently issued by the Democratic Republic of the Congo,” and provided a long list of “permits (...) that are unaccounted for”<sup>67</sup>. However, the Congolese Government listed ten of these permits in its 2012 Annual CITES report as having been issued for Afrormosia exports to a range of countries including China, Belgium and Portugal<sup>68</sup>. The majority of these shipments, totalling close to 4,500m<sup>3</sup>, were exported by five of the big industrial logging companies operating in the DRC (CFT, COTREFOR, FORABOLA, SIFORCO, SODEFOR)<sup>69</sup>. Furthermore, two of these “unaccounted for” permits were used by COTREFOR for shipments to the US<sup>70</sup>.

A letter of concern sent by international NGOs to the CITES Secretariat noted a high risk of illegality in the

harvest of Afrormosia as well as weaknesses in the inventory process for the species. “One of the concessions that was inventoried for the Non Detriment Findings (NDF)<sup>71</sup> was visited October 2013 by the current [Independent Forest Monitor] and government officials. Many illegalities were documented including logging without authorization (including Afrormosia without special permit). Inventories were completed for only six of the 23 logging titles with Afrormosia before submission of the NDF in May 2014, and these inventories have not been independently verified,” the letter said<sup>72</sup>.

Moreover, while DRC’s 2015 CITES export quota has been approved on the basis of nine concession inventories submitted in late 2014, there is no reliable documentation demonstrating that timber being exported in 2015 has actually been harvested from one of those nine authorised concessions where Afrormosia is for export.

**During 2012 only 10% of revenues that should have been generated by the Surface Tax found their way into the Treasury’s coffers, which means 90% of the revenues went missing.** Source: “The cut-price sale of DRC’s forests”, Global Witness,



Congolese timber at the port of La Rochelle, France. © Global Witness

## SECTION 2

# Ending the export of illegal DRC timber: tougher enforcement needed

Illegal logging accounts for 10–30% of the global timber trade—an organised criminal enterprise estimated to represent lost revenues of US\$30 and US\$100 billion<sup>73</sup> annually. Industrial logging in primary tropical rainforests is increasingly being recognised as devastating to unique and irreplaceable ecosystems on which hundreds of millions of people and the planet's climate depend<sup>74</sup>. Illegal logging -logging in violation of the laws of the country of harvest -is one dimension of this problem, on which international efforts have been particularly focused.

In the past six years, three key pieces of legislation—the US' revised Lacey Act, the European Union Timber

Regulation (EUTR) and the Australian Illegal Logging Prohibition Act (see Box 7)—have all been introduced to fight illegal logging as a driver of forest destruction.

But to date, exports of illegal timber from DRC have been barely affected by these legal instruments. Just one instance of international enforcement against illegal timber from DRC has taken place, despite the huge global trading network formed by the logging companies operating in DRC and their clients. Global Witness presents analysis for the first time of where this timber ends up, in order to urge a renewed effort to stamp out this illegal trade.

**“At present, it is unlikely that any of the DRC’s timber production could plausibly meet EU due diligence requirements.”**

Source: Chatham House, “Illegal Logging in the Democratic Republic of the Congo”, July 2014



## Box 7: Legislation to ban illegally harvested timber

### European Union Timber Regulations (EUTR)

On 3 March 2013 the EUTR entered into force outlawing the trade of illegally harvested timber (or products made from illegal timber) on the EU market. Illegal logging, as defined under the EUTR, refers to the harvesting of timber in contravention of the host country's laws and regulations.

The EUTR not only prohibits companies from importing illegal timber or timber products, it also requires companies to "exercise due diligence" to assess and mitigate the risk that the timber or wood products have been illegally harvested. Each EU Member State must impose effective and dissuasive sanctions on companies that fall foul of the EUTR. Illegally harvested timber or wood products containing illegal wood may be seized by enforcement authorities. Companies falling foul of the prohibition or due diligence obligations may also face criminal prosecution. For example, criminal penalties have been introduced in the UK and Germany, which could result in the imprisonment of company directors.

### Amended Lacey Act (USA)

On May 22, 2008, US Congress passed a ground-breaking law banning trade in illegally sourced plants and their products—including timber and wood products. The new law is an amendment to a 100-year-old statute named the Lacey Act after the Congressman who first championed it. To address illegal logging and other illegal plant trade, the Lacey Act:

- Prohibits all trade in plant and plant products (e.g., furniture, paper, or lumber) that are illegally sourced;
- Requires importers to declare the country of origin of harvest and species name of all plants contained in their products;
- Establishes penalties for violation of the Act, including forfeiture of goods and vessels, fines and jail time. Penalties are determined partly by the degree of "due care" taken by the company to ensure that their timber sources are legal.

### The Australian Illegal Logging Prohibition Act

This act makes it a criminal offence in Australia to import timber and timber products containing illegally sourced timber or processed Australian raw logs that have been illegally logged. Potential criminal sanctions range from up to five years imprisonment, and fines of AUS\$55,000 for individuals, or AUS\$275,000 for a corporation or body corporate. Importers of timber/products and processors of domestic raw logs are required to carry out due diligence.

## Main trade routes and known country destinations

Analysis of trade data from a range of sources indicates that, despite the plethora of legal issues outlined in this report, significant amounts of DRC timber continue to be exported to countries where laws have been passed against importing timber or wood products that have been illegally harvested or are at risk of illegality.

According to the most recently available global figures from the UN Food and Agriculture Organisation (FAO) for 2013, DRC exports an estimated 144,801 tonnes of roundwood (i.e. logs) and 32,343 tons of sawn wood on an annual basis<sup>75</sup>. This timber trade is worth approximately US\$ 109 million according to the FAO.

Global Witness has analysed more recent customs data from individual countries' to give a more up-to-date over-

view of the trade in timber from DRC during 2014<sup>76</sup>. This shows that—despite the new EU Timber Regulation and the extensive illegalities that have been documented in the DRC logging sector—EU member states continue to be an important market, importing millions of dollars' worth of DRC timber. Our analysis indicates that in 2014, China received 65% of DRC's timber exports, followed by France (12%) and Portugal (5.3%). The EU as a whole accounts for just over 21% of direct timber exports from DRC by volume, a market likely to be worth at the very least US \$20 million. It is likely that the EU is also an important destination country for processed wood products from China derived from Congolese timber. Moreover, the EU dominates the market in DRC sawn timber—a more expensive product than the unprocessed logs that are most commonly exported to China. The US was the destination for only 0.7% of DRC's timber exports in 2014—an amount that was nevertheless worth an estimated US \$ 931,000.



## World Exports (2014)

COUNTRY	TONNES	EXPORT VALUE (\$)	PERCENTAGE
China	72,779.7	61,138,877.7	64.6%
EU	24,470.4	20,563,361.4	21.7%
Vietnam	3,896.5	3,274,369.7	3.5%
Taiwan	3,384.8	2,844,369.7	3.0%
UAE	1,810.4	1,521,344.5	1.6%
USA	1,064.4	932,184.87	1.0%
Other	5,223.6	4,389,579.8	4.6%
<b>TOTAL</b>	<b>112,674.7</b>	<b>94,684,621.8</b>	<b>100%</b>

## Exports to EU (2014)

COUNTRY	TONNES	EXPORT VALUE (\$)	PERCENTAGE
France	13,131.60	11,034,957.98	53.7%
Portugal	6,088.60	5,116,470.59	24.9%
Belgium	2,094.90	1,760,420.17	8.6%
UK	951.8	799,831.93	3.9%
Spain	697.7	586,302.52	2.9%
Italy	499.5	419,747.90	2.0%
Denmark	248.9	209,159.66	1.0%
Germany	177.7	149,327.73	0.7%
Other	361.6	303,865.55	1.5%
<b>TOTAL</b>	<b>24,252</b>	<b>20,380,084</b>	<b>100%</b>

Customs data shows that the most important entry points to the EU market DRC timber are the ports of Viana do Castelo (Portugal), Caen (France), Antwerp (Belgium) and La Rochelle (France).

### Europe's gateways for illegal and high risk timber : EU ports handling DRC logs and sawn wood (2014)

Caen (France)	6,355 metric tonnes
Viana do Castelo (Portugal)	5,167 metric tonnes
Antwerp (Belgium)	1,467 metric tonnes
La Rochelle (France)	1,342 metric tonnes
Leixoes (Portugal)	807 metric tonnes

It is difficult to see how European companies importing timber directly from DRC could meet the standard of negligible risk of illegality required by the EUTR in view of

the extent of illegal logging and weak law enforcement in DRC. Companies that import manufactured tropical wood products would also be advised to exercise caution. The timber imported from the Congo Basin (**Afromosia, Iroko, Sapelli, Khaya, Wengé, Sipo, Padouk, Tola, Bossé**) is mainly used to produce furniture, plywood and semi-finished products, but also veneer, picture frames and ornamental items. Wood products exported from China in 2012 to the 27 EU member states comprised mainly plywood (3.4 million m<sup>3</sup>), furniture (2.9 million m<sup>3</sup>) and mouldings & joinery (0.4 million m<sup>3</sup>)<sup>7</sup>, all of which should be subjected to robust due diligence procedures to mitigate risks of illegality.

## Europe's gateways for illegal and high risk timber from DRC.



Data on timber flows from DRC is published online by Global Witness at: <http://globalwitness.org/drctimbertracker>

### Conclusion

Endemic illegalities in DRC's logging industry puts into question the legality of the country's entire timber trade. In fact, Global Witness believes that none of this trade is likely to meet the legality assurance, due diligence, or due care requirements of trading regulations such as the EUTR, the Lacey Act and the Australian Illegal Logging Prohibition Act.

These illegalities are varied in type and widespread in practice, and are fuelled by:

- A lack of oversight on the part of the Congolese authorities,
- the willingness of traders and importers worldwide to turn a blind eye to the provenance of the timber they are sourcing,
- the failure thus far of China to adopt legislation against illegal timber imports and of certain enforcement authorities, particularly in the US and in EU and its member states, to fully enforce their own timber trade laws.

Thanks to the substantial number of monitoring missions and investigations in DRC by officially-mandated Independent Forest Monitors and international and local civil society, there is now plenty of evidence, freely available, about these abuses. As this report demonstrates, in light of the plentiful documentation in the public domain, buyers and enforcement authorities have no excuses for continuing to turn a blind eye to the trade in timber that is illegal or at risk of being so. A rigorous enforcement of timber trade laws would be dissuasive, leaving non-compliant companies open to reputational damage, confiscation of timber, and even criminal charges. In this way, authorities could substantially contribute to promoting respect for the rule of law, both in their own countries and in DRC, while protecting one of the world's last primary tropical rainforests.

## **Annex : Logging concessions with question marks over their legal status\***

\*Global Witness contacted the companies listed below to give them the opportunity to comment on these allegations. Riba Congo, Compagnie de Bois, SOFORMA, SAFO and SODEFOR responded regarding the issue of unpublished Management Plans and Social Agreements, stating that the publication of these documents is ultimately the responsibility of the Environment Ministry rather than the companies. Decree N°011/26 of 20 May 2011 creates a legal obligation for relevant ministries to publish all natural resource contracts. Non-compliance with this law makes it impossible to verify the claims of some companies to have contracts and associated legally-required documents in place.

In relation to the legality of the conversion of 15 additional logging titles in 2011, SAFO, MOTEMA and SEFOCO responded conceding that their titles were not recommended for conversion by the Inter-Ministerial Commission but stating that they did not believe that the subsequent intervention of the Environment Minister to declare the titles convertible was illegal.

Company	Concession number	Illegally converted by Environment Minister in 2011	Contract unpublished or inaccessible	Management Plan unpublished or inaccessible	Social agreement unpublished or inaccessible
La Forestière	002/11				
ITB	005/11				
ITB	006/11				
COTREFOR (ex Trans-M)	009/11v				
SAFO	010/11v				
SEFOCO	016/11				
Megabois	017/11				
COTREFOR (ex Trans-M)	018/11				
ENRA	019/11				
SCIBOIS	020/11				
Compagnie de Bois	021/11				
Bego Congo	022/11				
SEFOCO	023/11				
MOTEMA	024/11				
MOTEMA	025/11				
SODEFOR	034/11				
SODEFOR	035/11				
SODEFOR	036/11				
SODEFOR	038/11				
SODEFOR	039/11				
SOFORMA	043/11				
CFT	046/11				
CFT	047/11				
FOLAC	048/12				
Tala Tina	050/14				
Somicongo	052/14				
SIFORCO (ex SEDAF)	052b/14				
SIFORCO (ex SEDAF)	053/14				
SIFORCO (ex SEDAF)	054/14				
ONATRA	055/14				
Riba Congo	056/14				

## END NOTES

- 1) The revocation of logging concessions is stipulated in DRC law in cases where the law is violated or which did not meet the conditions of the conversion process, as is the case with the 15 logging titles that were arbitrarily converted in 2011. See Article 23, *Arrêté 028 fixant les modèles de contrat de concession d'exploitation des produits forestiers et de cahier des charges y afférent and Décret n° 05/116 du 24 octobre 2005 fixant les modalités de conversion des anciens titres forestiers en contrats de concession forestière et portant extension du moratoire en matière d'octroi des titres d'exploitation forestière*).
- 2) Transparency International: Corruption Perception Index. <http://www.transparency.org/cpi2014/results>
- 3) REM, (2013): Final Report of IM-FLEG in DRC, p22., [http://www.observation-rdc.info/documents/REM\\_IMFLEG\\_2013\\_report\\_DRC.pdf](http://www.observation-rdc.info/documents/REM_IMFLEG_2013_report_DRC.pdf)
- 4) REM, Final Report of IM-FLEG in DRC 2013, p3 [http://www.observation-rdc.info/documents/REM\\_IMFLEG\\_2013\\_report\\_DRC.pdf](http://www.observation-rdc.info/documents/REM_IMFLEG_2013_report_DRC.pdf)
- 5) Available online: [www.observation-rdc.info/documents/Rapport\\_REM\\_001\\_OIFLEG\\_RDC.pdf](http://www.observation-rdc.info/documents/Rapport_REM_001_OIFLEG_RDC.pdf)
- 6) Available online: [www.observation-rdc.info/documents/Rapport\\_REM\\_002\\_OIFLEG\\_RDC.pdf](http://www.observation-rdc.info/documents/Rapport_REM_002_OIFLEG_RDC.pdf)
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- 12) Sam Lawson (Chatham House), *Illegal Logging in the DRC*, 2014, p23.
- 13) Price calculations are based on average ratio between price and volume in FAOSTAT data. A price of US \$600 per m<sup>3</sup> was used, on this basis. See <http://faostat3.fao.org/download/F/FO/E>
- 14) Human Development Index 2014
- 15) In addition to independent forest monitoring reports, see for example, Sam Lawson (Chatham House), *Illegal Logging in the DRC*, 2014. [http://www.chathamhouse.org/sites/files/chathamhouse/field/field\\_document/201404DRC.pdf](http://www.chathamhouse.org/sites/files/chathamhouse/field/field_document/201404DRC.pdf)
- 16) In 2013 there were 80 logging titles or concessions in DRC, but a number have recently been revoked or handed back to the government.
- 17) Article 10, *Arrêté 028 fixant les modèles de contrat de concession d'exploitation des produits forestiers et de cahier des charges y afférent, Articles 88-89, Code Forestier 2002*.
- 18) *Arrêté CAB/MIN/AFF-ET/194/MAS/02 du 14 mai 2002 portant suspension de l'octroi des allocations forestières*.
- 19) The major concession holders exporting timber from DRC are the NST group of companies (SODEFOR, SOFORMA and FORABOLA), SIFORCO, SICOBOIS and COTREFOR according to export data analysed by Global Witness.
- 20) Ministerial Decree No. 035/CAB/MIN/ECN-EF/2006 of 05 October 2006 relatif à l'exploitation forestière, Art. 6
- 21) Global Witness, 2012, *The art of logging industrially in the Congo*. [www.globalwitness.org/sites/default/files/art\\_of\\_logging\\_lr.pdf](http://www.globalwitness.org/sites/default/files/art_of_logging_lr.pdf); Greenpeace, 2012, *Artisanal logging = industrial logging in disguise*. [http://www.greenpeace.org/africa/Global/africa/publications/forests/Logging\\_Illegal\\_EnglishA4.pdf](http://www.greenpeace.org/africa/Global/africa/publications/forests/Logging_Illegal_EnglishA4.pdf)
- 22) REM, Final Report of IM-FLEG in DRC 2013, p13.
- 23) REM, Final Report of IM-FLEG in DRC 2013, p11
- 24) Global Witness, 2007, *Forêts de RDC : « Vers des normes satisfaisantes de gestion et de gouvernance » ?* [http://www.globalwitness.org/sites/default/files/library/rapportfinal\\_lr.pdf](http://www.globalwitness.org/sites/default/files/library/rapportfinal_lr.pdf)
- 25) In its end of project report in 2013 REM noted "a severe lack of appropriation of forest law on the part of both the private sector operators and the administration responsible for ensuring that the legislation is completed and enforced". REM, Final Report of IM-FLEG in DRC 2013, p3.
- 26) Sam Lawson (Chatham House), *Illegal Logging in the DRC*, 2014, p2.
- 27) REM, Annual Report 2011, p16-17 [http://www.observation-rdc.info/documents/Rapport\\_annuel\\_OIFLEG\\_RDC\\_REM\\_1\\_2011.pdf](http://www.observation-rdc.info/documents/Rapport_annuel_OIFLEG_RDC_REM_1_2011.pdf)
- 28) REM, Final Report of IM-FLEG in DRC 2013, p20
- 29) Sam Lawson (Chatham House), *Illegal Logging in the DRC*, 2014, p12
- 30) REM 2012, *La répression des infractions forestières en RDC évaluation des amendes, et des dommages et interets*, p11
- 31) Sam Lawson (Chatham House), *Illegal Logging in the DRC*, 2014, p15
- 32) Resource Extraction Monitoring, Final report. 2013, p24
- 33) *Observatoire de la Gouvernance Forestière, Rapport de Mission 2*, p3 "non-respect des délais prévus par la réglementation en matière d'attribution des permis de coupe de bois d'oeuvre (ACIBO)"

- 34) These are laid out in full in the mandated IFM listed in Table 1 on page 7.
- 35) REM, *Rapport de Mission N°1*, p39
- 36) The prerequisites for the signature of a forestry concession contract include a notification letter of the decision of the inter-ministerial commission in charge of the review of logging titles approving the conversion of the title into a logging concession, a management plan for the first four years of logging operations, a social agreement signed with the local community, and the presence of the company name and references to its title on the definitive list of titles. See Augustin Mpoy (CODELT), November 2014, *Quelle légalité pour les contrats de concession forestière signés et en cours d'exploitation? Presentation at Atelier national sur l'avenir des forêts de la RDC*, Kinshasa.
- 37) MECNT, 26 August 2014, *Note technique: clôture du processus de conversion des anciens titres forestiers en contrats de concession forestière*.
- 38) Art 14 of Decree 05/116 du 24 octobre 2005 fixant les modalités de conversion des anciens titres forestiers en contrats de concession forestière et portant extension du moratoire en matière d'octroi des titres d'exploitation forestière.
- 39) Art 15 of Decree 05/116 du 24 octobre 2005 fixant les modalités de conversion des anciens titres forestiers en contrats de concession forestière et portant extension du moratoire en matière d'octroi des titres d'exploitation forestière.
- 40) "A la lecture et à l'analyse, les dispositions du Décret 05/116 portant modalités de conversion des titres, qui institue également la commission interministérielle pour la conduite du processus de conversion, confèrent un caractère d'avis liant aux décisions prises par la commission. La commission a pour mission « d'examiner et d'approuver ou de rejeter les rapports de vérification » (Art. 9) et elle « transmet au ministre son procès-verbal » (Art. 13). Le ministre en charge des forêts se borne donc à « informer le requérant des recommandations » (Art. 14) dont il peut faire appel. En outre, il rend publique les recommandations de la commission." REM, 2012, *Note de briefing: Délai de conversion des anciens titres forestiers en contrats de concession forestière – impact sur le contrôle forestier*, p8. [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)
- 41) *Memorandum de la société civile congolaise face aux différentes questions de l'heure ayant fait l'objet du point de presse de Jose Endundo Bononge, Ministère de l'Environnement, Conservation de la Nature et Tourisme*, 7 March 2011, p3.
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- 43) *Arrêté ministériel No. 023/CAB/MIN/ECN-T/28/JEB/10 du 07 juin 2010 fixant le modèle d'accord constituant la clause sociale du cahier des charges du contrat de concession forestière*.
- 44) *Décret N°011/26 du 20 mai 2011 portant obligation de publier tout contrat ayant pour objet les ressources naturelles*.
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- 48) Article 11, *Arrêté ministériel No. 023/CAB/MIN/ECN-T/28/JEB/10 du 07 juin 2010 fixant le modèle d'accord constituant la clause sociale du cahier des charges du contrat de concession forestière*.
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- 54) Greenpeace, July 2010, Forest Reform in DRC : leaving people out, p8. [www.greenpeace.de/files/Congo\\_Forest\\_Reform\\_leaving\\_people\\_out\\_final\\_0.pdf](http://www.greenpeace.de/files/Congo_Forest_Reform_leaving_people_out_final_0.pdf)
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- 68) *Ministère de l'Environnement, Conservation de la Nature et Tourisme, Direction de la Conservation de la Nature, Organe de Gestion CITES/RDC, Rapport annuel. Convention sur le commerce international des espèces de faune et de flore sauvages menacées d'extinction CITES, undated; Ministère de l'Environnement, Conservation de la Nature et Tourisme, Organe de Gestion CITES/RDC, Letter n°269 DCN/SG/ECN/2013 to the CITES Secretary General "Transmission Rapports CITES 2011 et 2012," (15 December 2013); The permits in question are, in order of appearance: #4949 Tala Tina, #4951 CFT, #4953 Forabola, #4952 Sodefor, #4958 Cotrefor, #4961 Bois Tropicaux, #4960 Cotrefor, #4959 Cotrefor, #4968 Cotrefor, #4967 Cotrefor.*
- 69) Idem.
- 70) CITES Permits #5032 and #5836
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Global Witness investigates and campaigns to prevent natural resource-related conflict and corruption and associated environmental and human rights abuses.

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