

Executive Summary - Annual Report 2011

IM-FLEG Project

Republic of Congo

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Implementation: Forests Monitor, Resource Extraction Monitoring (REM) and *Le Cercle d'Appui à la Gestion Durable des Forêts* (CAGDF)

Duration: December 2010 – June 2013

Donors: EU and DFID

Aims:

- ✓ To publish reliable information on the realities of the forestry sector in the Congo
- ✓ To contribute to the effective implementation of the FLEGT VPA in the Congo
- ✓ To prepare Congolese civil society to take over IM-FLEG in 2013
- ✓ To support civil society in the Congo Basin to conduct investigations

IM-FLEG: a source of reliable information on the realities of the forestry sector in the Congo

The Government of the Republic of Congo and the European Union (EU) signed a FLEGT (Forest Law Enforcement, Governance and Trade) Voluntary Partnership Agreement (VPA) in 2010 establishing a permanent system for ensuring that timber and timber products exported from the Congo to the EU comply with forestry legislation.

But can the value of these licences truly be judged without accurate information on what is going on between the place of felling and the place of export? Is the Congolese Legality Assurance System (LAS) sufficiently reliable to ensure the legality of the wood?

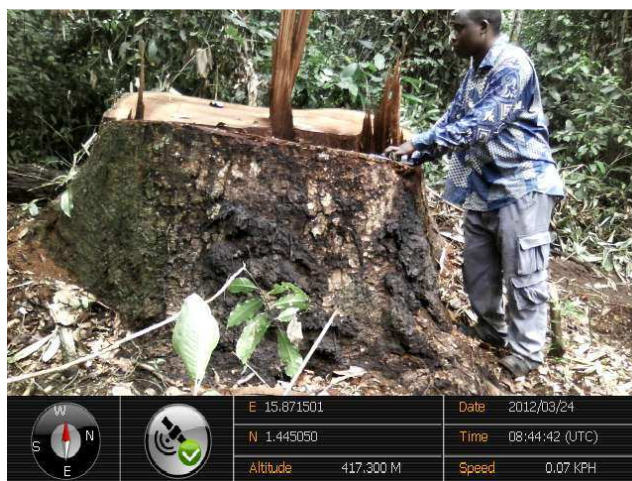
These are fundamental questions which the Independent Monitor helps to answer by conducting investigations on the ground and by providing accurate and reliable information on the challenges for governance and forest law enforcement.

Overall conclusion

on the basis of investigations conducted in 2011:

Forest law enforcement in the Congo is still insufficient to permit the effective functioning of the FLEGT Legality Assurance System

- Insufficient enforcement: no enforcement missions to 60% of concessions
- A large number of illegalities go undetected/unpunished
- Taxes and fines are not systematically collected: around 7.2 million euros remained unpaid in 2011
- The Departmental Directorates of Water and Forests (*Directions Départementales de l'Economie Forestière/DDEF*) and the Legality and Traceability Unit (*Cellule de la Légalité et de la Traçabilité/CLFT*) are under-financed



IM-FLEG uses new mobile technologies such as geotagging cameras to ensure accurate data collection and its precise analysis.

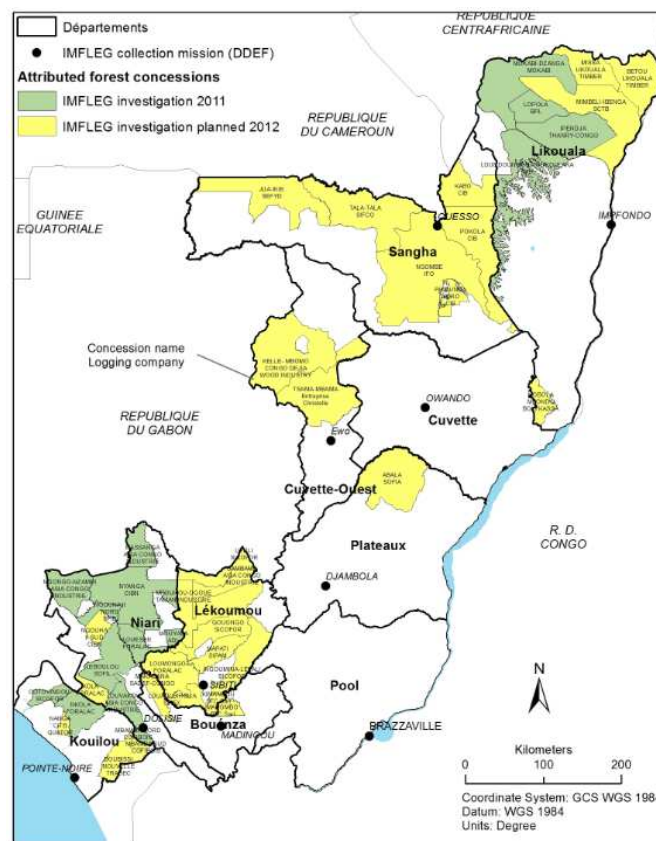
IM-FLEG investigations: some positive signs but law enforcement remains weak

In response to IM-FLEG investigations in the departments of Niari and Likouala, the Forests Administration issued 19 notifications of offence against 9 forestry companies.

Other commitments of the Congolese government in terms of preparing for FLEGT implementation:

- ✓ Establishment of the Forestry Legality and Traceability Unit (seriously underfunded, however)
- ✓ Implementation of the project to produce regulatory and complementary texts in accordance with Annexe IX of the FLEGT-VPA.
- ✓ a draft National Traceability System

IM-FLEG cover in 2011: 100% of Departmental Directorates of Water and Forests (DDEF) and 34% of allocated concessions formed the object of a mission



A large number of illegal activities go undetected / unpunished

The Departmental Directorates of Water and Forests (DDEF) in the 11 departments recorded only 92 statements of offence against forestry companies in 2011, which could lead one to assume that logging operators are now acting increasingly within the law. In actual fact, this is a reflection of a weak level of enforcement. The truth is that IM-FLEG observed 57 illegal activities during just 3 investigations.

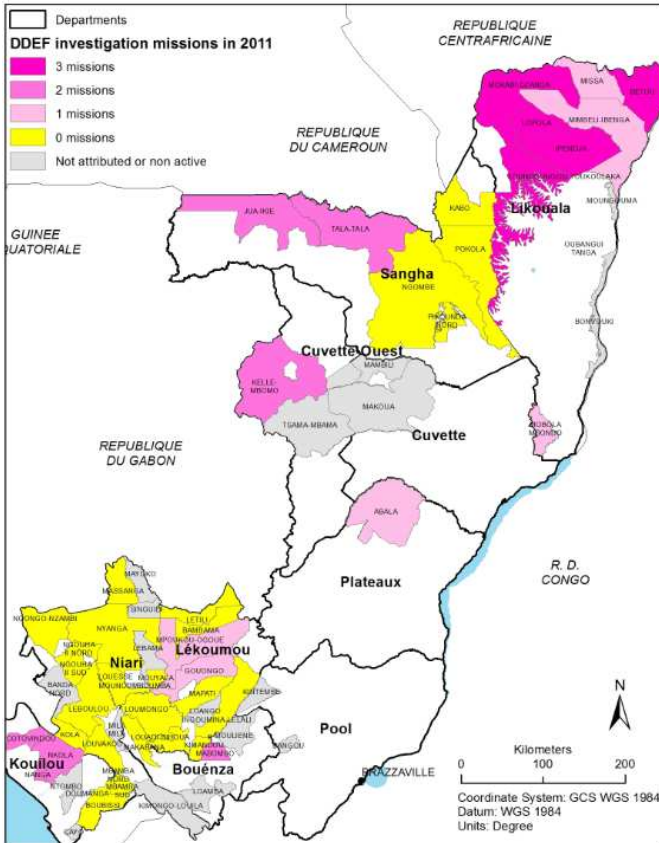
The IM-FLEG investigation results are presented in the form of a FLEGT-VPA legality matrix in order to help the administration identify the specific LAS aspects that need strengthening.

This table shows the three illegal activities most commonly observed during field missions.

Nature of the offence observed by IM-FLEG in 2011	VPA Indicator	Occurrence
Fraudulent action taken to avoid paying the sale price of wood and taxes due.	Indicator 4.11.1: The company pays forestry fees and taxes within the specified time	14
Unauthorised or illegal logging	Indicator 4.4.2: The company conducts all logging activity within its concession and within the boundaries of its annual cutting area.	14
Field documents incorrectly maintained	Indicator 4.6.3: Field and wood transport documents are filled in and updated regularly	11

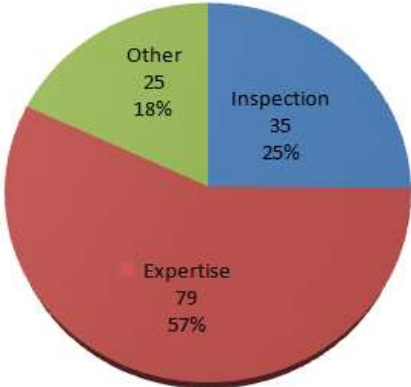
Insufficient sanctions: the inability of some water and forests officials to correctly ascertain the legality of certain activities with reference to the law means that sanctions are not applied as intended and makes an assessment of the legality or illegality of an action difficult. There are also problems with the strict implementation of legal provisions. In this regard, it seems that some perpetrators of infractions receive minimal sanctions, thus undermining their dissuasive nature.

Enforcement missions conducted by DDEF officials in 2011



Insufficient forest law enforcement
According to current regulations, each concession should be inspected at least once every quarter (i.e. four times a year). In 2011, no DDEF achieved this minimum of 4 inspection/enforcement missions per concession per year and 27 out of 46 (or 60%) of the allocated concessions were not inspected at all.

Type of DDEF mission, 2011

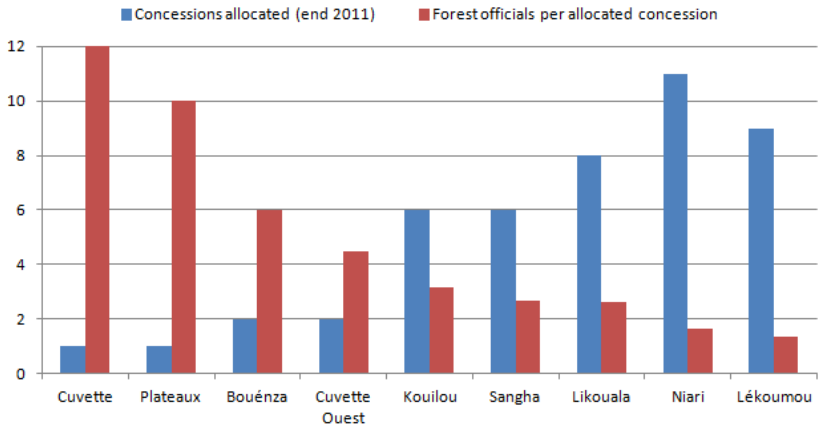


Only 35 inspection/enforcement missions were conducted by the DDEFs in 2011. It should be noted that expert missions are financed by the logging companies

Taxes and penalties not systematically applied
Public revenues not collected by the Forestry Administration in 2011 (estimate based on a sample of approximately 80% of all data):

- Acreage taxes: 4 937 693 €
- Stumpage taxes: 1 957 012 €
- Transactions: 304 663 €

TOTAL: 7 199 368 €



Human resources are not allocated to the DDEFs on the basis of need, nor on the number of concessions to be inspected.

30 000 € = minimum operating budget necessary for a DDEF to be able to enforce the law in accordance with FLEGT LAS requirements (IM-FLEG estimate)

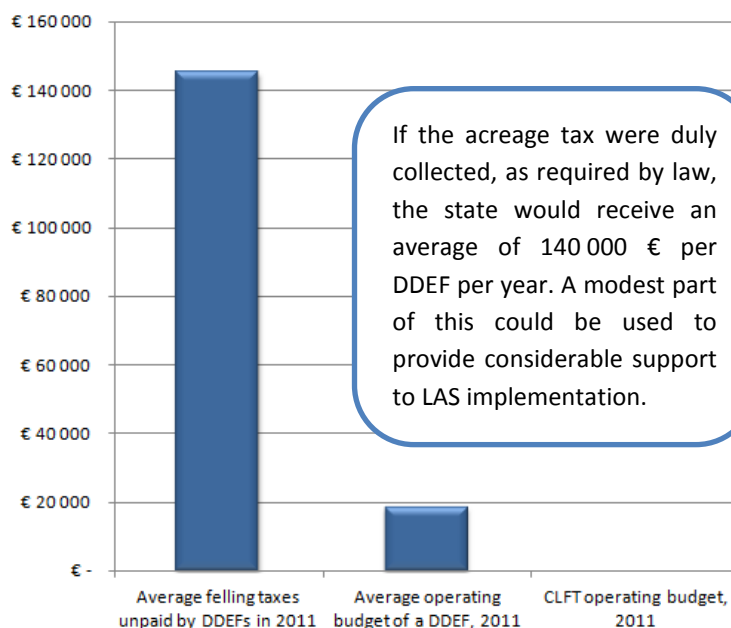
18 000 € = average annual operating budget for a DDEF in 2011

The operating budget for the Forestry Legality and Traceability Unit was zero in 2011 (requested budget: 250 000 €)



Recommendations to the Government of Congo: strengthening the LAS

Put in place a sustainable system of LAS financing based on the collection and redistribution of forestry taxes and transactions: the Legality Assurance System relies on information provided by Departmental Directorates of Water and Forests (DDEFs) to enable the Forestry Legality and Traceability Unit (CLFT) to validate the legality of the wood. Yet neither the DDEFs nor the CLFT are functioning as they should, primarily due to a lack of resources. The first stage in resolving this problem is to establish a sustainable method of financing these structures. Forestry sector revenues represent a more lasting source of financing than international donors. For example, a fraction of the 5 million euros of unpaid acreage taxes in 2011 could easily provide the Legality Assurance System with the necessary equipment and operating budget for 2012.



Specific recommendations for improving the collection and redistribution of taxes:

- ✓ Expand the National Traceability System, which is the management tool for all production data, so that it can calculate the monthly stumpage tax due from each company, in order to enable the Directorate-General of Forest Economy (DGEF) to warn the operator in case of non-payment and, if appropriate, block exports
- ✓ Take advantage of the equipment that the DDEFs will receive, such as Internet, via VSAT installation in 2012, to enable electronic notification of the amounts due
- ✓ Link the relevant departments to the Public Treasury - which is the final recipient of the sums recovered - when issuing and monitoring recovery of forest taxes
- ✓ Apply the provisions of Articles 86 (seizure) and 90 (3% increase per quarterly delay) to companies that do not keep to payment deadlines for sums due to the Public Treasury

