

SUMMARY REPORT

THIRD LOCAL FORUM, TSHELA, BAS-CONGO

DATE: 29TH – 30TH MARCH 2010

Objective

The objective of the third local forum in Tshela was to report back on the results of the community dialogues that were held between 22nd and 28th February 2010 in the following villages: Lubolo, Lubuzi, Mbanga and Nganda Tsundi. These results had been validated during meetings held in four different Sectors of the Territory.

The dialogues focused on the following three issues: (1) reconciling individual uses and the collective nature of community forests; (2) institutions for managing conflicts related to community forest management and (3) the role of customary authorities in community forest management.

Participants

Approximately 50 people from a range of institutions took part in this forum. These included representatives of the local authorities (District Commissioner, Territorial Administrator, heads of all Sectors, heads of the territorial-level offices of the ANR (National Intelligence Service) and DGM (Migration Department), Environmental Supervisor, Agricultural and Rural Development Inspectors for Tshela territory, provincial environmental coordination, the private sector (SCAM, artisanal loggers), civil society (CEPECO, INTER-ACTIONS, CEDER, CERHA, UNAPADEC, ITENAC, CPPR), the Catholic and Protestant churches, local communities (customary chiefs and village chiefs), academic institutions (CIDEP, ISEA, ISPA) and secondary schools. The Deputy Director of FM DRC and the forests officer of CODELT also participated.

Summary of the local forum

A representative of the local authority conducted the official opening ceremony of the forum. The work of the forum revolved around three main agenda points, namely:

1. Presentation of the project by the FM National Coordination Team and presentation of the results of the national forums by CODELT;
2. Report back on the results of the community dialogues and national forums by CEPECO;
3. Working groups for in-depth discussion of the results of the dialogues.

The outcomes of the above meetings had included comments and recommendations responding to the following question: what is the best way of implementing community forests if and when communities obtain forests from the state to be managed themselves? The participants in the third local forum in Tshela added to these recommendations with the following points:

- ***Reconciling individual usage and the collective nature of community forests***
 - Individual uses that are compatible with community forestry include: subsistence agriculture, fish farming, gathering of non-timber forest products, subsistence hunting, palm wine extraction and others. These activities may be undertaken individually or collectively.

- Individual uses that are incompatible with community forestry are: artisanal logging of timber, cultivation of perennial crops (cash crops such as coffee, cocoa and fruit trees...), charcoal production, and the felling of palms for wine or palm oil extraction, etc. These activities may only be undertaken within a community forest if they are benefiting the whole community as they should form the main source of community income.
 - If there is no other solution, the community forest could be split into two sections, with one set aside for individual uses and the other for collective.
 - A percentage, to be determined by the community forest management committee, will be deducted from the profits arising from individual use in order to contribute to local development. All income resulting from collective uses will be allocated to community activities (opening of a canteen, construction/repair of a school or dispensary, repair/rehabilitation of rural roads...) so that all community members benefit.
 - A per diem should be allocated to the customary chiefs, to be taken from community income.
 - Community awareness with regard to the importance of community forests, strict observance of the management rules (as established by the management committee and ratified by all) and transparency are fundamental to the good management of these forests.
 - Collective initiatives are always preferable to individual ones in community forests.
 - The customary chief of Kimongo Village Group made an observation on the basis of Article 34 of the Constitution of the DRC, emphasising: (1) that before granting a community forest to anyone, the State clearly needed to obtain the free, prior and informed consent of the customary holders of the land, (2) that a clear distinction had to be made between the concept of 'community forest', which was a wide one, with many uses and rights for the customary authority, and that of 'community concession' which was a space within the community forest but under the exclusive resource management of local communities and indigenous peoples, following a request made to the State.
- ***Institutions for managing conflicts related to community forest management:***
 - The village chief, with the support of the heads of families and the Village Group ("Groupement") Council, represented by its head, have the authority to manage conflicts arising from community forests at village level.
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 - The reinstatement of a Customary Court at sector level would also facilitate conflict management within a community forest.
 - For any conflict relating to a criminal offence that is beyond the competence of the customary authority communities may refer to the State. For a boundary conflict neighbouring communities should be invited as witnesses during the conflict resolution process.
 - Local conflict management institutions must work on the basis of a number of principles, including: equality, transparency, impartiality, and respect for the rules of peaceful conflict resolution within the community.
 - The choice of the customary authority's representatives is made according to tradition, under which they can only be replaced following death or physical disability; it is then the 'reigning' family that appoints a replacement, by consensus.
 - With regard to "modern" courts and tribunals, the representatives of the different communities objected to: the exacerbation or maintenance of conflicts between or within communities by these institutions; their partiality in the way in which justice is done (privileges for the most well-off, failure to take into account the witness statements of customary authorities and paralysis in trials leading to delays of several years...).
 - There is a need to make the community maps that are produced available to the local authorities, as a reference document, should they need to rule on conflicts of any kind.
 - ***The specific role that customary authorities should play in community forest management***
 - As arbiters of conflict within their communities, guardians and protectors of forest resources and defenders of the interests of their respective communities, the heads of families (elders and notables), village chiefs and village group chiefs that make up the customary authority need to play a major role in managing community forests. They represent the traditional guarantors of sustainable forest management and comprise the body for resolving conflicts related to community forest management.
 - The customary authority must therefore be actively involved in managing these community forests, in order to help them minimise their alleged weaknesses.

- In terms of their negative role, the customary authorities were criticised for the following actions: dictatorial management, hence the need for assistance; indiscretion, hence the need for fairness, impartiality and honesty; moral and material corruption, hence the need to punish offenders; incompetence and incapacity in community forest management, hence the need for technical assistance from NGOs and forest administration departments.
- The customary authorities need to be strengthened and, above all, the customary courts reinstated so that conflicts relating to community forests can be handled appropriately.
- A financial incentive will need to be set aside from forest revenue and provided to the customary authorities for services rendered to the communities in the management of their community forests.

Recommendations

- The modern justice system, and particularly the Territorial and District level courts and tribunals, should not hear and/or consider cases related to community forest management without the prior referral of the chief of the village in question.
- The State should put national, provincial and local-level consultation in place between Ministers of the Interior, Justice, Rural Development, Planning, Land Affairs, Mines, Agriculture and the Environment in order to ensure coherent community forest management throughout the country.
- Customary authorities should be trained in conflict resolution techniques and the State should give them clear responsibilities in order to avoid any overlap with already-established State departments in the course of their duties.
- Forests Monitor and/or its partners should help Tshela town and the Territory's Sectors to produce maps according to international scientific standards.
- CEPECO should support Tshela territory and its eight sectors to produce their development plans.

