

## **EXECUTIVE SUMMARY**

### **EIGHTH NATIONAL FORUM<sup>1</sup>** **DECENTRALISATION AND COMMUNITY FORESTS**

**DATE: 25 - 26 FEBRUARY 2010**

#### **Background**

In 2006, the Democratic Republic of Congo (DRC) adopted a Constitution that divides responsibilities between the central and regional governments. A year later, a law was passed on the composition, organisation and functioning of decentralised territorial bodies and in 2008 a further law was adopted on basic principles for the free administration of provinces.

Prior to the adoption of this range of laws on decentralisation, in 2002, the DRC adopted a new Forest Code which includes, among other things, the concept of community forests.

The aim of this national forum was to analyse and reflect on the implications of the decentralisation laws for the implementation of the Forest Code, with a particular focus on community forests.

#### **Participants**

The Chair of the Natural Resources Committee of the National Assembly and a member of the Bas Congo regional parliament were in attendance, along with officials from the following ministries: Planning; Decentralisation; Environment, Nature Conservation and Tourism; Land Planning. Representatives from the following national and international NGOs also participated: CODELT, *Groupe de travail climat*, CEDEN, *Avocat verts*, RRN WCS, SNV, RRI/USA, *Forêts Modèles/Canada* and CI/USA.

#### **Executive summary of the discussions**

Decentralisation, as presented by the experts attending the forum, was clarified as being a tool for good governance whereby additional bodies can support the State in public service delivery. It was also considered as a tool for local development for use in planning or for achieving certain objectives at different administrative levels based on a national vision.

Decentralisation can be political, financial, administrative or even economic. DRC's legal framework for decentralisation identifies a role for the provinces and a number of decentralised administrative bodies (ETD - *Entités Territoriales Décentralisées*), namely towns, communes, sectors and/or chieftaincies. These bodies are the only ones that have been granted legal status and have a council of elected members responsible for the day-to-day running of the constituency.

According to the DRC Constitution and legislation on decentralisation, responsibilities for forests are allocated as follows:

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<sup>1</sup> The National Forums are platforms that provide experts, technicians and researchers an opportunity to analyse and reflect on certain notions and concepts related to community forestry.

<b>Central authority or government (exclusive powers)</b>	<b>Provincial authority or government (exclusive powers)</b>	<b>Joint responsibilities of central and provincial governments</b>
<ul style="list-style-type: none"> <li>- Development of national-level forestry programmes</li> <li>- The legal regime for forestry, hunting and nature conservation</li> <li>- Legislation on natural resource conservation</li> </ul>	<ul style="list-style-type: none"> <li>- Development of forestry programmes and their implementation in accordance with national planning rules</li> <li>- Application of national legislation on forests, hunting, fishing and the environment</li> </ul>	<ul style="list-style-type: none"> <li>- Legal regimes for water and forests</li> <li>- Implementing regulations for the forest regime</li> </ul>

It emerged from the discussions of the forum that the decentralisation of forest management will not entail a simple de-concentration of centralised powers to the provinces but is rather a political devolution of forestry responsibilities to the provinces and decentralised administrative bodies. The central government will remain primarily in charge of regulations, planning and monitoring while the provincial authorities will have responsibility for implementing the legal texts and policies adopted at central level. The monitoring and implementation of texts on community forests should therefore fall under the responsibility of the provincial authorities. "Local community forests" are, in themselves, a mechanism by which the Congolese State is decentralising forest management through the transfer of some of these responsibilities to local communities.

The provincial authorities and decentralised administrative bodies would be in charge of the allocation, technical follow-up and monitoring of community forests, possibly with technical support from the central government through its Community Forest Division. This arrangement is justified by the requirement for compliance with the laws on decentralisation and the need for close management given the extent of the national territory, the lack of infrastructure in the country and the isolation of some communities. The participants agreed on the following principles and rules:

1. The recognition of the legal status of local communities should fall to the lowest level of the administration, namely the sector, chieftaincy or territory, as appropriate;
2. Consideration of the technical aspects of a request for a community concession should also be undertaken at the level of sector before being submitted to the higher authority responsible for allocation;
3. The central government, through its provincial divisions, should provide technical support to local communities and to the decentralised administrative bodies. It would provide, for example, training, planning, logistical or financial support, and ensure respect for the regulations and the national programme.

Community forests will form part of the communities' lands, within which other structures are, or may be, established, for example, the rural agricultural management committees (CARG) that are currently being set up by the Ministry of Agriculture. They will also need to form part of the local development plans produced by the decentralised administrative bodies. The community forest management bodies should therefore rely on the pre-existing community institutions, and vice versa, as far as possible, with a view to avoiding any possible multiplicity or duplication of structures at the community level.

Well implemented decentralisation in relation to local community forests should ensure transparency, equity, sharing of revenues, good governance and accountability, with the possibility of sanctions in the case of acts that obstruct or compromise these values. Mechanisms for managing community forests should, moreover, facilitate the wider involvement of community members, without distancing them too far from existing

structures. The representation of marginalised social groups, particularly women and minority and indigenous groups, should also be ensured.

The traditional authorities will form part of the decentralisation structures as conceived in the DRC. The Organic Law of 2007 on the composition, organisation and functioning of decentralised territorial bodies stipulates, for example, that the head of the chieftaincy is responsible for the chieftaincy executive and the execution of laws and regulatory texts. In the case of a chieftaincy's community forest, the same chieftaincy authority could have a role within the management body. Most community forests will, however, most probably be requested by smaller components (e.g. clan, family) of chieftaincies or sectors. It will, in all cases, be important to rely on existing customary structures as far as possible, adding forest management and monitoring technicians if necessary. In line with the plans for decentralisation, the customary institutions would retain their decision-making power while the daily monitoring and technical management of the forests would be the responsibility of people qualified in this regard. This would enable each community to organise itself in accordance with its customs but also in accordance with the needs of modern management.

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