Manual
Conflict Sensitivity
Due Diligence
for Timber Companies
in the Congo Basin

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1. <u>Introduction</u>[1]

The sustainability and the careful handling of non-technical risks by companies in all sectors has become a major global issue. There is growing scrutiny by customers, stakeholders and consumers of the activities of companies. Local populations who might suffer from environmental and social impacts of companies are starting to use diverse tools to influence company activities. And a growing net of legal liability for companies not applying responsible business practices and a set of widely accepted voluntary mechanisms is starting to be integrated into national law.

The tropical timber industry is no exception in this global trend: the Congo Basin contains the second largest uninterrupted dense tropical rainforest area in the world and there is a growing international consensus on the importance of its biodiversity. However, while *conservation organizations* aim to sustain the biodiversity, other stakeholders have differing interests in the forest. For *governments,* the use of forests is an opportunity for tax generation, but also employment and development in a specific region. Several countries in the Congo Basin have experienced long and protracted violent conflicts. The governments in these countries are interested in providing employment to young men particularly, and eventually economic development to the overall population. Forestry remains a proven source of jobs with a long-established operating procedure (PAC & Green Advocates 2007). For the *local population,* forests are crucial for their livelihood: for food security and nutrition, for meeting energy needs (fuel wood) and for their ability to produce and sell non-timber forest products. And forests also play an important cultural role as sacred sites are located within them.

Activities of *logging companies* thus take place in a complex environment where different actors have different interests and competition among these can trigger, exacerbate or finance violent (and non-violent)

conflicts. There is a tightening net of legal liability for companies, especially concerning the violation of human and environmental rights. Companies that want to survive in a competitive market will have to take more than legality into account to protect their assets and personnel but also their reputation. They have to be able to verify that they have adopted the necessary enhanced due diligence.

This Manual on Conflict Sensitivity Due Diligence (CSDD) for Timber Companies (active in the Congo Basin) shall help companies
1. to understand the link between conflicts and their activities;
2. support the implementation of CSDD in the management structure and
3. in the implementation of CSDD in relation to (1) workers and contractors, (2) government and (3) stakeholders and communities.

The manual has been commissioned by Danzer in order to support its aim of implementing CSDD in its operations in the Congo Basin. The manual is based on two field missions in the Democratic Republic of Congo and the Republic of Congo, where independent inter- views, group discussions and validation meetings have been conducted with the support of local partners. For a more detailed outline of the methodology, please see Annex 1.

The manual first gives some hints on how conflict and timber companies are linked (chapter 2) and then introduces CSDD (chapter 3). The major part of the manual looks into practices relating to how CSDD can be introduced at the management (chapter 4) and at the operational (chapter 5) level.

2. Background to timber and conflict issues

When countries suffer from armed conflict, this has devastating effects across a range of areas, such as the loss of life, displaced and forced migration, disruption of families and communities. Conflicts also have large economic costs: infrastructure is destroyed and livelihoods are lost. Finally, armed conflict has a severe impact on the state as it is not able (or not willing) to fulfill its fundamental tasks such as ensuring the safety of its citizens, providing health, education, infrastructure and finally (good) governance. While armed conflict might lead to so-called fragile states, unresponsive states can in turn increase the likelihood of conflict (OECD 2008a). In the following, (1) the contribution of timber companies to conflict, (2) the effects of conflicts on the timber industry and (3) its developmental contribution in the difficult situation after conflict are outlined.

2.1. Timber companies' contribution to conflict

Two broad types of links between conflict and timber companies can be identified:

→   First, a company might source violent conflict:

Revenue from the timber trade may be channeled towards activities that perpetuate conflict. Powerful actors might take control of the logging industry, grant timber concessions and might misuse these revenues. So-called 'conflict timber' is defined as timber that is at some point in the chain of custody traded by groups involved in armed conflict, such as rebel factions, regular soldiers, or civilian administrations. Often, conflict timber is illegally sourced timber. Revenues derived from it are used either to perpetuate conflict or take advantage of conflict situations for personal gain.

At the same time, there are also examples where conflict can reduce the amount of timber being harvested, for example when rebel groups impose such

heavy informal taxes on companies and the security situation for companies is generally so poor that they cease to operate. This is also why the greatest harm to forests sometimes occurs post-conflict. With the end of violence, forest exploitation becomes possible again and is often needed, as timber can serve for reconstruction and development efforts (OECD 2005).

→ Second, logging activities themselves might be a direct cause of conflict or exacerbate existing conflicts:

Especially in conflict-affected and fragile countries, company activities in logging concessions might cause conflicts because of disputes over ownership of forest resources, the distribution of benefits, local environmental degradation, or social conflicts caused by immigration of timber workers. Usage and land rights of communities have often not been respected for years, as they have seldom been included in the legal frameworks from the beginning of the concessions (see also Megevand et al. 2013). These disputes in turn might lead to harsh repression by governments (and sometimes

Challenges for business in the Congo Basin
→ Possible complicity in human rights violations by ruling state administration, non-state armed groups, or local elites;
→ Non-state armed groups might influence the company's activities;
→ Perception of corporations as rich and powerful by communities that are poor after years of conflict;
→ Lack of public services and fragility of the state causes demands towards the company to take the role of a development agency;
→ Escalation of conflicts based on proliferation of small arms and unequal distribution of benefits.

companies). Additionally, local populations in forest areas that are often remote often suffer from poverty and a lack of public services. This might lead to a situation of directing demands from the communities towards the company because it might be the only possibility of income.

A more comprehensive description of how timber companies might contribute to conflict will follow in chapter 5, where particular issues regarding the conflict-sensitive operations of timber companies will be discussed in detail.

2.2. Effects of conflicts on the timber industry

Companies involved in tropical logging operations face high entry and exit barriers. Substantial capital is often required to build infrastructure such as logging roads, and also to conduct a variety of labor-intensive preparatory activities such as boundary markings and forest inventory. Therefore, they have an interest in managing their non-technical and sustainability risks well.

Conflicts can manifest themselves as violent and retaliatory actions (blockades, machinery sabotage, fuel and timber theft and physical injuries). Generally, this has several possible effects for a company (RECOFT C 2011, Wilson 2009, Davis & Franks 2011):

1. Higher operational costs: Forestry operations may be interrupted, leading to a loss in productivity due to delay. Staff time will have to be devoted to responding to conflict, especially at senior level. Finally, this leads to rising opportunity costs from the inability to pursue future projects and/or opportunities for expansion or sale.
2. Loss of market share: A company's reputation and brand name might be tarnished, leading to the

What are fragile and conflict-affected countries?
There is no single definition. Still, they can be described as countries that are
→ involved in violent conflicts;
→ not currently experiencing high levels of armed violence but
→ where political and social instability prevails;
→ where serious concerns about abuses of human rights and political and civil liberties persist;
→ in transition from violent conflict to peace.
UN Global Compact & PRI (2010)

inability to secure forest certification or concerns from customers related to their own reputation.

3. Higher financing costs: Conflicts also raise the risk profile of the company, which can have negative repercussions, including on the ability to secure financial loans. Some investors might not invest in countries or companies facing serious, unresolved conflicts.

4. Decreased motivation of employees: Some conflicts might create substantial internal stress, affecting employee morale and productivity, and might lead to high staff turnover.

Tropical timber companies rarely operate in an environment devoid of conflicts, as most of the countries they work in can be defined as conflict-affected or fragile countries. The logical step is learning to prevent and manage them. Companies that are equipped to manage conflicts over forests and land will effectively reap more benefits in the longer term.

2.3. Timber's contribution to development

While it is important to highlight the possible contribution of timber companies to conflict, it is critical that they recognize the important role that responsible and sustainable forest management could have in contributing to development. Several reports yield a differentiated view on positive impacts of the timber industry (see, for example the World Bank Report by Megevand et al. 2013). However, as a company, it is essential to seek to contribute to the larger issues of development listed below.

1. Employment: In most countries of the Congo Basin, the forest sector is a driver of the economy; in some cases it is even the leading sector in terms of contribution to GDP and formal employment.
2. Education, training and knowledge-building: The companies bring training and capacity-building to local people (workers, but also technical aspects of forest management to other stakeholders).
3. Revenue generation: Logging generates revenues for public and private landowners. Logging is thus an important potential source of funds for improving infrastructure and social services.
4. Local procurement and livelihood support: Most forestry value chain activities are in regions with high unemployment levels and few economic alternatives. It is often the case that the economic value generated supports a substantial number of people. Timber companies and their personnel that are supplied by local communities and businesses create jobs and livelihoods in local communities.
5. Infrastructure: Timber is a major source of foreign direct investment in the Congo Basin and is a major driver of infrastructure. It is a foundation industry which might catalyze the wider provision of infrastructure – such as transport, piped water, electricity and telecommunications.

6. Provision of social services: Timber companies help to establish or support schools and health clinics in local communities, as well as improving access to potable water.

7. Governance: In applying responsible business practices, timber companies might spread international best practices and promote governance reforms, like the VPA FLEGT (Voluntary Partnership Agreement on Forest Law Enforcement, Governance and Trade) process (see chapter 5.1). Timber companies also contribute to the delimitation and the integrity of the permanent forest state domain. De facto, companies which implement a sustainable management plan contribute to the effort to prevent illegal logging.

8. Protection of biodiversity: Sustainable forest management can yield profit for timber companies without jeopardizing biodiversity. Together with conservationist NGOs, several timber companies in the Congo Basin have established functioning collaborations to protect biodiversity in the forests. Furthermore, timber is one of the few renewable industrial construction materials.

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3. Risk and impact-mitigation by timber companies

3.1. What is CSDD?

As outlined above, conflict and fragile situations pose specific risks for companies (1) and at the same time, companies might cause conflict through a negative impact of their operations (2). By minimizing its negative impacts on the conflict context, a company avoids creating new risks or exacerbating existing risks (3). By maximizing its positive impacts on the conflict context, it lessens the risk profile of the existing conflict context (4). Conflict sensitivity due diligence assesses the risk of a company negatively affecting conflicts in a society.

Figure 1: Risk and impact in conflict and fragile situations
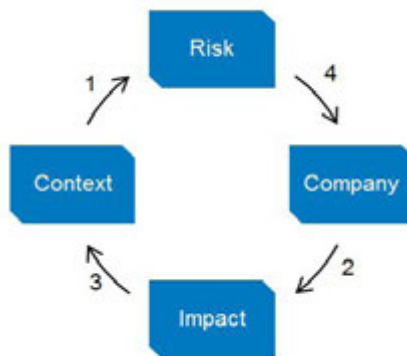
Conflict-sensitive operations are defined as (International Alert 2005: 20):
→ Not aggravating existing conflicts in a society;
→ Minimizing negative impacts of company operations on a society;
→ Contributing to the economic, social and political development of the region.

To be conflict-sensitive in essence means to act with due diligence to avoid conflicts within a society.

A conflict-sensitivity lens adds to a 'traditional' social impact assessment in so far as it assesses social impact in the light of existing conflicts in a society. And it is similar to a human rights impact assessment as it focuses on those human rights violations that lead to violent conflicts between societal groups in a particular context.

Generally, it is important that companies are aware of the legal requirements of the host and home countries they are working in and comply with them in order to reduce negative impact. However, to adhere solely to legal requirements in conflict-affected and fragile countries is not enough. On the one hand, national legislation might hold inherent conflicts (for example the mining code vs. the forest code). On the other hand, national legislation may be adequate, but the real problems may lie in the human and financial capacity to implement legislation effectively. In other cases, the lack of clear and well-framed legislation contributes to many conflicts. Being compliant therefore does not ensure that one is conflict-sensitive. While legality is an important step towards responsible business practices, in countries where the rule of law is weak, it is an insufficient dimension. Especially in conflict-affected and fragile situations, companies have an interest in applying additional conflict sensitivity due diligence in order not to cause and / or aggravate existing conflicts and risk their investment.

3.2. Objectives of the Manual

The objective of the manual is to support timber companies in a CSDD approach through recommendations on two levels:

→   Management: How should CSDD be implemented within the company systems and procedures? Recommendations are divided along

- Business Governance
- Operational Management
- Analysis and monitoring

→ Operations: How should CSDD be implemented in specific company activities in the Congo Basin?

The manual introduces eight Guidance Notes on how to prevent and mitigate potential conflict in operations (hiring practices and management of staff relations, contractors, security, eco-guards, good governance and corruption, inclusive and periodic consultation, providing basic services, local economy and benefit sharing), and two Guidance Notes on how to deal with a conflict that is already there.

3.3. Conflict sensitivity due diligence

Figure 2: Stakeholder relations (structure of guidance notes)
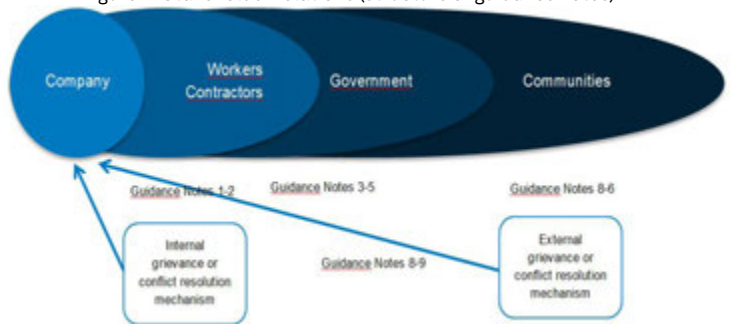
In field missions to the Congo Basin, potential impacts of forestry operations have been identified that are particularly prone to lead to conflicts (see Guidance Notes 1-9). A public summary of the assessment is available online (www.swisspeace.ch).

The Guidance Notes are structured along conflicts that might arise because of a company's relations (a) with its workers and contractors, (b) with government and (c) with communities and other stakeholders

(Guidance Notes 1-8). The access and use of natural resources is a topic that often leads to conflicts between these different actors. This is why it is discussed in its own note (Guidance Note 9). When adressing actual negative impacts that have already occurred, careful conflict management and grievance mechanisms are recommended (Guidance Notes 10-11).

Figure 3: Conflict Sensitivity Due Diligence Circle

All Guidance Notes include the relevant steps in order to establish conflict sensitivity due diligence as outlined in the circle above. Instead of analyzing a particular setting, the manual already establishes the links to conflict in the first paragraph (in the circle this equals the part of context and conflict analysis) and the recommendations include the relevant steps that need to be taken for a particular issue in the relation with a stakeholder group.

This paragraph helps the company to understand possible challenges and issues related to each Guidance

RECOMMENDATIONS

→   Identify negative impact
    These key questions help the company to find out if a particular issue is of concern for its operations and what specifically the problem might be.

    It is never the overall operations of a company that have an impact. It is one or several decisions that result in a negative or positive impact. It is therefore important to ask the right questions and regularly analyze the relationships of the company. The analysis and identification of issues also fosters a common understanding among staff on how to react to issues of conflict.

→   Prevent and mitigate negative impact
    This paragraph suggests some risk and impact-mitigation measures for potential conflicts based on negative impact.

    After the identification of possible conflict issues, options and measures to react and take steps to mitigate them have to be taken.

→   Account for measures taken
    This paragraph suggests measures relating to how to communicate and publicize the prevention/mitigation measures.

Well-intended activities by a company can fail to achieve the expected mitigation or prevention due to inadequate communication and transparency. Post-conflict and fragile countries are often characterized as societies of rumors – a badly handled communication process risks leading to further or renewed violence.

→   Foster positive impact
This paragraph addresses opportunities for companies to do good, by trying to support economic, social and environmental development or even peacebuilding through specific actions.

For each of the Guidance Notes, an example of a possible implementation of the measures is given. Furthermore, a box presents the most important reference documents.

3.4.   Long-term effects and level playing field

For some conflicts, CSDD to prevent and mitigate negative impacts might only have a long-term effect. Some conflicts might be rooted in long-running historical issues of poor governance and cannot be changed quickly. Still, it is the company's responsibility to show the necessary steps in due diligence to prevent conflicts on these issues too, together with the governments and the local administrations.

Companies need a level playing field. If there is competition that does not apply the same steps of due diligence and still has a license to operate, there is less motivation to do things right. Thus efforts to include enhanced due diligence should be coordinated with the responsible state institutions and international NGOs that are responsible for certification.

4. Conflict-sensitivity at management level

4.1. Business Governance

4.1.1 Public commitment of the executive board

The company adopts a corporate culture that emphasizes the importance of conflict prevention and management. The board level assures its commitment to Conflict Sensitivity Due Diligence (CSDD) in harvesting, transforming and trading of tropical wood from conflict-affected and fragile countries. It acknowledges that tropical timber originates from contexts that face particular circumstances for operations and activities. The board level is committed to bringing economic development to the people living in the Congo Basin and to assessing the social and environmental impact of its operations, with a particular focus on existing conflicts.

This commitment is signed by top management and made public. It entails the procedures and mechanisms relating to how CSDD will be applied within the company's tropical timber operations.

4.1.2 Strategic partnerships on CSDD

The board acknowledges the relevance of strategic partnerships on social impact in order to achieve conduct of activities in conformity with CSDD. Partnerships might be developed through collective action with other timber companies but also with (inter)national development agencies or organizations. These strategic partnerships are long-term and rest on mutual trust between the partners.

4.2. Operational Management

4.2.1 Inclusion in company policies

Company policies and operational procedural standards are adapted to respond to the challenges and dynamics of risks in conflict-affected and fragile countries. Based on the manual, CSDDs will be taken into account in the

formulation of all company policies. Regular internal screenings to identify gaps in terms of CSDD are undertaken to update the guidance notes of the manual.

4.2.2 Resources, competences and responsibilities

CSDD is only as effective as the internal systems and staff of the company that commits to it. The commitment to CSDD is therefore implemented on every level of the company through the allocation of adequate resources, competences and responsibilities. Companies might build up their human resources and hire experts with specific social skills. Personnel not only have the competences to fulfill their tasks, but they also have the resources and responsibilities that are connected with their fulfillment. Thus, their assessments and decisions must be included and valued in the overall management system of the company. The performance indicators of concerned staff members who deal with operations in fragile and conflict-affected countries include criteria of CSDD.

4.2.3 Communication and capacity-building

CSDD is considered and introduced in the company through: (1) capacity-building with management; (2) awareness-creation amongst all employees; (3) capacity-building with people working on and in fragile and conflict-affected areas; (4) information for stakeholders on the new policies and other procedural changes that the company has undertaken.

4.3. Analysis and monitoring

4.3.1 Risk management and analysis

The early identification, prevention and mitigation of potential risks and negative impacts require a thorough understanding of the local conflict context and the company's interaction with that context. A conflict-sensitive approach to a company's operations always includes three main steps:

→   Context assessment
Understand the complexity of the context (including potential or existing conflicts) in which the company operates. One way of doing a context assessment is outlined with key questions in Annex 4 of this manual. This analysis is part of the annual risk management process of the operations officers in the Congo Basin and is communicated to the executive level.

→   Identify negative impact
Understand the reciprocal impacts between the context and the company operations through their interaction. The key questions in the Guidance Notes sensitize the company to possible problematic interactions with the context. They help the company to determine possible risks and negative impact, and to prioritize risk and impact-mitigation plans.

→   Prevent and mitigate negative impact
Develop and implement risk and impact-mitigation plan. In the guidance notes, the recommendations give an indication of possible activities to mitigate risks for a certain conflict issue and include risk and mitigation measures, but also show how to communicate about these measures ('Account for measures taken'). Furthermore, they sometimes include a short paragraph on fostering a positive impact.

4.3.2   Monitoring and evaluation

Good practices require robust monitoring and evaluation procedures to be in place, to ensure transparency and effective working of the systems. The activities in the risk and impact-mitigation plans are regularly monitored and evaluated.

→   Progress report
A progress report on the implementation of the mitigation plans is coordinated with other audits and sent annually to the management level. A progress

report might be established in different ways: (1) A representative from the social cell in the company is responsible for writing the report; (2) A progress report is written by a mandated NGO that evaluates the activities taken in the mitigation plan; (3) A progress report is written in collaboration with local communities and they are actively involved in the monitoring of activities; the company then reports results to the communities and the management.

There is an increasing interest in the business community in the need to monitor not only the direct impact of a commercial operation on the local environment and community, but also to assess the overall development impact, including a contribution to alleviating poverty and socio-economic development. These issues are addressed in the guidance notes under 'Foster positive impact'.

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5. Conflict-sensitivity at the operational level

5.1. Existing initiatives and guidelines for timber companies

Most countries in the Congo Basin have introduced a legal framework for sustainable forest management, a crucial landmark in order to achieve sustainability in the exploitation of forests and the protection of culturally and ecologically valuable parts of the forests. For more than ten years, the European logging industry in the Congo Basin has been a driving force in implementing sustainable forest management together with state institutions, international NGOs, multilateral organizations, civil society and the local communities.

Sustainable forest management has several advantages from a company perspective too. It enhances the knowledge and control of the forest resource and helps to streamline operational activities. It also enables good control of different species, facilitating a commercial approach. Today, all of the large European groups have a unit that is responsible for forest management. They work closely with the managers of protected areas around their concessions, collaborate with some large international NGOs like WCS or WWF, maintain relations with FSC International and to some extent they participate in forestry research, collaborating with research centers such as CIRAD or Gembloux University but also other European and African universities (AFD 2011).

However, while sustainable forest management might lead to an amelioration of business practices, there are certain challenges that are often difficult to tackle (Wilson 2009):

1. Enabling forest operations in weak governance environments to meet the standards;
2. Ensuring that consultation with local stakeholders is meaningful;

3. Managing expectations of what certification can achieve;
4. Ensuring that certification and auditing take place in a transparent and equitable manner;
5. Government capacity to support enforcement.

Most of these challenges play a key role in the company's 'social license to operate'. In order to reduce their negative impact and risks, companies have to manage their relations with local communities, NGOs and government. Different guidelines and regulations have been established that can inform responsible business practices of timber companies in the Congo Basin. In her seminal study, Wilson (2009) broadly differentiated them into national legislation, international standards, certification schemes and other voluntary practices, as well as guidelines from financing institutions.

5.1.1   National Legislation

Sustainable forest management is relevant for social and environmental impacts because many countries require an environmental impact assessment (EIA) for companies that start operating in a concession. EIAs are seen as a way to identify potential conflicts in the earliest stages of forestry operations. They feed into management plans with often appropriate monitoring systems. Some legislation requires consultations as part of the analysis, and in other legislation companies must demonstrate how they will treat the local population fairly in order to successfully apply for a concession. This often involves preparing a management plan, based on a complete forest and wildlife inventory, a socio-economic and ecological/environmental study or impact assessment, and a statement of capacity.

Several countries in the Congo Basin have established laws for indigenous peoples which are relevant for logging companies as they will have to include their rights in the forest operations.

The effectiveness of these procedures is often monitored both internally and externally via audits by the management system certifiers. While third-party certification of sustainable forest management has supported its effective implementation, it has also undermined the role of the state in controlling the fundamental parameters for forest management.

For several countries in the Congo Basin, Voluntary Partnership Agreements (VPAs) are in the process of being signed (Gabon, DRC) or have been signed (Cameroon, CAR, Republic of Congo) between the government and the EU, in order to follow the European Forest Law Enforcement, Governance and Trade (FLEGT) process. The process tackles the legality and trace-ability of timber; however, in terms of social and environ-mental impact the standards are lower than the sustainable forest management systems already implemented. Most certification standards and safeguarding policies have requirements that go beyond the minimal requirements of legality.

5.1.2   International Norms and Standards

There are several international conventions and declara-tions that are relevant with regard to responsible business practices in the logging industry. Conventions and Covenants are legally binding in those countries that have ratified them and associated Protocols. This is the case for most of the countries in the Congo Basin. Declarations are not legally binding.

Conventions and Declarations are aimed at govern-ments, not the private sector. Nonetheless, they are important reference frameworks for the private sector. The relevant documents are summarized in Annex 2 and include ILO Conventions, UN Conventions, Covenants and Declarations on both labor and human rights, and biodiversity or access in environmental matters.

5.1.3   Free, Prior and Informed Consent (FPIC)

The FPIC principle appears in the 2007 UN Declaration on the Rights of Indigenous Peoples. It implies informed, non-coercive negotiations between investors, companies or governments and indigenous peoples prior to the development and establishment of company activities on their customary lands. It is the communities who have the right to decide whether they will agree to a proposed business project that affects their rights (FPP 2010).

5.1.4   Forest Certification (legality and sustainability)

Standard initiatives for the timber sector include certification schemes such as the Forest Stewardship Council (FSC) and the Program for the Endorsement of Forest Certification schemes (PEFC), those being the certification schemes that are most applied. FSC is the scheme that is most common and accepted in the Congo Basin context.

5.1.5   Company Management Standards and Codes of Conduct

The ISO 14000 environmental management standards are implemented by many companies and evaluate activities of environmental management. They provide practical tools for companies and organizations looking to identify and control their environmental impact and continually improve their environmental performance.

5.1.6   Voluntary Industry Guidelines

Several major forest companies have signed up to networks and processes such as the Global Compact and the World Business Council for Sustainable Development. Further ethical guidelines for corporations include the OECD Guidelines for Multinational Enterprises, the UN Guiding Principles on Business and Human Rights, or the ISO 26000 standard. These provide frameworks and principles for responsible business

practice. Industry-specific initiatives are the UN Food and Agriculture Organization's (FAO) Framework for Assessing and Monitoring Forest Governance. For a description of the content of these initiatives, see Annex 3.

5.1.7   Project Finance Requirements

Even though these requirements apply only to those companies that demand financing from the International Financial Institutions (IFIs), they also attach social and environmental conditions to their provisions. The International Finance Corporation (IFC) as well as the European Bank for Reconstruction and Development (EBRD) have established policies on environmental and social issues.

In the following, specific conflict issues that have been identified in field missions in 2013 in the Congo Basin are presented. They refer to the above existing guidance and tools in each of the guidance notes.

Guidance Note 1:
Hiring Practices and
Management of Staff Relations

5.2.   Workers' and Contractors' Relations

LINKS TO CONFLICT

A company's success relies to a great extent on the relations among its staff. The workforce of a company is most likely to be composed of employees of different backgrounds. Diversity among employees is augmented if specific expertise is not found among the local labor supply and companies have to hire from other regions of a country or internationally, as is often the case for 'high-qualification' jobs. Especially in a situation of long and protracted conflict, the selection of workforce is crucial. If the company is not aware of past and existing discrimination between groups, then it can trigger conflicts by repeating this discrimination in hiring practices. The company therefore needs to reflect on its hiring practices and the management of staff relations in general in order not to create new tensions or increase the risk of accentuating existing tensions between different communities. For example, if all drivers come from one particular ethnic group, this has an impact on discrimination and strengthens existing stereotypes. Or if all managers come from a close neighboring country, this might add to existing tensions on other issues such as border conflicts. At the same time, the company must be aware of the issues that might arise if they start to tackle discrimination through their hiring practices; for example, people from higher classes might oppose these practices.

RECOMMENDATIONS

→ Identify negative impact
1. What kind of labor is offered (temporary/ permanent/skilled/unskilled)?
2. How does the company advertise and recruit potential employees?
3. What are current hiring practices in the area? How transparent is the hiring process?
4. Who profits from employment opportunities in the company? Do some groups hold a competitive advantage over others? Why?
5. Are government representatives involved in recruiting company employees? How?
6. Is the company perceived as being linked to a specific social/ethnic/political group?

→ Prevent and mitigate negative impact
1. Commit to key workers' rights issues including ILO requirements for 'decent work' and core conventions on child labor, forced or compulsory labor, freedom of association, and elimination of discrimination.
2. Employ local staff at different skill levels (see Guidance Note 8 on Local Economy)
3. Develop staff recruitment guidelines which foster local employment.
4. Develop a non-discriminatory hiring policy and be transparent about the hiring process.
5. Take into account the ratio of people from different communities in the company's hiring practices.
6. Create collaborative frameworks (professional exchange, sport, topics specific to sub-region, trade barriers, etc.) between the workers from different backgrounds.

→ Account for measures taken
1. Publicize open posts widely.
2. Communicate hiring practices among local staff as well as throughout the company.

→ Foster positive impact
1. Develop frameworks for dialogue outside the company (e.g. between women from different ethnic groups) on common issues such as children's education or gender issues.
2. Do staff training on non-discrimination.

→ Reference documents
1. FSC Forest Stewardship Standard for the Congo Basin Region (FSC 2012), Principle 4
2. UN Global Compact – Principle 6
3. ILO Conventions (see Annex 2)

Example of an employment procedure of a forest company in the Republic of Congo
The company introduced a procedure that favors local employment and replaced previous employment practices that were undermined by favoritism. It has addressed popular grievances about the absence of paid work for local communities, which was a frequent cause of road barriers, often erected by young men who felt they should be offered employment. Despite a certain lack of appropriate skills locally, the company tried to ensure that local people are favored in recruitment, and that certain unskilled work is reserved for local youth.
(Lewis & Borreill 2013: 72)

Guidance Note 2: Contractors

LINKS TO CONFLICT

In its business activities a company relies on external services provided by contractors. Contractors under core business activities are organizations offering for example inventories, transport and construction. Other contractors like security services or NGOs are discussed in Guidance Notes 3 and 6. In conflict-affected and fragile environments, it is relevant to thoroughly assess the choice of these partners in order to get to know their position in the context, their relations with the government, potential conflict parties and other stake-holders. Such an assessment is relevant in order to understand whether the actions of contractors will have a negative impact on conflict and therefore implicate the company by association. Without knowing it, the company might support and thus legitimate one party to a conflict. Apart from the reputational risks, the company may have to spend valuable resources on conflict mitigation, or be held responsible for possible misconduct by the contractor.

RECOMMENDATIONS

→   Identify negative impact
1. What is the selection process for contract awards?
2. Do certain types of contractors offer a competitive advantage? Why?
3. Is the selection process of contract awards transparent?
4. Are government representatives involved in the selection process? How?
5. What is included in the contract? Is there a clause about the respect for social, environmental or human rights?

Conflict-sensitivity at the operational level

→   Prevent and mitigate negative impact
1. Develop a non-discriminatory and transparent
    contracting policy.
2. Provide information about minimal standards of the
    company and discuss them with the contractors.
3. Ensure the commitment of contractors to the same
    minimal standards of the company. This includes
    the compliance to national laws on sustainable
    forest management, VPA-FLEGT grids of legality, but
    also the internal commitments of the company such
    as its Code of Conduct.

→   Account for measures taken
1. Publicize contracting opportunities.
2. Communicate contracting practices in the company
    and among local staff.

→   Foster positive impact
    Conduct business round-table discussions trans-
    mitted on local radio and in collaboration with local
    civil society, aimed at improving relations between
    the locals and nationals of neighboring countries.

→   Reference documents
1. WEF Partnering Against Corruption Initiative (PACI):
    Good Practice Guidelines on Conducting Third-Party
    Due Diligence (WEF 2013)
2. FSC Forest Stewardship Standard for the Congo
    Basin Region (FSC 2012): "In several places
    indicators emphasize that the requirements apply
    equally to forest enterprise staff and to contractors.
    This should be taken as the basis for all indicators.
    The indicators apply to all staff, personnel, third
    parties etc. operating within the forest area" (p. 8)

Example of contractual statement for suppliers
"The company has a zero tolerance policy with respect to violations of fundamental human rights. This includes violations of the following:
→ The use of slave labor (including forced, indentured, or compulsory labor);
→ Any harsh or inhumane treatment or punishment of employees;
→ The use of child labor in activities which are dangerous to the moral or physical well-being and development of the child;
→ The use of labor in unsafe or unhealthy work environments, where employees have not been fully informed of the potential dangers and where all reasonable protective measures have not been undertaken;
→ The exploitation of employees who are hired for full-time work at less than a living wage.

The company will only undertake business with your company so long as it is not in violation of fundamental human rights expressly mentioned above, or violations of a similarly severe nature. If we have reason to believe, at any point in the operations, that such violations are being committed in your company, we will immediately suspend all business relations."
(Jungk 2006: 14)

Guidance Note 3: Security

5.3 Government Relations

The relations between companies and the respective government representatives of administrative agencies of host states are important. These interactions take place on different government levels, ranging from the central or national government to the provincial and municipal echelon of government. They also take place on different issues, such as from the need to obtain licenses, to the consumption of public services and the provision of infrastructure, to the payment of taxes.

LINKS TO CONFLICT

For the safeguarding of their premises a company is dependent on either official security forces such as the police, other armed forces or private security companies. In some countries, there is a policy of deploying the security forces to guard company premises in the occurrence of a strike, for example. The closer the relationship of companies to security forces, the greater the risk of facing allegations or of becoming complicit in human rights abuses. Such allegations imply a high reputational risk for the company. In such contexts, conflicts are often not successfully mitigated through measures of deterrence and by showing force. Use of force consolidates the power relations between the government and the company versus the community and the people. In most of the cases, building trust through processes of dialogue with participants is much more cost-effective and efficient (see Guidance Note 6 on inclusive and periodic consultation). With a CSDD approach, the company offers the framework to detect any negative impact and enter into an agreement with

security forces before allegations are raised. Violence against women is particularly problematic in fragile and conflict-affected situations, and needs to be given special attention.

RECOMMENDATIONS

→   Identify negative impact
    The following questions are borrowed from the Implementation Tool of The Voluntary Principles on Security and Human Rights. This tool might guide the company in all its activities related to security services.

1. Has the competence or effectiveness of public security providers ever been called into question?
2. Has the competence of private security providers ever been called into question?
3. How are public security providers resourced (i.e. equipment, fuel, vehicles, etc.)?
4. Do public security providers have a reputation for or history of human rights abuses (e.g. arbitrary arrests, torture, etc.) and violations of humanitarian law?
5. Are public security providers not paid adequately and/or regularly?
6. Do private security providers have a reputation for or history of human rights violations?
7. Are private security providers legally permitted and available in the country?
8. Is there an adequate level of understanding of human rights and humanitarian law by security providers?

→   Prevent and mitigate negative impact
    Implement measures as outlined in the Voluntary Principles on Security and Human Rights:

1. Regularly consult with the government and local communities about the impact of security arrange-ments on those communities.

2. Hold structured meetings with public security on a regular basis. Possibly do this as a collective action effort with other companies in the region.
3. Report cases of physical force by public security to the appropriate authorities and to HQ.
4. If you provide equipment for public security take appropriate and lawful measures to mitigate negative consequences (monitor use).
5. Provide human rights training and education for public security.
6. Establish 'rules of engagement' for private security (including appropriate conduct and local use of force). Monitor, investigate and report on these 'rules of engagement'.

→ Account for measures taken
1. Make policies and operational guidance on relations with security forces public.
2. Condemn excessive violence of public forces in an open letter to the responsible person within the local administration.
3. Publicly condemn violence against civilians and the level of insecurity in the region where the company operates.

→ Foster positive impact
Establish a similar process such as the Voluntary Principles on Security and Human Rights for the forestry sector in the Congo Basin.

→ Reference documents
1. UN Global Compact – Principle 2
2. Voluntary Principles on Security and Human Rights (Voluntary Principles 2010)
3. Implementation Guidance Tool of the Voluntary Principles (2011)
4. International Code of Conduct for Private Security Providers (ICoC 2010)

Example of of a company's response to human rights violations by government

A mining company in South Africa reacted to human rights violation of the public security services in the following way:

1. Writing a letter of protest to the government, issuing a public statement condemning the incident and calling for a full and public inquiry.

2. Re-iterating an offer to train the local authority responsible for resolving re-settlement issues that were a source of tension.

3. Initiating and co-hosting a multi-stakeholder forum on the most effective means of creating the right business climate for investment without the fear of perceived complicity in human rights abuses.

(UN Global Compact 2010)

Guidance Note 4: Eco-Guards

LINKS TO CONFLICT

Logging companies facilitate access to the forest through roads and this led in some concessions to an increase in commercial hunting and poaching. In response, in *some* concessions in the Congo Basin, conservationists, logging companies and governments set up paramilitary patrols called eco-guards, with the intention of catching 'poachers'. While this is by no means a legal requirement in the Congo Basin in general, there are several such projects throughout the region (WCS 2013). Eco-guards are often young local men who are employed to control illegal activities in the forests. They are often formally subject to the ministry responsible for forest management. They normally receive training through the army and carry similar uniforms and weapons. Their wages are mainly paid by private sources, including international nature protection NGOs and multinational corporations. While the local community agrees on the relevance of protecting endangered species, the conduct of eco-guards vis-à-vis the local community as well as the governance of their activities is often problematic. Forest protection is thus undermined by the prevalence of bribery and this is why the eco-guards' mandate creates conflicts with the local community.

RECOMMENDATIONS

→ Identify negative impact
1. Has the competence of eco-guards ever been called into question?
2. Are eco-guards poorly resourced (i.e. shortage of equipment, fuel, vehicles, etc.)?
3. Do eco-guards have a reputation for or history of human rights abuses?

4. Are eco-guards recruited from one particular social/ ethnic/ group?
5. Is there an inadequate level of understanding of human rights by eco-guards?
6. Are public security providers not paid adequately and/or regularly?
7. Who is responsible for oversight and supervision of eco-guards?

→ Prevent and mitigate negative impact
1. Enter into a dialogue with the other parties involved in funding the eco-guards. Establish clear guidelines on the responsibilities of the different stakeholders.
2. Request that a complaints mechanism for misconduct of eco-guards is established and that they are trained in human rights, anti-corruption and conflict resolution.

→ Account for measures taken
   Provide outreach among local communities about the responsibilities and mission of eco- guards.

→ Foster positive impact
1. Establish village wildlife committees that keep the local population informed about procedures for sustainable wildlife management and involve them in the management activities.
2. Provide price-competitive protein to workers, to prevent any increase in illegal wildlife hunting and commercialization.

→ Reference documents
1. UN Global Compact – Principle 2
2. Voluntary Principles on Security and Human Rights (Voluntary Principles 2010)
3. Implementation Guidance Tool of the Voluntary Principles (2011)
4. International Code of Conduct for Private Security Providers (ICoC 2010)

Example of negative impact of eco-guards on communities

Eco-guards seem most effective in catching 'poachers' when control is focused on road blocks that enable passing vehicles to be searched. Other aspects of eco-guards' activities have become a serious problem for many indigenous peoples. The distinction between an indigenous hunter and a poacher is often ignored and eco-guards frequently make them scapegoats in their anti-poaching controls. Since local political and military elites organize the most intensive commercial poaching and most significant environmental crimes, eco-guards are often unable to arrest perpetrators due to their political connections. In this context, indigenous peoples become soft targets in their forest camps for violent visitations. The beatings and other abuses experienced during these visits are a source of great anger among the indigenous groups.

(Lewis 2012)

Guidance Note 5: Good Governance and Corruption

LINKS TO CONFLICT

Corrupt practices, nepotism and tax dodging undermine democracy and reduce the amount of money available for government-led development. Corruption erodes the development of transparent and accountable governance mechanisms and creates distrust of government institutions. From a conflict-sensitivity perspective, corruption contributes to the deterioration of the state-society relationship, which can trigger frustration, civil unrest and conflict. Inadequate benefit-sharing regulations lead to a situation where local people utilize forest resources illegally and do not feel responsible for the forest condition (Dogmo Pokem 2010). Through their multiple interactions with government agencies, logging companies are confronted with corruption at different points, such as with licensing, taxation or customs authorities. If companies engage in corrupt practices in their interactions with government agencies, they not only expose themselves to reputational risk, but contribute to the possible deterioration of the state-society relationship which ultimately might result in conflict.

RECOMMENDATIONS

→   Identify negative impact
    These questions refer partly to the Risk Assessment questions of the Ernst & Young Guidance for mining companies.
1. How are forest royalties and incentives distributed?
2. Are there areas in company operations that are exposed to the risk of fraud and corruption?
3. Are there areas of business that are not performing to expected levels for no apparent business reason?

4. Is there a high amount of sole-source contracts without competitive tendering in operation across the business?
5. Do you have a high number of expats operating in your business?

→ Prevent and mitigate negative impact
1. Develop and implement an anti-corruption standard for all relevant business operations (government agencies and other contractors).
2. Organize periodic training sessions for all employees for capacity-building on the anti-corruption standard.
3. Undertake a regular corruption risk assessment.
4. Promote transparency in economic relations with the state.

→ Account for measures taken
   Develop a communication strategy on issues related to corruption and transparency.

→ Foster positive impact
1. Engage in collective initiatives on transparency mechanisms and standards (internationally and locally).
2. Empower civil society to understand the responsibility of the state to pay for local development funds or to address the return of taxes in the region
3. Engage with other logging companies on the possibility of establishing initiatives like Extractive Industry Transparency Initiative (EITI) or Publish What you Pay (PWYP), or the EU regulation on publication of payments to governments for the natural resource sector.

Example of community project to enhance transparency
Making the Forest Sector Transparent was a four-year project (2009-2012) that supports civil society groups in forest-rich countries to engage with policy makers and to advocate for improved forest-sector management. It is a project by Global Witness, based on a 2006 UK Government White Paper, 'Making Governance Work for the Poor '. The project aims to make forest sector governance more responsive and accountable, improving forest sector policy. The project is piloting a 'transparency report card' that looks at the quality, quantity and accessibility of forest sector information disclosed to the public by governments in forest-rich countries. It looks at the legal obligations of the state and identifies information needs, so that communities can assert their rights. (www.foresttransparency.info)

→ Reference documents
1. UN Global Compact - Principle 10
2. OECD Guidelines for Multinational Enterprises – Chapter VI (OECD 2008b)
3. United Nations Convention Against Corruption (UNCAC 2004)
4. OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (OECD 2010)
5. Framework for Assessing and Monitoring Forest Governance PROFOR and FAO (2011)
6. EITI Extractive Industry Transparency Initiative

Guidance Note 6: Inclusive and Periodic Consultation

5.4. Community and Stakeholder Relations

LINKS TO CONFLICT

The engagement with local stakeholders aims at building ongoing and constructive relationships. It encompasses consultation and communication strategies to inform and let local stakeholders participate in activities of operations, for example the establishment of a forest management plan. Most of the concessions in the Congo Basin are not newly granted concessions, but are taken over from previous companies. Historically, when governments started to recognize the commercial value of the forests, they tended to issue logging concessions typically without consulting local communities. However, these communities depend on forests as their primary source of livelihood and as an economic asset for future development. They might enter into conflicts over the use of the forest or land use in general. A proactive and genuine engagement with all relevant stakeholders is advantageous as it enables the company to detect possible conflicts as early as possible. A challenge when working with stakeholders is to assess their representativeness of and accountability to their own communities carefully. It is important to check the possible collusion of traditional local elites as well as local NGOs.

RECOMMENDATIONS

→ Identify negative impact

1. Who are the community leaders and how important are they for consultation? Are they trusted by their communities and representative of all groups?
2. What are the main civil society organizations in the region? Have they changed?
3. What role does civil society play in encouraging dialogue between the company and community actors?
4. What are the main forms of obtaining and sharing information among communities?
5. What types of mechanisms have been established to help maintain company-community relationships?
6. How are these maintained and monitored? By whom?

→ Prevent and mitigate negative impact

1. For the management plan, as well as for all development projects (for example of Local Development Funds), conduct an elaborated mapping of actors, including the power relations among the different stakeholders (pay special attention to women and indigenous peoples). This should enable you to understand if the all people are benefiting from the local development or if it is only the dominant groups of a society.
2. Conduct an in-depth risk analysis including cleavages between the different stakeholders as well as potential entry points for mitigation. This should help you to mitigate risks connected to conflicts with communities or groups within communities that feel they are not benefitting (mainly based on internal power relations within or between groups).
3. Use FPIC as a binding tool to facilitate genuine stakeholder engagement and participation.
4. Create a safe space for exchange of views between different stakeholders, where information and

expectations are shared and where existing local cultures and practices are respected.

5. Do community capacity-building to enable people to understand their rights (including forest codes and certification system), and to use the range of tools that can help them defend their rights.
6. Respect local customs in the agreement process (for example, a ritual celebration).

→ Account for measures taken
1. Adapt transparent, reciprocal and open communication channels that reach out to all concerned stakeholders on a regular basis.
2. Ensure that non-literate or non-francophone people have access to and understand the information (e.g. reading out, using local languages).
3. Include communication channels, for example exchange visits, workshops, school-based materials, and various communication media, including theatre, music and radio.
4. Inform and communicate to the relevant stakeholders about the forest management planning processes and the resulting plans through regular and periodic means.

→ Foster positive impact
Collaborate with international and local NGOs on the challenges and potentials of fostering rights for indigenous peoples through forestry operations.

→ Reference documents
1. FSC Forest Stewardship Standard for the Congo Basin Region (FSC 2012), Principle 3, 7 and 4
2. PDAC A Framework for Responsible Exploration: Principles and Guidance Notes, (PDAC 2012)
3. ICMM Sustainable Development Framework (ICMM)
4. IFC Stakeholder Engagement: A Good Practice Handbook for Companies doing Business in Emerging Markets (2007)
5. ICMM International Council on Minerals and Mining Community Development Toolkit (2012)

Example of potentials and challenges of implementing FPIC

FPIC is one of a number of indigenous rights that are specifically enumerated in international documents. Some companies already have policies and practices in place to respect indigenous peoples who will be affected by operations. The application of FPIC in the mining sector showed the following challenges and benefits. On the one hand the company enhances its ability to obtain and maintain a 'social license to operate' and lessens conflicts with communities. However, it also showed that the implementation is challenging because it can be difficult to identify the relevant indigenous peoples and define an appropriate negotiation process. Furthermore it could heighten existing tensions between indigenous and non-indigenous communities if companies accord differential treatment to indigenous people.

(Lehr & Smith 2010)

Guidance Note 7: Providing Basic Services

LINKS TO CONFLICT

Timber companies that invest in remote forest areas invest in basic infrastructure such as roads, electricity or water supply. Furthermore, as a condition for the granting of forest concessions, companies are obliged to invest in other public services such as schools or health centers. In constructing and providing these services the company may undermine the role of the government by creating a substitute for government responsibilities, which in turn may result in the weakening of government legitimacy. On the other hand, by providing basic services the company also creates expectations and demands from the public. For example, if infrastructure is not delivered on time or if facilities are not maintained and staff recruited, this can create a further source of conflict. Finally, if the provision of public services is part of the condition for granting concessions, their need has rarely been assessed with the communities but rather determined in a top-down process. Hence the company may find itself confronted with recurrent demands for expenditures which may turn into obstruction of and violence against the company if not fulfilled. For example, local development funds are managed multi-laterally and set up with the involvement of local chiefs. Without financial oversight and capacity-building of local people to prepare proposals and manage projects, the local development fund risks creating more conflict than doing good. Elite capture is a major weakness of the community development fund programs and can cause local tensions. People perceive the fund as an important source of support and a legitimate way to share benefits.

RECOMMENDATIONS

→ Identify negative impact

1. Is there a legal obligation for the company to establish infrastructure or provide public services (Cahier des Charges, management plan)?
2. Who decides on the needs of a community for the establishment of infrastructure?
3. To what extent does the local public sector provide public services?
4. Who are other active service providers and what are their roles?
5. Who has ensured access to public services provided by the company?
6. How are priority areas of public services established? Who is involved in the decision-making processes?
7. Once these areas are defined, who is responsible for the implementation and monitoring of these processes?

→ Prevent and mitigate negative impact

1. Analyze the needs and the impact of the social services on local communities, with a focus on conflict mitigation (during planning as well as monitoring and evaluation).
2. Discuss the different roles of the state and the company in building, providing and maintaining basic services, and inform the beneficiaries in the local community about it.
3. Ensure that all communities and groups (especially indigenous peoples and women) ultimately profit from the impact of social investments.
4. Diversify NGO partners that are involved in supporting social investments and communicate that you will change partners over years.
5. Transparent and robust monitoring and evaluation processes are crucial to ensure that such arrangements are effective.

→ Account for measures taken
  Adapt a communication strategy on informing the communities in detail about the provision of public services by the company (expectation management).

→ Foster positive impact
1. Establish a partnership with an international organization specialized in the field of development that implements social investment projects.
2. Establish Public-Private Development Partnerships in order to partner with the government on poverty-reduction strategies or other initiatives.
3. Develop a step-by-step exit strategy until the end of the concession which includes a hand-over plan to the government/community.

Example of the community development toolkit of the International Council on Mining and Metals (ICMM)
In 2012, the ICMM presented its second edition of the community development toolkit. It includes guidance on community development goals and processes, and identifies opportunities to link community development to the mining and metals project cycle. It states that "The essential element of sustainability in community development is that actions must be community planned and driven, not imposed by donors or companies. Mining and mineral-processing activities can play a central role in sustainable community development by acting as a catalyst for positive economic and social change in areas that may otherwise have limited opportunities for economic and social development. They can also influence the equitable distribution of mine-related benefits by ensuring that opportunities are created for women and vulnerable and/or marginalized groups such as Indigenous Peoples, ethnic minorities and the economically displaced."
(ICMM 2012)

→   Reference documents
1.   PDAC A Framework for Responsible Exploration: Principles and Guidance Notes, (PDAC 2012)
2.   Sustainable Development Framework (ICMM 2012)
3.   Partnership for Development Toolkit (ICMM 2006)
4.   Community Development Toolkit (ICMM 2012)

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Guidance Note 8:
Local Economy & Benefit-Sharing

LINKS TO CONFLICT

The installation of a company in a rural context often significantly alters the economic setting of the local context. On the one hand, the company provides direct employment primarily to young men, but also a lot of employment opportunities to supply services to this new class of workers. The area where harvesting and processing is taking place therefore often turns into an insulated economic development zone. While the discussion on sustainable forest management also introduced the relevance of non-timber forest products around logging companies, there are other businesses that will develop which, directly or indirectly, depend on the company and its activities (like for example charcoal production, commerce and trade in consumer goods, the establishment of garages and bars or the development of prostitution). Often, it is only certain groups that benefit from these economic activities; for example, traders from foreign countries. The dependence of the local economy on the company bears the potential for frustration which might turn into protest or violence against the company itself if the expected collaboration does not materialize. This frustration is nurtured by the fact that harvest cycles of logging companies are finite and benefit-sharing of the central level with the regional and local levels of government is inadequate. It is these inadequate benefit-sharing regulations that also lead to a situation where local people utilize forest resources illegally and where they do not feel responsible for the forest condition.

RECOMMENDATIONS

→ Identify negative impact
1. To what extent is wealth around the company distributed among the different social classes? What is the wealth distribution of different social classes?
2. Are there significant differences in economic opportunities between members of different classes? Why?
3. What are the main activities of the local economy? Do they provide enough income for families?
4. What is the unemployment rate, particularly among youth?
5. Are there any supply chain opportunities for local business? Are there any training opportunities for local business?
6. Are there benefit-sharing mechanisms amongst the stakeholders?

→ Prevent and mitigate negative impact
1. Analyze the impact of the company on the local economy and establish ways to mitigate negative impact (increased poaching as a source of proteins, rising prices; prostitution).
2. Develop a strategy for collaboration with local businesses for those economic activities that are directly linked to the presence of the company and forest products (see also Guidance Note 7: Contractors and Wood Residues Management).

→ Foster positive impact
   Identify opportunities for local economic development, including sourcing locally (supply chain).

→ Reference documents
1. PDAC A Framework for Responsible Exploration: Principles and Guidance Notes, (PDAC 2012)
2. ICMM Sustainable Development Framework (ICMM)

Example of conflict-sensitive wood residues management

Timber that is transformed on the site creates considerable wood residues. Companies are more or less involved in influencing further transformation of wood residues (for example commerce, charcoal, furniture production). The residues may be distributed directly to the local people or to a local company which then further transforms them. The distribution of offcuts may benefit different communities unequally and therefore contribute to increased tensions between them. This also applies for other offcuts which are often used to make charcoal. The conflict-sensitive management of wood offcuts can not only contribute to minimizing potential distributive conflicts among different communities (or sections thereof), but can also contribute to sustainable local development.

Guidance Note 9:
The right to land, territories
and access to natural resources

LINKS TO CONFLICT

The right to land, used areas, territories and the use of natural resources are often complex and overlapping: there is a risk that legal rights can be in conflict with customary law. While these rights have gained little recognition in the past, there are countries where legal texts are being revised and laws and regulations are being enacted with the aim of recognising, protecting and taking into account the rights and customary laws of local indigenous peoples.[2]

The majority of forest concessions in the Congo Basin have not been recently acquired and/or demarcated, but are rather subject to age-old acquisitions (dating back to the beginning of the 1950's) with a succession of operators. Historically, when different governments began to recognise the commercial value of the forests, they had a tendency to create forest concessions without any prior consultation with, or notification of, the local communities. This is despite the fact that these communities were reliant on the resources available in the forest. Even today, communities continue to depend on these resources as their primary source of subsistence and main opportunity for promoting their current and future socio-economic development.

In the majority of countries in the Congo Basin, the Permanent Forest Estate represent forest concessions demarcated for long-term timber production, and are ideally integrated by classification and belong

2   For example, in the Republic of the Congo with the Law 05-2011 promoting and protecting the rights of indigenous peoples.

exclusively to the State. Agreements are then signed between private operators and the State to regulate the period for which concessions are granted and the terms and conditions of their management. This is the same for mining concessions that are granted operational licences for a fixed period of time. While there is a clear legislation within the forest code that recognizes the user rights of local communities, there is a problem of overlap of rights between the local communities, forest concessions and mining rights. Although the forest code recognizes the user rights of local and indigenous communities to carry out their traditional and subsistence activities, it is often the legal texts that do not provide the precise nature, method and forms of how to implement such rights.

Finally, there is an overlap in the way in which land is used, with forestry permits,[3] mining and the extraction of hydrocarbons in the majority of the State territories being conceded to private operators. In light of this situation and the absence of strong governmental and intergovernmental initiatives, it remains challenging to design clear and sustainable land use processes.

The contradiction, or incompatibility, between legal rights and customary rights, the top-down way in which concessions were attributed acquired and demarcated, the absence of any regulatory framework for the implementation of customary rights, the superposition and overlapping of land-use by different actors and the competition for access and use of natural resources may become the source of conflicts between: local communities and/or indigenous peoples; the State; and the organisation(s) which have been granted by the State the right to exploit the resource(s). Access to and the use of resources may, in fact, be a source of tension and may eventually give rise to conflict between the local and/or indigenous peoples and the private companies.

3   As is shown by various current initiatives (Interactive Forest Atlas) and FTI (Forest Transparency International), developed by WRI (World Resources Institute), the database of the OFAC-OSFAC (Satellite Observatory of the Forests of Central Africa), and more recently the multi-party Land Matrix Project.

RECOMMENDATIONS

To avoid conflicts with the local communities, it may be useful to apply the United Nations Declaration on the Rights of Indigenous Peoples,[4] the ILO Convention No.169[5] and the FSC standard[6] to encourage the respect for the customary and legal rights of local communities and indigenous peoples.

In this spirit, in Criteria 3.2 and 4.2 of the FSC Principles and Criteria (Version 5, February 2012) it is indicated that the company "*shall recognize and uphold the legal and customary rights of indigenous peoples to maintain control over management activities within or related to the Management Unit to the extent necessary to protect their rights, resources and lands and territories. Delegation by indigenous peoples of control over management activities to third parties requires Free, Prior and Informed Consent.*"[7]

In contrast to the other Guidance Notes, this 9th Guidance Note provides key questions to consider as well as a six-stage approach to support the implementation of Free Prior and Informed Consent (FPIC) with the local communities and indigenous peoples. FPIC is a key principle in international law and jurisprudence that supports the rights of indigenous peoples to give or withhold its consent to activities that may affect lands that they own, occupy or use.[8] The use of FPIC can help to avoid conflicts over access to land and regions on the one hand, and the use of the resources of these lands on the other. However, the rights of local communities more generally, continue to face discrepancies within international legislation.

4   United Nations Declaration on the Rights of Indigenous Peoples, (61/295), 13 Sep. 2007.
5   International Labour Organisation Convention concerning Indigenous and Tribal Peoples in Independent Countries, 1989 (No. 169.)
6   FSC® International Standard, 2012, FSC Principles and Criteria for Forest Stewardship (Version 5), FSC-STD-01-001 (V5-0).
7   In the last French versions of the FSC® documents, the term, free, prior and enlightened consent will be replaced by the term, Free, Prior and Informed Consent (FPIC) to come to an international consensus (FSC International note).
8   Forest Peoples Programme. Free, prior and informed consent. Available: http://www.forestpeoples.org/guiding-principles/free-prior-and-informed-consent-fpic.

KEY QUESTIONS

→   Analysis

1. Who are the affected indigenous peoples and local communities in the Forest Management Unit (FMU)? How can the needs of other groups, who feel excluded because they have not been identified as "beneficiaries", be addressed?

2. Which national or customary laws must be observed regarding the rights to land, territories, and access to natural resources? Which rights are recognised by these national and customary laws? Do these national and customary laws apply differently to the rights of indigenous peoples?

3. Which laws and/or international conventions must be adhered to? Has an analysis been carried out on the shortcomings of the Host State's approach regarding the application of free, prior and informed consent (FPIC) and to the FSC requirements or other international laws?

4. What legal framework exists (from collective property to individual or family-owned property), regarding the access to and user rights for forestry resources, ecosystem services and land and territories?

5. Which communities are entitled to FPIC and to which persons, resources, lands or territories is this right applicable?

6. Have the identified members of the community effectively participated in identifying the legal and customary rights of resources, land and territories, of sites of particular importance, of the system or use rights of the communities that should be protected and, are their locations mapped properly?

7. Have the affected members of the community effectively participated in identifying the relevant judicial laws and customary rights relevant to ensure the protection of their right to natural resources, used areas, territories and particular areas of importance?

8. Have these areas been discussed and jointly mapped out and evaluated in collaboration with the affected communities?
9. How can we identify and address the negative risks and impacts linked to the implementation of FPIC? For example, what are the risks of dividing communities into "beneficiaries" and "non-beneficiaries"?

→ Engagement with the Host State
1. How can the Host State be included in discussions on the right to land and the application of FPIC?
2. In what ways can issues related to the right to land, to territories and access to natural resources and the rights of the indigenous peoples be discussed with the Host State? What types of processes exist to enable a dialogue forum on the issues raised above?
3. Is the Host State in favour of consulting the local communities and indigenous peoples? How can the Host State be encouraged to develop consultation processes with local communities and indigenous peoples?

→ Capacity building by the forestry company
1. Has the community really understood the advantages and potential impact of the proposed forestry operations?
2. Does the community consider that it is sufficiently trained and informed ('capacity readiness') to engage in negotiations with the company?
3. Do the members of the community, who have been selected to participate in the joint mapping and evaluation process, agree that they have been sufficiently trained and remunerated for participating?
4. Do the affected communities agree that their concerns have been recorded in a suitable manner (for example, in written form, through initialled maps, or videos), made public and integrated into the Management Plan?

→ Decision-making process between the company and the local communities

1. Has the community decided to start negotiations with the company in accordance with a decision-making process defined and agreed upon between the parties?
2. Is there a decision-making process agreed upon in the community, which guarantees that decisions are taken without excluding groups within the community (women, indigenous peoples, ethno-linguistic minorities)?
3. If requested by the communities, is a consultation platform and an independent observer (NGO or another representative of the communities) available and are they pragmatic and aware of the context?
4. Do the members of the community fully understand their rights, in particular including the right to say "no," to the proposal? Have the communities been given enough time to assess their opinions on the proposal?
5. Has the decision been taken without pressure being applied and in conformity with the decision-making process that was agreed?
6. Has the opportunity to provide consent been made public in the languages that are locally and nationally relevant?

→ Structure within the company

1. Has the company invested in developing structures, a social staff that is trained and well aware capable of creating and maintaining good relations with the affected communities?
2. Has the company developed a communication and information strategy that enables it to communicate in a culturally appropriate and effective manner with the members of the affected communities?
3. Has the company ensured that the program and budget are flexible enough to respond effectively to

the needs of the affected communities and to implement the FPIC process?

→ Grievance mechanisms within the company
1. Have there been complaints concerning the implementation of the consent agreement? Are there grievance mechanisms put in place to help deal with these complaints?

REFERENCE DOCUMENTS

1. FSC Forest Stewardship Standard for the Congo Basin Region (FSC 2012), Principles 3, 7 and 4
2. FSC Principles and Criteria for Forest Management (Version 5, FSC-STD-01-001 V5-0 FR; 10 February 2012)
3. FSC Forest Stewardship Council, 2013, FSC Guidelines for the Implementation of the Right to Free, Prior and Informed Consent (FPIC), Version 1, 30 October 2012
4. United Nations Declaration on the Rights of Indigenous Peoples, (61/295), 13 Sep. 2007
5. International Labour Organisation Convention concerning Indigenous and Tribal Peoples in Independent Countries, 1989 (No. 169)
6. Forest People Program (FPP), Marcus Colchester & Sophie Chao, 2013, Monitoring Protocol for High Conservation Values 5 and 6, with guidelines on best practices in community engagement, DRAFT version
7. A Framework for Responsible Exploration: Principles and Guidance Notes, (PDAC 2012)

6 STAGES FOR IMPLEMENTING THE RIGHT TO FPIC (FSC GUIDELEINES)[9]

→ First stage: Identifying the local communities and representative institutions

1. Identify the indigenous peoples and local communities present in the Forest management unit (FMU) and identify together with them, their rights, their resources, their lands and territories, which may be affected by the forestry operations. This also includes groups within the community, who are often marginalised when it comes to decision taking, such as women, youth and indigenous peoples.

2. Identify whether the community is willing to consider the forestry activity and explain that the community is entitled to refuse the proposed activity.

3. If an agreement to proceed has been given, draw up schedules and the 'rules of the game' for the FPIC process: observe how the communities take decisions and establish agreement on the decision-making processes.

→ Second stage: Preparation of the collaboration process

1. Establish a specific structure with adequate resources and form a trained social team within the company to communicate with the indigenous people and local communities.

→ Third stage: Participative mapping and evaluation

1. Draw up a more accurate definition of the management activities likely to affect the indigenous peoples and local communities by means of participative mapping of resources, land and territories.

2. Where there are conflicting claims, assist in drawing up an agreement laying down the procedure(s) for the resolution of claims.

9   Please see: https://ic.fsc.org/ guides-manuals.343.htm

→ Fourth stage: Information
1. Redefine the management activities proposed, depending on the results of the consultations.
2. Become involved and participate in evaluating the impact and in informing the communities about the proposed forest operations.
3. Allow the communities the freedom to decide for themselves whether they wish to start negotiations, or jointly establish a sufficient, but reasonable, deadline for reflection.

→ Fifth stage: Negotiation and decision by the local communities
1. Ensure that there is agreement on the decision making process and on the process for increased capacity building of the community;
2. Negotiate with the community on mitigating negative impacts, on compensation mechanisms for unavoidable damages, on sharing the profits or benefits (for example advantages in-kind likely to benefit the communities such as projects or constructions) and other financial or legal arrangements.
3. Establish a procedure for dealing with complaints and disputes, for resolving conflicts and establish a participatory monitoring procedure.
4. Allow the communities the freedom to decide on the proposal of the preceding procedure, with a reasonable deadline, sufficient to ensure that consent is supported by a clear majority of the affected communities and not simply by a few actors.

→ Sixth stage: Formalisation, verification, implementation and supervision
1. Where there is a positive response, formalise the consent agreement and proceed to its signature within the agreed timeline, record in what form the agreement had been anticipated and how it is supported by the communities.

2. Verify the FPIC process and put a monitoring system in place for the consent agreement.
3. Where there is a negative response, take note, examine the reasons for this refusal and prepare a line of argument with objective proposals and embark on renewing negotiations.
4. Document the formal procedures in case consent is disputed (not simply with signatures, but with other media, for example photos or a film of the signing ceremony with the whole village).

Guidance Note 10: Conflict Management Process

5.5. Conflict Management & Grievance Mechanism

LINKS TO CONFLICT

The term conflict *management* process refers to how an existing, possibly agitated and violent conflict is tackled: it does not address causes, but manages the effects of the conflict. Taking into account possible financial and reputational losses, a focus on prevention of conflicts is more effective than trying to manage conflicts once they are there (see Guidance Notes 1-9). If a conflict arises, a company's reputation might already be 'hurt' by the incident, even if this incident was not representative of the overall quality of a company's operation. In the Congo Basin, local communities often rely on traditional practices, usually based on a participatory and consultative approach to conflict management. Companies however might turn to legal procedures for resolution, which are not necessarily acceptable to local communities, or may request assistance from the police, which might lead to more confrontation and violence. The company needs to take into account the often problematic relationship that the local community has with some of the public institutions. Thus while it is not advisable to just call and include the police or the gendarmerie as a first option, often the company might be obliged to include the local administration in the process. Or else legal dispute resolution might also not be the first option to turn to in a society where impunity and lack of trust in the rule of law are prevalent. The complexity of the interactions between different actors in the forest industry might lead to conflicts of interest. The emergence of disputes or conflicts is not problematic per se, but they might

turn destructive or violent if there are no mechanisms in place to facilitate their peaceful resolution.

RECOMMENDATIONS

→   Identify negative impact
1. Who are the significant actors in the conflict, and what positions and interests do they claim?
2. What strategies can a business actor pursue to manage the conflict? What is the most appropriate strategy? What are the costs implied with each strategy?
3. Is it a conflict of rights, where people or groups are entitled by law? Or is it a conflict of interest or needs, where there is no established law or right?
4. What are the advantages and disadvantages of pursuing an outcome by law or by negotiation?
5. In what phase of the conflict are you? Pre-negoti-ation (no discussion amongst the conflict parties has taken place), negotiation (discussions between conflict parties are taking place) or post-negotiation (the discussions have already taken place)?
6. What kind of existing local traditional mechanisms could be used to manage the conflict?
7. How are the different conflict management mecha-nisms (legal means, negotiation, mediation) perceived by the communities and which mechanism is usually used for which type of conflict?
8. What kind of negotiation process is most suitable? (elders, collective bargaining etc.). If there is collective bargaining, who are the leaders and why?
9. Can you manage the conflict yourself (negotiation) or do you need a third party to intervene and help you (mediation)? Who is a credible third party?

→   Prevent and mitigate negative impact
1. Maintain regular contact and a continuous dialogue with all stakeholders in order to prevent disputes turning into conflicts (see Guidance Note 5.4).

Employ a local person as the main contact, who will also be approached by neglected actors (indigenous peoples and women).

2. Try to identify the underlying interests and needs of the company and the other party in order not to become mired in unexamined or unjustified positions. Understand the reality and the political issues around 'traditional land claims'.
3. Generate options on how to resolve the conflict, then pick the most feasible and acceptable one (e.g. community gatherings, ombudsperson, mediation through accepted elder, multi-stakeholder forms of consensus-building, legal conflict management).
4. Respect dialogue and traditional conflict-resolution approaches in the Congo Basin. Own up to being at fault and accept blame.
5. Integrate the company team that specializes in conflict management well into the rest of operations. Ways of addressing conflicts need to be embedded into normal practice and need to be the responsibility of operational managers.
6. Establish clear guidelines within the company on reporting on conflicts on the site but also with headquarters.

→ Account for measures taken
1. If required by customs, ritualize agreements to ensure communal acceptance of the resolution.
2. Make sure that agreements on collective bargaining/mediation are reported back to members.
3. Make sure the outcome of the process is publicized.

→ Reference documents
1. Guidance on Responsible Business in Conflict-Affected & High Risk Areas: A Resource for Companies & Investors (UN Global Compact and PRI 2010)
2. Guidelines for the Design of Integrated Conflict Management Systems within Organizations (SPIDR 2001)

Example of a process after an accidental felling of a caterpillar tree
In the Congo rainforest, the accidental felling of a protected caterpillar tree by a forest company evoked the demand for compensation by villagers. The company's offer to exclude a nearby sapelli tree from the cutting schedule was not regarded as sufficient by the village, which instead demanded that the company build a pharmacy in the village. However, the company in turn rejected building a pharmacy but agreed to exclude a second sapelli tree. This was accepted by the chief and village committee. The agreement was then ritualized with a gift of rice and wine. This ritualization is important for everyone to be aware of the resolution and agreement reached.
(Lewis & Borreill 2013: 79-80)

Guidance Note 11: Grievance Mechanism

LINKS TO CONFLICT

Conflicts between individuals or communities and the company might arise because they are negatively impacted by the company's activities. In such situations, grievances can be identified which are perceived injustices invoking an individual's or a group's sense of entitlement, which may be based on law, contract, explicit or implicit promises, customary practice, or general notions of fairness of aggrieved communities (UN Guiding Principle 25). Grievance mechanisms are a systematized way of enabling remediation for those individuals and communities. Remedy may include apologies, restitution, rehabilitation, financial or non-financial compensation, and punitive sanctions (whether criminal or administrative). Company-administered grievance mechanisms have to take into account the fact that companies cannot be both the subject of grievances and unilateral arbiters of the outcome. Thus mechanisms in general should focus on reaching agreed solutions through dialogue. Eight normative requirements for non-judicial grievance mechanisms can be defined: legitimate, accessible, predictable, equitable, transparent, rights-compatible, a source of continuous learning, and based on engagement and dialogue (UN Guiding Principle 31; see Annex 5 for how companies could put these normative requirements into practice). A poorly-designed grievance mechanism can risk compounding a sense of grievance amongst affected stakeholders, by heightening their sense of disempowerment and disrespect by the process.

RECOMMENDATIONS

→ General issues

1. Engage with stakeholders about the design of the grievance mechanism.
2. Establish a position within the company that is responsible for the coordination of registering complaints, conducting investigations, and evaluating grievances, making the decisions and informing parties throughout the process.
3. Establish culturally appropriate access points for grievances (e.g. collect verbally, conduct community meetings, telephone numbers).
4. Provide guidelines on escalation, with the possibility that serious issues are dealt with at headquarters level.
5. Provide periodic training on aspects of the mechanism and make information about the functioning of the grievance mechanisms public.

→ Internal grievance mechanism

1. Establish or identify reference documents for employee concerns (local and national law, Code of Conduct, HR policy (e.g. discrimination, forced labor, child labor, wages and hours, working conditions, housing, and freedom of association).
2. Establish a mechanism on the site in the Congo Basin with a possible escalation to headquarters.
3. Guarantee the integrity of the complainant; for example, design the mechanism in a way that addresses fear and reprisal (e.g. by providing the possibility of submitting complaints confidentially)
4. Include clear timelines in the design of the mechanism.
5. Promote information on the mechanism (e.g. through training for management, posters at workplace, workers' gatherings).
6. Keep the information on the complaints and monitor the results, integrate key lessons learnt.

7. Strengthen avenues or mechanisms for conciliation, mediation or arbitration as part of dispute-resolution and conflict-transformation.
8. Provide assistance for the complainant (e.g. unions or other organizations that support the individual).
9. Strengthen negotiation processes among social partners as an inbuilt mechanism to mitigate grievances.

→ Grievance mechanism with communities
1. Establish or identify reference documents for complaints (e.g. provisions of domestic law, voluntary standards adopted by the company (CoC, VPs, FSC) or standards required by financing organizations).
2. Establish a centralized way of receiving grievances in order to allow the company to identify the most appropriate process for handling the complaint, for example a 'Community Relations Officer' who collects grievances verbally or at local community meetings.
3. Give information about the mechanism at community meetings and establish community materials in the local language or through engagement with local organizations.
4. Ensure that the community members who wish to present a complaint are provided with the necessary information on the process to follow in their own language. For example, if complainants are illiterate, write down their complaint, read it back to them for accuracy and let them sign.
5. Identify traditional and religious structures of dispute resolution that are respected by the people and engage with them on healing and resolution of conflicts with staff (see Guidance Note 5.4). If you include a facilitator in an escalation phase, ensure that the individual is known, respected and has an excellent standing in the region.

→ Reference documents
1. Draft Report on Company Mechanisms for Addressing Human Rights Complaints (CSR Europe 2013)
2. Rights-Compatible Grievance Mechanisms. A Guidance Tool for Companies and Their Stakeholders (Harvard Kennedy School 2008)
3. Piloting Principles for Effective Company-Stakeholder Grievance Mechanisms: A Report of Lessons Learned (Harvard Kennedy School 2010)

Example of a mechanism to ensure the take-up of complaints in an oil and gas company
At an oil and gas company the process has been implemented in the following way: 'once a grievance is registered, the department responsible for the subject of the complaint is identified and an individual is listed as responsible for investigating the issues. If they have not responded by a set deadline, the system automatically sends a notification to their senior management. This creates incentives for all departments not only to keep to the timelines, but also to understand that the management takes the handling of grievances seriously. It avoids grievances being pigeon-holed as something that the external relations department has to resolve, and makes them the responsibility of the department whose activities allegedly lie at the source of the grievance.'
(IHRB & Shift 2013)

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Annex 1: Development Process of the Manual

The manual is based on the results obtained from a field study in the Republic of Congo and a field mission to the Democratic Republic of Congo. It was developed according to a conflict-sensitivity methodology that is applied by swisspeace during these assessments.

FIELD MISSION TO THE REPUBLIC OF CONGO

Preparation Phase (July/August 2013)

1. Comprehensive literature review including research articles, reports from relevant NGOs, government organizations, bilateral and multilateral donors.

2. Preparatory interviews with different resource persons by telephone or in Switzerland.

3. dentification of an independent local partner organization based on pre-defined selection criteria and an application and selection process.
→ Profound knowledge of the existing and potential conflicts in the Republic of Congo;
→ Established and trustworthy network to support the field mission in rural sites;
→ No affiliation to government or timber industry.

4. Development of an interview guide for the different interlocutors in the field mission.

Field Mission (August 2013)

The team was in Brazzaville (August 18-21, 2013), in Ouésso (August 23, 2013) and in Ngombé (August 24-28, 2013) and conducted the following interviews, group discussions and validation meetings:

36 interviews
→ with government officials in Brazzaville
→ 5 with government officials in Ouésso and Pokola
→ 10 with representatives of civil society in Brazzaville
→ 2 with bilateral donors in Brazzaville (AFD and EU)
→ 2 with multilateral organizations (WB and UNDP)

→ 1 logging company A
→ 9 staff IFO
→ 1 interim leader of brigade WCS (Chef de Brigade Interimaire)

4 group discussions
→ Civil society group discussion in Brazzaville
→ Civil society group discussion in Ouésso
→ Village discussion in Paris Village
→ Village discussion in Attention

3 validation meetings and 1 validation workshop
→ 2 validation meetings with management of IFO
→ 1 validation meeting with the middle management of IFO expats and Africans)
→ 1 validation meeting in Brazzaville (NGOs, companies, WCS)

Development and Consultation Phase (September/ October 2013)

1. Write-up of conflict-sensitivity assessment and draft of manual

2. For the manual, different feedback loops have been implemented:
→ Consultation within swisspeace
→ Peer review by International Alert
→ Validation Meeting with experts from different fields and organizations (1 FSC, 1 forest management specialist, 1 anti-corruption specialist, 1 community-relations specialist, 1 NGO representative, 1 logging company B representative)
→ Written validation with logging company B, WCS, WWF, FSC of the English version of the Manual.
→ Written validation with two NGOs in the DRC and the Democratic Republic of Congo of the French version of the Manual.

FIELD MISSION TO THE DRC

The two field missions to the DRC led to two reports that are publicly available on the website of the FSC. The first field mission took place from July 2-6, 2013 and the second mission took place from September 23 to October 4, 2013. During this time, the following interviews were conducted.

11 interviews with political and administrative actors
→   The administrator of the territory of the province Equateur
→   The head of sector in the province Yandongi Equateur
→   6 heads of groups and sectors in Yandongi Loeka (Equateur province)
→   A village chief of the group Yambongo, Loeka sector
→   A school leader in group Yalisika (Yandongi sector, province Equateur)
→   A senior nurse in the group Mobenza
→   A representative of the Ministry of Forests and Tourism

5 interviews with civil society representatives
→   The coordinator of the NGO Initiative for the Sustainable Management of the Environment and Defense of Human Rights (GOLI)
→   The director of the NGO Solidarité Paysanne a Large Initiative (SOPALI)
→   A member of the organization of civil society Bumba
→   The national coordinator of Greenpeace
→   The coordinator of the Group for the Defense of the Environment (CEDEN)
→   A representative from Global Witness

UN interview
→   The representative of the High Commissioner for Human Rights in Kinshasa

Company Siforco interview
→   The Chief Administrator

Annex 2: International Norms and Standards

International Labor Organization (ILO) conventions, including:
→ ILO Convention 87 (Freedom of Association and Protection of the Right to Organize)
→ ILO Convention 98 (Right to Organize and Collective Bargaining)
→ ILO Convention 169 (Indigenous and Tribal Peoples in Independent Countries)

United Nations human rights instruments:
→ Universal Declaration of Human Rights
→ Convention on the Elimination of All Forms of Racial Discrimination
→ International Covenant on Civil and Political Rights
→ International Covenant on Economic, Social and Cultural Rights
→ Convention on the Elimination of Discrimination Against Women
→ Declaration on the Rights of Indigenous Peoples

Regional human rights instruments:
→ African Charter of Human and People's Rights

Rio Declaration and Agenda 21

Convention on Biological Diversity

Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters

Annex 3: Voluntary Initiatives

UN Global Compact and PRI Guidance on Responsible Business in Conflict-Affected and Fragile Areas[10]

The UN Global Compact and PRI Guidance on Responsible Business in Conflict-Affected and Fragile Areas is a joint effort by the UN Global Compact and the UN-supported Principles for Responsible Investment (PRI) Initiative to assist companies in adhering to the Global Compact's ten principles when operating in conflict-prone regions. The document offers practical guidance for how businesses ought to act in four areas: core business, government relations, local stakeholder engagement and social strategic investment.

OECD Guidelines for Multinational Enterprises[11]
The Guidelines for Multinational Enterprises are a comprehensive set of guidelines developed by the Organization for Economic Co-operation and Development (OECD). They are an element of the 1976 'OECD Declaration and Decisions on International Investment and Multinational Enterprises' - a policy commitment by adhering governments to provide an open and transparent environment for international investments. The guidelines encompass a wide range of standards including on human rights, environment, information disclosure and industrial relations.

UN Guiding Principles on Business and Human Rights[12]
The UN Guiding Principles on Business and Human Rights (GP) have been developed by the UN Special Representative to the Secretary General John Ruggie. The GP operationalize the 2006 'Protect, Respect and Remedy Framework' which includes three pillars: (1) the state duty to protect human rights, (2) the corporate responsibility to respect human rights and (3) the need to provide effective remedy to victims of human rights violations. The Guiding Principles are structured in 31 principles.

10 UN Global Compact (2010), Guidance on Responsible Business in Conflict-Affected and High Risk Areas: A Resource for Companies and Investors, available at: http://www.unglobalcompact.org/docs/issues_doc/Peace_and_Business/Guidance_RB.pdf

11 OECD (2011), OECD Guidelines for Multinational Enterprises, 2011 Edition, available at: http://www.oecd.org/daf/internationalinvestment/

12 Ruggie, J (2011b), Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework, proposed by UN Special Representative John Ruggie, available at: http://www.business-humanrights.org/media/documents/ruggie/

ISO 26000 Social Responsibility[13]
The ISO 26000 Social Responsibility (ISO SR) is a voluntary standard for social responsibility developed by the International Organization for Standardization. The standard includes guidance on the definition of the concept of social responsibility, identifies core subjects and issues of social responsibility (human rights, labor practices, environment, fair operating practices, consumer issues, and community involvement and development), and describes ways in which companies can include these issues in their organizational structure.

UN Food and Agriculture Organization's (FAO) Framework for Assessing and Monitoring Forest Governance[14]
The Framework facilitates description, diagnosis, monitoring, assessment and reporting on the state of governance in a country's forest sector. It features a globally relevant and comprehensive list of the major elements that describe forest governance. It also provides a frame of reference for organizing governance-relevant information that can be used within and across countries to assess and monitor the governance of forests and forest resources. It can assist countries in reflecting on and responding to critical issues in forest governance in ways that can be measured, tracked and improved over time. By enabling informed discussions among stakeholders on governance in the forest sector, the Framework also seeks to foster opportunities for wider national discussions on overall governance beyond the forest sector.

13 The ISO 26000 Social Responsibility standard is subject to a charge. For a short description of the Standard see http://www.iso.org/iso/socialresponsibility.pdf.
14 UN Food and Agriculture Organization's (FAO) Framework for Assessing and Monitoring Forest Governance, available at: http://www.fao.org/docrep/014/i2227e/i2227e00.pdf

Annex 4: Context assessment

Three interrelated aspects of the context assessment are differentiated: the context profile, key issues underpinning conflicts, and central actors involved in the conflicts (International Alert 2005).

Context profile
The context profile includes information on the current political situation, the conflict history and the geographical differences in conflict intensity.

Key questions on context profile
→ Which key events have marked the history of the conflict?
→ Have there been recent outbreaks of violence?
→ Are there societal tensions that periodically erupt in violence?
→ Which regions of the country are/have been particularly affected by violence? Which regions have been spared?
→ If open violent conflict has ended, to what extent are societies still divided?

Underpinning issues
The underpinning issues describe the issues of contention that are leading/have led to conflict.

Key questions on underpinning issues
→ To what extent are the following or other issues causing tensions among societal groups: access to political power, political and/or economic marginalization of parts of society, access to natural resources, political repression?
→ How do the underpinning issues for conflict vary among different regions?
→ How have the key conflict issues changed over time?

Involved actors
This aspect depicts the actors that play a role in the
various conflicts and studies their interrelation.

Key questions on involved actors
→ To what extent are these or other actors involved
  in tensions: national and local authorities, security
  services, opposition parties, traditional local
  authorities, local armed groups?
→ Who is seen as being responsible for human rights
  violations at the national and local levels?
→ Who are the actors that work for peace at the national
  and local levels?
→ What are the links between the different actors
  involved?

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Annex 5: Operationalization of normative requirements for remedial mechanisms

In its report on remedial mechanisms, CSR Europe (2013) specifies how the normative requirements for remedial mechanisms might be put into practice.

Legitimate

→ Establish a defined process to address grievances with clear lines of accountability.
→ Conduct consultations with key stakeholders for the design, revision and monitoring of the mechanism.

Accessible

→ Actively provide information on the existence and the functioning of the mechanism in a way that is adapted to the context and audience for whose use it is intended.
→ Address the barriers stakeholders may face in accessing the mechanism, by providing multiple access points that are well adapted to the operational context.
→ Provide assistance in accessing the mechanisms for those who may face particular barriers to access.
→ Have an explicit commitment to protect users from reprisals.

Predictable

→ Establish both at HQ and operational level a defined process with clear roles, responsibilities, procedures and process steps including monitoring.
→ Establish a clear time frame for each step or stage of the process.
→ Define the types of complaints that fall under the scope of the mechanism.

Equitable

→ Be open to sharing relevant information in a way that can be easily understood.
→ Facilitate the means through which the affected stakeholder can have access to advice or expertise.

Operationalization of normative requirements for remedial mechanisms

Transparent

→ Keep users of the mechanism informed throughout the process.
→ Report internally and externally on the performance of the mechanism.

Rights-Compatible

→ Assess any complaint on its possible human rights impact.
→ Ensure that outcomes do not infringe the rights of the complainant.
→ Adopt the higher standard where there is conflict between national legislation and international norms on human rights.

Source of Continuous Learning

→ Keep a centralized record of complaints.
→ Monitor and assess the performance of the mechanism on a regular basis.
→ Integrate key learning points.

Based on Engagement and Dialogue

→ Establish a system for feedback collection from users.
→ Prioritize engagement and dialogue as the means to address and resolve grievances.

About the Authors

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About swisspeace

swisspeace is an action-oriented peace research institute with headquarters in Bern, Switzerland. It aims to prevent the outbreak of violent conflicts and to enable sustainable conflict transformation.

swisspeace sees itself as a center of excellence and an information platform in the areas of conflict analysis and peacebuilding. We conduct research on the causes of war and violent conflict, develop tools for early recognition of tensions, and formulate conflict mitigation and peacebuilding strategies. swisspeace contributes to information exchange and networking on current issues of peace and security policy through its analyses and reports as well as meetings and conferences.

swisspeace was founded in 1988 as the "Swiss Peace Foundation" with the goal of promoting independent peace research in Switzerland. Today swisspeace engages about 40 staff members. Its most important clients include the Swiss Federal Department of Foreign Affairs (FDFA) and the Swiss National Science Foundation. Its activities are further assisted by contributions from its Support Association. The supreme swisspeace body is the Foundation Council, which is comprised of representatives from politics, science, and the government.

swisspeace is an associated Institute of the University of Basel and member of the Swiss Academy of Humanities and Social Sciences (SAHS).