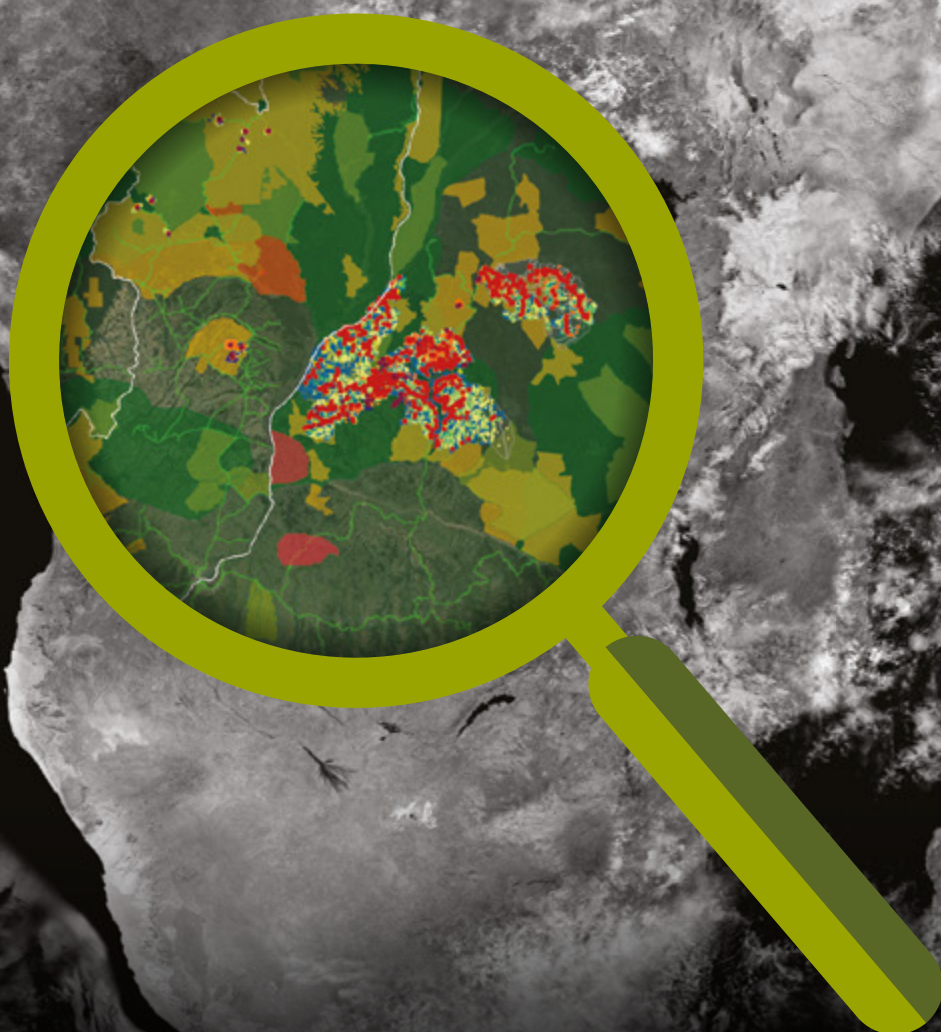




SECURING LANDS, SUSTAINING LIVES

AT LOGGERHEADS: THE MORATORIUM, GEOGRAPHICAL PROGRAMMING AND COMMUNITY MAPPING IN DRC



BRIEFING
NOVEMBER 2018

MAPPING FOR RIGHTS
Putting communities on the map

1. OVERVIEW

Of the three legal conditions attached to lifting the Democratic Republic of Congo's (DRC) moratorium on new logging concessions, arguably only the third condition (on "geographic programming of future allocations" over a three year period "defined through a consultative process") remains to be fulfilled.¹ In theory this vaguely-worded condition could be easily met – potentially opening up tens of millions of hectares of forest to loggers. However, drawing on mapping data collected through [MappingForRights](#) and other sources, this briefing shows that any process which does not sufficiently take into account communities and other forest users would inevitably result in negative outcomes.

2. BACKGROUND TO THE LOGGING MORATORIUM

DRC's logging moratorium was first established by ministerial order in May 2002 in response to what threatened to become a post-war free-for-all in the exploitation and destruction of the country's vast forests.² Following a spate of illegal and corrupt allocations, the ban was reinforced by a Presidential Decree in 2005.³ This decree set out three conditions for lifting the moratorium: the first on the conversion of old logging contracts to concession titles was completed in 2014; and the second, the adoption of a transparent allocation process for concessions, has in theory been fulfilled by Prime Ministerial Decree 08/09 of April 8, 2008. This leaves only the third, on 'geographical programming', remaining. The implications of this are considered below in Section 3.

In recent years there have been multiple breaches of the moratorium.⁴ It has also come under pressure from the pro-logging groups (Environment Ministry, Agence Française de Développement, etc.) arguing that it has deprived the State and the rural economy of much-needed income and has led to an increase in illegal logging in the country. However, there is in fact little in the existing concession system to suggest how opening up DRC's forests to more logging will protect them or benefit the Congolese people, especially at a time when the logging industry in Central Africa is in steady decline.⁵

The logging industry has performed very badly on key social and economic indicators. According to the Environment Ministry's own figures for 2016, DRC received only US\$1,998,575 in tax revenues

from logging companies, or roughly equivalent to US\$0.03 per head of the DRC population.⁶ *Cahier des charges* agreements that timber companies are legally obliged to implement with local populations for the construction of schools and health centres are rarely honoured while social conflicts around concessions are commonplace.

The case for lifting the moratorium is similarly weak when it comes to the legality and sustainability of existing forest operations. As of March 2017, only nine out of 57 logging concessions in DRC had validated management plans (we are not able to ascertain their quality or if they are being implemented) while a further 29 had passed the maximum five-year deadline for obtaining one, and hence were illegal.⁷

¹ Presidential Decree No. 05/116 of 24 October 2005

² Ministerial Order No. CAB/MIN/AF.F-E.T/194/MAS/02 of 14 May 2002

³ Presidential Decree No. 05/116 of 24 October 2005

⁴ See, for example, <http://www.greenpeace.org/africa/en/Press-Centre-Hub/DRC-reinstates-illegal-logging-concessions-breaching-its-own-moratorium/>

⁵ Despite a series of major international programmes and bailout packages running into hundreds of millions of dollars, the most recent being the World Bank's Forest and Nature Conservation Project, the logging industry in Central Africa has been in steady decline in recent years, as evidenced by the departure of a number of the established players from the market.

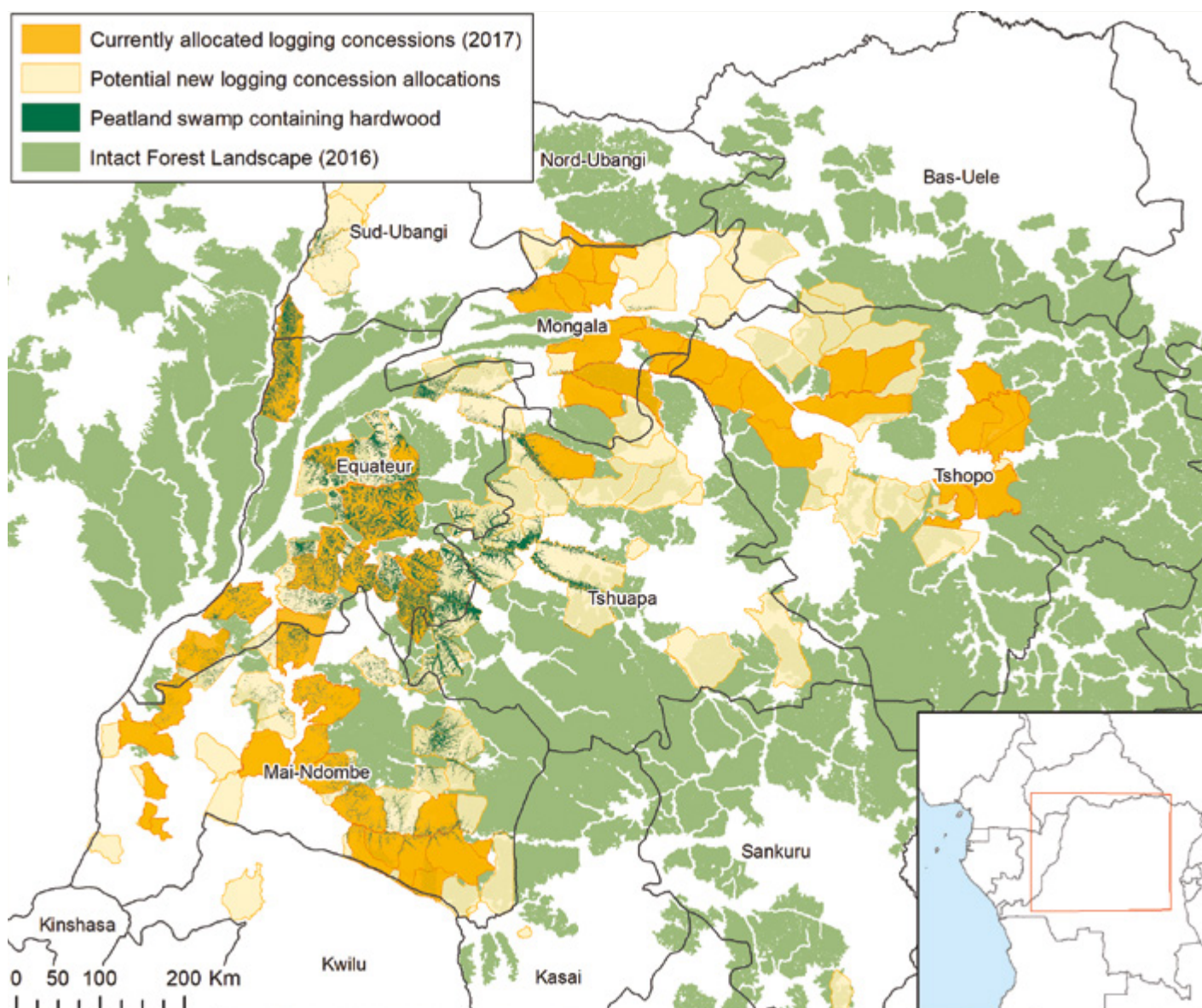
⁶ We understand there is currently no record of tax income generated at the provincial and local levels.

⁷ "The forest concession contract is signed by the Minister in charge of forests and the concessionaire for a period of twenty-five years renewable. It will be automatically terminated if, within 4 years of its signature, the concession does not have a management plan duly approved by the Administration in charge of Forests" (emphasis added). -Presidential Decree No.05/116, October 2005

The link between so-called selective logging in large-scale concessions and forest loss also appears to be far stronger than previously thought with new data showing how logging roads open up the forest to a cascade of deforestation from illegal logging, farming and migration. According to an analysis by RFUK of 20 million hectares of forest most at risk

from a lifting of the logging ban, as much as 600 million tonnes of CO₂ emissions could be released over the lifetime of new concessions and as much as 10.4 billion tonnes should DRC's carbon-rich Cuvette Centrale peatlands become heavily degraded or destroyed (see Map 1).⁸

MAP 1 - FOREST AND PEATLAND AREAS IN WESTERN DRC UNDER POSSIBLE THREAT FROM A LIFTING OF THE LOGGING MORATORIUM⁹



The climate implications of any new concessions in DRC's forests and carbon-rich peatlands would be very severe.
Source: MappingForRights, RFUK (June 2017)

⁸ <http://www.rainforestfoundationuk.org/media.ashx/drc-carbon-bomb-briefing-2017.pdf>

⁹ Forest areas most at threat from a lifting of the logging moratorium have been calculated based on the maps of former logging titles which were cancelled following a legality review in 2008-09. There is potentially as much as 70 million hectares of forest under threat.

3. IMPLICATIONS OF MappingForRights FOR UNDERSTANDING ‘GEOGRAPHICAL PROGRAMMING’ LEADING TO THE LIFTING OF THE MORATORIUM

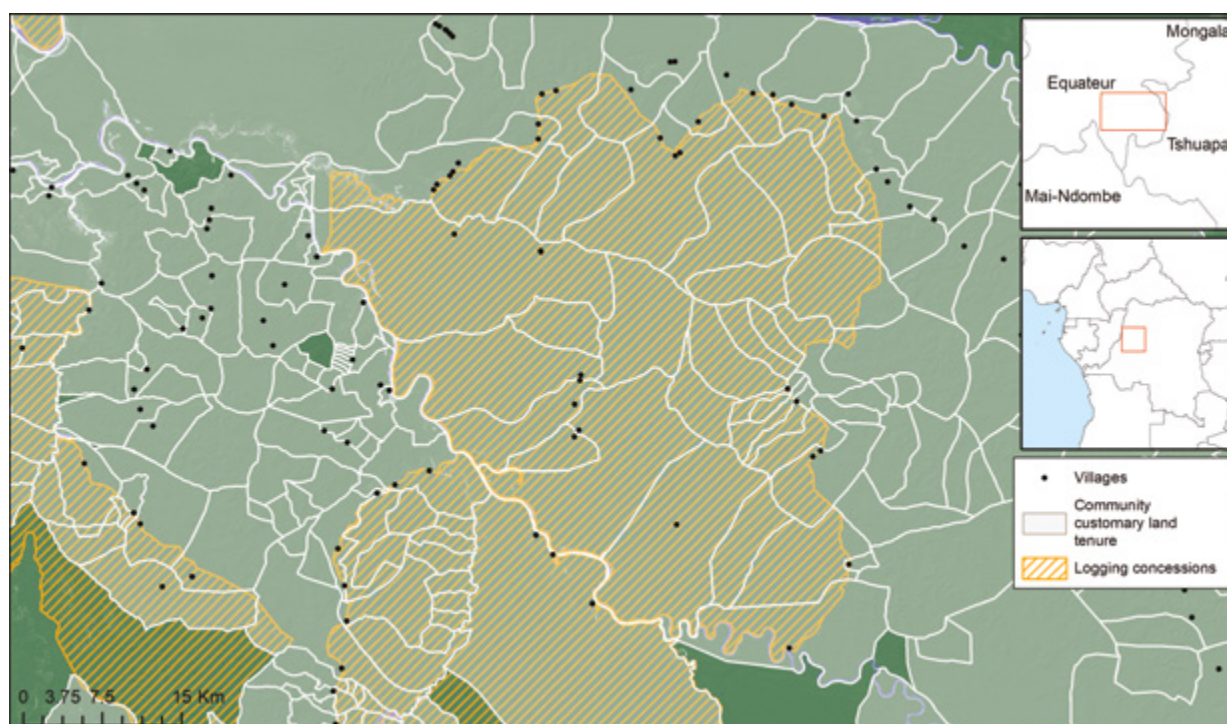
Because the ‘geographical programming’ and a ‘consultative process’ remain undefined, this condition in the 2005 Presidential Decree could in theory be easily met. In February 2018, the Environment Minister signalled that remote sensing of timber stocks underway in Bandundu province met these criteria.¹⁰ However, as MappingForRights shows, any narrow interpretation of geographical programming that does not sufficiently take into account other forest claims and users would surely entrench problems and also be inconsistent with DRC’s commitments on REDD¹¹ as well as a number of international standards and agreements it is party to.

To be in keeping with these, any geographical programming would have to be embedded in broader land-use planning processes that are multi-sectoral in

nature and guarantee the rights of forest communities to land, participation and free prior and informed consent (FPIC). Some key principles should be ensured:

Geographical programming must include customary rights. The evidence is growing that there are few parts of DRC’s forests that are not subject to some form of customary claims and usage. Forest tenure and resource mapping by nearly 700 communities covering roughly 4.5 million hectares in Mai Ndombe, Equateur and Maniema provinces as part of the MappingForRights programme shows the extent of these unrecognised claims in the mapped areas, and also how these frequently overlap with industrial logging concessions.

MAP 2 - MAP SHOWING CONTIGUOUS CLAN TENURE BOUNDARIES IN EQUATEUR THAT HAVE BEEN MAPPED, AND HOW THESE ARE OVERLAIN BY LOGGING CONCESSIONS



Source: MappingForRights, WRI

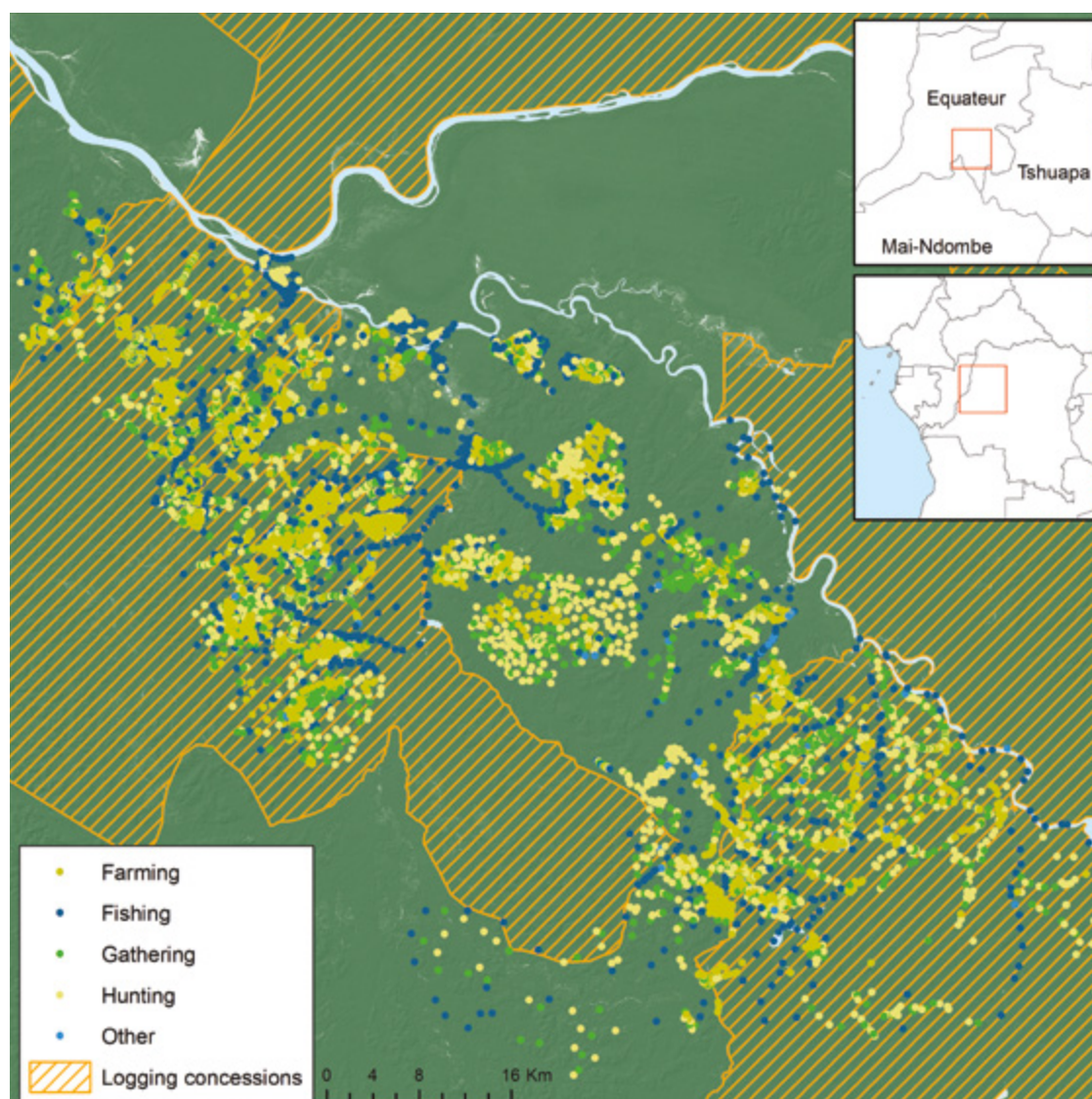
As can be surmised from Map 2, any expansion of commercial logging in DRC would very likely further encroach upon customary land. Unless these areas are properly documented and secured prior to attribution this would undoubtedly be accompanied by an entrenchment of the kind of social problems described in Section 2.

¹⁰ MEDD reported having conducted forest inventories throughout the former province of Bandundu with the support of JICA. Additional forest inventories are expected in other forest provinces with support from FAO under CAFI.

¹¹ Pillar 6 of DRC’s National REDD+ Framework Strategy and US\$1 billion REDD+ Investment Plan is dedicated to land-use planning including the development of a

national policy. For geographical programming to be consistent with such a policy, it would have to be drafted in a participatory manner, include subsistence and commercial activities, commit to fighting deforestation by extractive industries, and even include a micro-zoning plan with clear definitions of communal lands. See National REDD+ strategy.

MAP 3 - TRADITIONAL RESOURCE USE INSIDE AND OUTSIDE OF EXISTING CONCESSION AREAS IN SOUTH-EASTERN EQUATEUR PROVINCE



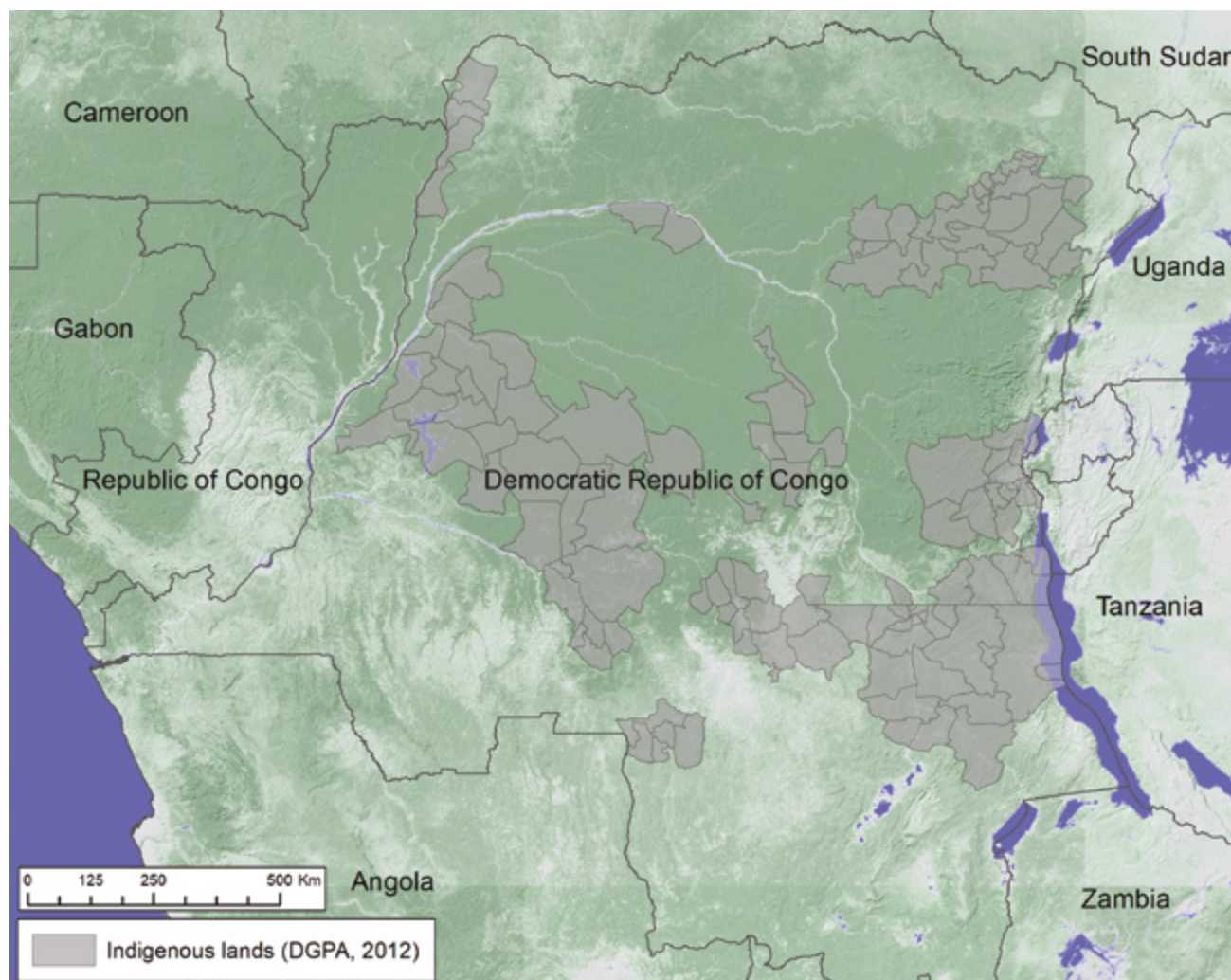
Conflict over access and use of resources and sacred sites in existing logging concessions is commonplace. Any lifting of the moratorium could exacerbate these tensions. Source: MappingForRights, WRI

Geographical programming must uphold the right to consultation. Although the 2005 decree does not itself define what a 'consultative process' is, Decree No. 14/019 of 2 August 2014 (determining the methods of carrying out public inquiry prior to spatial assignments) does in fact make it a legal requirement for local

communities to be consulted prior to attribution of land.¹² As a signatory of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) the government is also obligated to move beyond just 'consultation' of indigenous peoples living within its territories towards obtaining their free, prior and informed consent.

¹²This decree was issued in accordance with Article 24 of Law No. 11/009 of 09 July 2011 on basic principles relating to the protection of the environment.

MAP 4 - ESTIMATED SPATIAL DISTRIBUTION OF INDIGENOUS PEOPLES IN DRC PER ADMINISTRATIVE TERRITORY



This map shows there is a substantial forest area in DRC with known presence of indigenous peoples. As a signatory to the United Nations Declaration on the Rights of Indigenous People, any consideration of new logging titles in these areas by the government would first require mapping of indigenous territories and be subject to obtaining their free, prior and informed consent. Source: MappingForRights, DGPA

Geographical programming must be multi-sectoral.

Demand for forest land in DRC is increasing from commercial agriculture, the recent signing off of oil prospection blocks, commitments to have 17 per cent of forests under protected area status by 2020, community forest development as well as the establishment

of major jurisdictional REDD+ programmes. Any geographical programming that doesn't factor these competing demands on DRC's forests would undoubtedly result in a further loss of control over forest resources and deter responsible investment in these areas.

4. RECOMMENDATIONS

While the government repeatedly threatens to lift the logging moratorium, it is failing to take the necessary measures to ensure that even current logging operations act within the law. The evidence shows that any expansion, rather than further scaling down, of the industry would be accompanied by many extremely serious problems, and no lasting benefits. Specifically in regards to the issue of geographical programming, we recommend that the government:

- Implement, inter alia, a clearly defined process of multi-sectoral and participatory land-use planning before the moratorium is lifted.
- Pass a national land-use policy that meets with best practice international standards such as the FAO Voluntary Guidelines on Tenure in order to guide future land allocations.
- Make it a legal requirement to independently document customary rights and resource use prior to any further logging concessions being allocated, capitalising on recent innovations which are bringing down the cost and logistics of participatory mapping, such as with the [MappingForRights](#) approach.



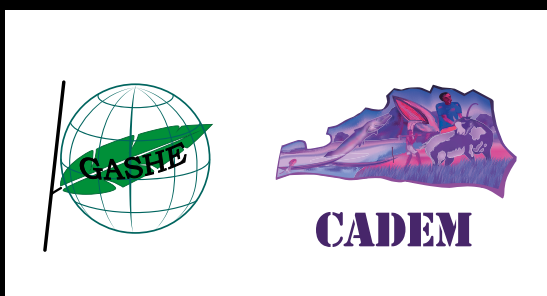
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