



# Trading in Chaos

The impact at home and abroad  
of illegal logging in the DRC

GREENPEACE

Extensive research carried out by Greenpeace and a number of other organisations shows a range of fundamental problems in the DRC's industrial forestry sector that combine to threaten the country's irreplaceable natural heritage.



Cotrefor logs stacked in a port in China. Greenpeace East Asia. © Simon Lim

## Executive summary

The forests of the Congo Basin comprise the second-largest rainforested area in the world. Known variously as the earth's second lung or "the lungs of Africa" they play a key role in regulating the earth's climate and provide a home and livelihood to millions of people and rare and endangered wildlife.

The Democratic Republic of Congo (DRC) is home to the large majority of this forest network but corruption and a lack of political will are among the reasons why these forests are increasingly under threat and why a potentially valuable resource continues to be squandered.

The country's logging sector is in a state of organised chaos – a chaos to a large extent engineered by officials and companies for their own benefit. The institutions that should govern the forestry sector and enforce the law are not functioning. There is a woeful lack of transparency, with logging contracts not made public or only made public years after they were signed (in violation of national law)<sup>1</sup> and no reliable official data available on permits, production and exports. Corruption is endemic and illegal activities in industrial logging concessions are the norm.

Chief among the companies wreaking this havoc is Cotrefor, a Lebanese-owned company that has been logging in the country since 2011 but before that date was operating under the name Trans M. Greenpeace Africa has been among those that have consistently exposed the irregularities in its logging concessions and the impunity with which the company is allowed to operate.

Greenpeace Africa spent two years investigating Cotrefor's logging concessions and the operations therein as well as tracking how its timber is traded

and exported to the world's ports. The results of these investigations reveal a shocking record of employee mistreatment, unpaid taxes, rampant irregularities in operational procedure with regards to felling trees and exceeding allocated quotas of endangered species such as Afrormosia that are permitted to be logged.

The company's operations are contributing to the destruction of vital habitat of the endangered bonobo, one of man's closest relatives and only found in the DRC. Communities are also increasingly the ones who suffer as Cotrefor consistently fails to fulfil the terms of social contracts signed prior to logging in its concessions.

There is a plethora of suspect timber from Cotrefor being placed on international markets. Yet for those exports to occur there must be importers willing to trade in timber of illegal (or at least dubious) origin, end users willing to purchase it, and governments in emerging and developed nations unwilling or unable to take effective action to prevent those transactions.

Greenpeace's research discovered shipments of timber heading to countries as diverse as the UK, Spain, Portugal, the US and China among others. Such trade violates numerous regulations and calls into question the effectiveness of laws such as the European Timber Regulation (EUTR) if they are not properly used to prevent illegal Congo Basin timber being placed on the European market.

Cotrefor's operations are a microcosm of the chaos that pervades the DRC logging sector and an example of why if this impunity is allowed to continue, it will be Congo's forests, forest communities and wildlife that will suffer.

# Cotrefor: logging illegally, threatening rare species

Since being awarded titles to industrial logging concessions in the DRC, Cotrefor has consistently undertaken illegal activities and its operations have posed serious threats both to wildlife and to local communities. Here are just some of the issues.

## Illegal titles

The 2002 DRC Forest Code abolished the existing types of industrial logging title, replacing them with the Contrat de concession forestière (CCF), to which existing titles were to be converted if they passed the requirements of a legal review. In May 2002 a moratorium on the awarding of new industrial titles was signed, but was immediately violated. In July 2003 the World Bank estimated the total number of new titles awarded since the moratorium as covering some 9.5 million ha.<sup>2</sup> In 2005 the legal review of existing titles was launched with finance from international donors.

In November 2008 the Interministerial Commission (IMC) in charge of the review found all three titles held by Trans-M (the former name of Cotrefor, changed in March 2011<sup>3</sup>) to have been awarded in violation of the moratorium and recommended their cancellation. Environment Minister José Endundo duly cancelled the titles in January 2009 – only to annul his own cancellation the following year. In April 2010, although the 2005 presidential decree regulating the conversion process stipulates that the Minister is bound by IMC decisions, Endundo decreed all three titles re-eligible for conversion. The Minister's illegal confirmation of Trans-M's titles (along with several other titles) was announced at a January 2011 press conference.<sup>4</sup> Concession contracts (CCFs) were signed in August and October.<sup>5</sup>

MECNT ((Ministry of the Environment, Nature, Conservation and Tourism) now MEDD (Ministry for the Environment and Sustainable development)) published its final list of converted industrial logging titles in August 2014.<sup>6</sup> Cotrefor is listed as the former Trans-M and is said to hold two titles: CCF 009/11 in Befale Territory, Equateur Province, with an area of 275,064 ha and CCF 018/11 in Banalia Territory, Orientale Province, with an area of 261,753 ha. These titles were converted from the old Garanties d'approvisionnement (GAs) 034/05 and 033/05 respectively. The third title illegally confirmed by the Environment Minister has since been given back to

the state: GA 035/05 in Bumba Territory, Equateur Province, with an area of 206,029 ha.

## Non-payment of taxes

In 2013 Global Witness published a report showing that the vast majority of forest taxes in the DRC were not paid in 2012.<sup>7</sup> The same report mentions Cotrefor as an example of non-payment, calculating that it paid only about half of what it should have contributed to the state's coffers.<sup>8</sup>

## Afromosia Logging

In April 2014 the CITES Secretariat notified Parties of the existence of a “large number of fake or falsified [export] permits apparently issued by the Democratic Republic of the Congo”, and provided a long list of “permits... that are unaccounted for”, meaning that it is not clear whether the CITES authorities in the DRC have correctly issued them. The Secretariat requested that Parties contact it to check the validity of any CITES permits from the DRC before accepting them.<sup>18</sup> Cotrefor holds several of those unaccounted-for CITES permits.<sup>19</sup>

In 2015 Cotrefor filed an inventory for CCF 018/11 and on that basis is allowed to export almost 9,000 m<sup>3</sup> RWE of afrormosia in 2015.<sup>20</sup> The year before, an excessive afrormosia harvesting volume was authorised by MECNT (see box), of which nearly half (21,245 m<sup>3</sup>) was allocated to Cotrefor. This was exceeding CCF 018/11's 'plan de gestion' sustainable annual afrormosia volume (16,298 m<sup>3</sup>) by nearly 5,000 m<sup>3</sup>.<sup>21</sup>

## Logging in bonobo habitat

The Cotrefor concession CCF 009/11 is within the range of the protected great ape species bonobo<sup>22</sup> (*Pan paniscus*, classified as Endangered by IUCN<sup>23</sup>) and lies inside the ecologically sensitive Maringa–Lopori–Wamba landscape. According to the African Wildlife Foundation (AWF), this landscape holds a range of other rare species of flora and fauna in addition to the bonobo, such as Congo peafowl (*Afropavo congensis*, classified as Vulnerable by IUCN), forest elephant (*Loxodonta cyclotis*, Vulnerable), African golden cat (*Profelis aurata*, Near Threatened) and giant pangolin (*Manis gigantea*, Vulnerable)<sup>24</sup> Cotrefor's concession area borders an important conservation area for bonobos managed by AWF, the Lomako-Yokokala faunal reserve.

Afromosia, a highly valued tropical hardwood, stands tall in the village of Yafunga. Afromosia is a protected tree species whose international trade is strictly regulated (listed under CITES Appendix II). Such trees are logged by companies including Cotrefor. Approximately 40 million people in the DRC depend on the rainforest for their basic needs, such as medicine, food or shelter. © Jiro Ose



Bonobos live only in the DRC, in small populations south of the Congo river, and their total numbers are not yet well established. The key threat to the species is commercial poaching, which is especially harmful because the bonobo is slow-breeding. It is widely accepted that poaching is facilitated by the logging industry opening up access to previously inaccessible forest areas. Other threats include habitat destruction by commercial logging and agriculture. These threats are recorded to “put all populations at risk irrespective of the conservation status of the area”.<sup>25</sup>

## AFRORMOSIA LOGGING

The tree species afrormosia (*Pericopsis elata*) is listed on Appendix II of CITES and has additionally been listed as ‘Endangered’ in the IUCN's Red List of Endangered species since 1998 because of overexploitation and soaring levels of international trade.

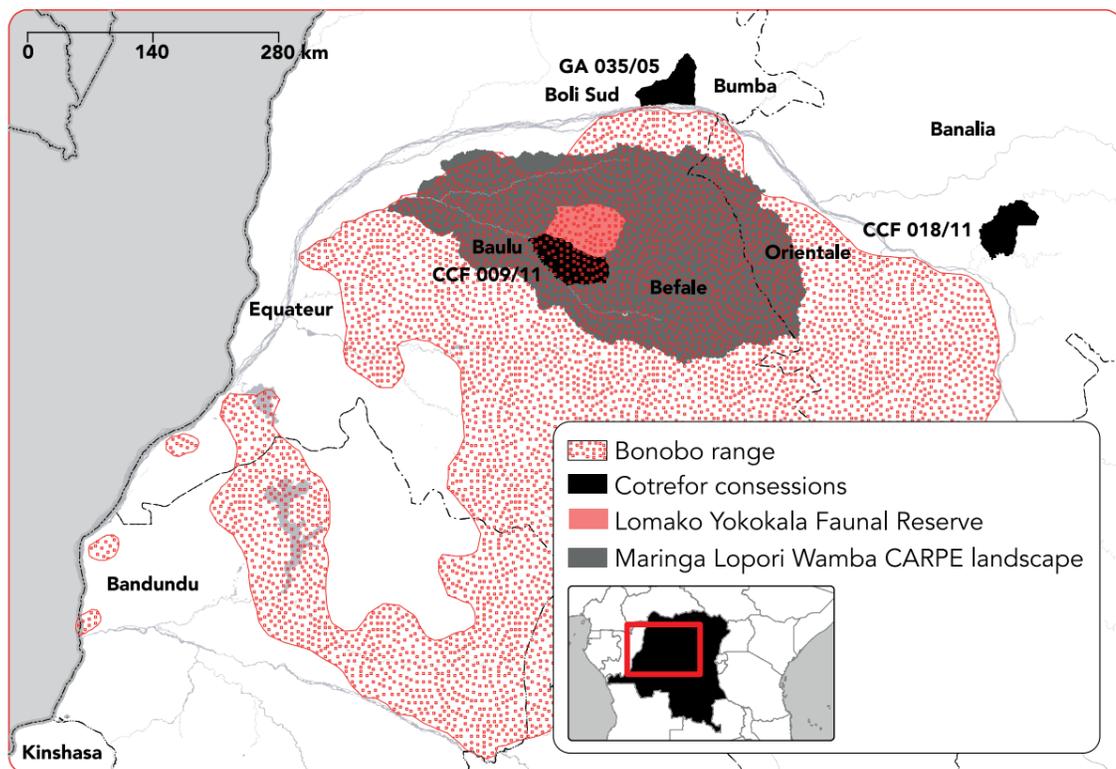
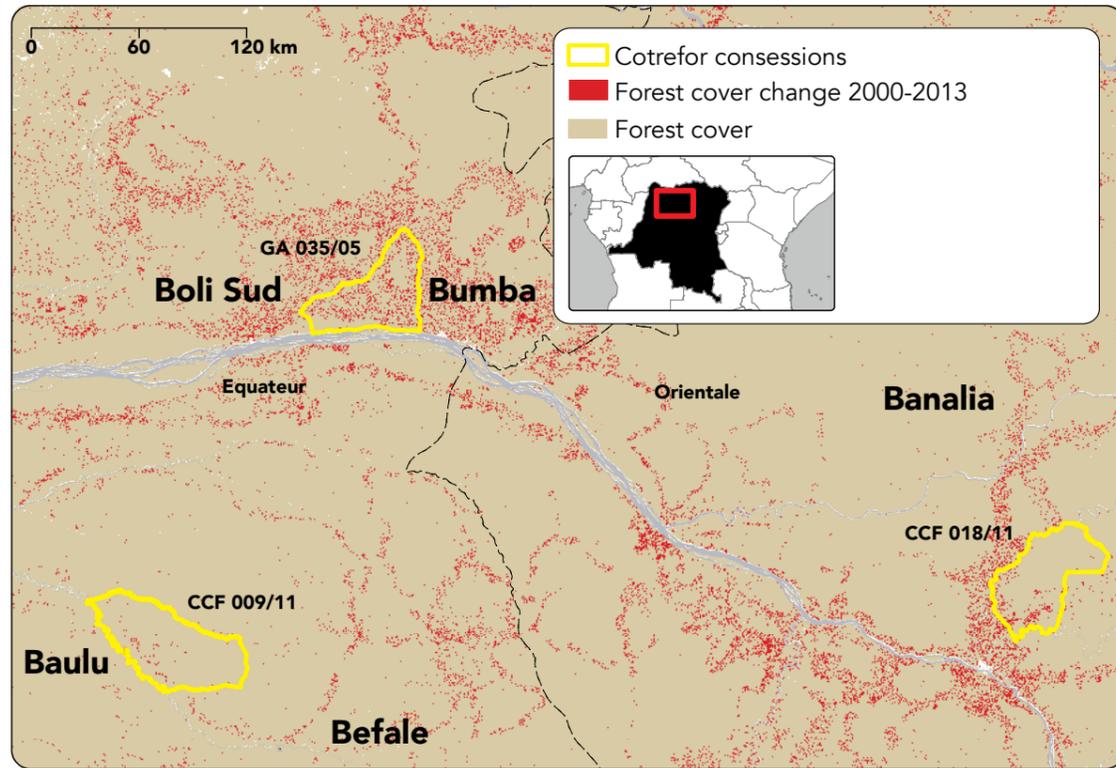
In the DRC, which holds the largest remaining stocks of the species,<sup>9</sup> inadequate law enforcement and widespread illegal logging mean that afrormosia exploitation and trade occurs with very little control. While limited quantities of the species may be logged, any timber to be exported needs to be accompanied by an export permit. That permit is supplemented by a certificate of origin guaranteeing that the timber was harvested legally, which must be checked by the CITES authority in the country of harvest. Since this checking is not done effectively in the DRC, the legality of the afrormosia cannot be guaranteed, even when exported with a CITES export permit.

CITES has taken some measures to address these issues,<sup>10</sup> but they have proved inadequate. Greenpeace International and Belgium have detected several illegal and suspect batches of afrormosia timber entering the EU market over the past few years.<sup>11</sup> On-the-ground enforcement remains poor, national CITES authorities lack capacity, and there is no effective traceability system in place. Without an overall suspension of trade in the species, CITES will continue to fail in its mission to protect afrormosia against overexploitation driven by international demand.

In 2014 MECNT authorised industrial loggers in the DRC to log at least 55,373 m<sup>3</sup> of afrormosia<sup>12</sup> despite the CITES national export quota being a mere 25,000 m<sup>3</sup>.<sup>13</sup> For 2015 a new measure aimed at controlling logging of afrormosia was introduced,<sup>14</sup> requiring companies to file inventories in order to be able to export it. On the basis of those inventories, the national export quota has been set at 23,240 m<sup>3</sup> roundwood equivalent.<sup>15</sup> However, inventories for more concession contracts are being prepared, so there is no guarantee the DRC government will not increase the export quota during the year. Also, companies' inventories have not yet been independently verified, so it is not clear if they provide any guarantees of responsible harvesting levels. Furthermore, the DRC government has introduced a dubious ‘transitional additional quota’ of 30,290 m<sup>3</sup> for 2014, in order to enable companies to get rid of huge stocks that cannot be sold under the stricter 2015 requirements.<sup>16</sup>

As an endangered species regulated by CITES, afrormosia can only be logged with a special yearly cutting permit (L'autorisation de coupe industrielle de bois d'oeuvre spéciale).<sup>17</sup> Contrary to this law the DRC government regularly authorises logging of afrormosia with ordinary cutting permits.

# Cotrefor concessions, DRC



*It is widely accepted that poaching is facilitated by the logging industry opening up access to previously inaccessible forest areas.*

A bonobo in a bonobo rehabilitation center near Kinshasa. Bonobos were the last of the great apes to be discovered and live exclusively in the Democratic Republic of the Congo. They are considered to be man's closest relative and organise themselves in sophisticated social groups. They are endangered from hunting and loss of habitat. Expansion of logging into remaining areas of intact forests in the Democratic Republic of Congo will destroy globally critical carbon reserves and impact biodiversity. © Kate Davison

# Cotrefor: evidence from the field

Having established from some of the available information detailed in the previous section that Cotrefor's logging activities merited closer investigation, and having conducted several previous visits to forest areas associated with the company, Greenpeace Africa carried out a number of field missions between 2013 and 2015 to assess the legality and impacts of the company's activities on the ground.

## Visits to CCF 009/11, Befale Territory, Equateur Province

With the help of local partners, Greenpeace Africa (hereinafter Greenpeace) conducted research missions to CCF 009/11 in December 2014 and February 2015. Evidence was gathered of a wide range of illegalities and environmental and social impacts.

## Disturbance of protected species

Greenpeace researchers talked to staff at the Lomako-Yokokala faunal reserve, who were very concerned that Cotrefor had opened roads near the reserve, with a subsequent increase in poaching. The reserve staff also observed animals being driven away by the noise of the chainsaws. Furthermore they reported a massive abundance of bonobos in the buffer zone between the reserve and the concession area, as well as the presence of forest elephant dung. The communities living in the area confirmed that bonobos are seen in the concession area and in the buffer zone next to the concession around the Bololo river. Greenpeace also talked to several Cotrefor staff who told us that due to the lack of provision of food to the workers while they are in the forest (they receive a modest cash allowance but there is nowhere on site to purchase food), they are forced to hunt in order to feed themselves.

Greenpeace concludes that Cotrefor's industrial logging practices are disturbing the bonobo's habitat as well as increasing poaching pressure, with the company's failure to provide workers with food also contributing to the latter effect. This appears to be in clear violation of the stipulations of the Guide opérationnel EFIR (July 2007),<sup>26</sup> which lays down guidance for reduced impact logging operations and article 11 in the concession contract.<sup>27</sup>

## Violation of workers' rights

The Greenpeace investigation discovered that workers are transported to the forest sites in a skip truck.

Greenpeace investigators found an information panel with rules for workers in the base camp at Baulu, several of which flouted the basic legal principle that a group cannot be punished for the action of an individual, for example stipulating that failure on the part of a supervisor to monitor all activities at the worksite during working hours would result in disciplinary action against the whole supervisory team, and that in the event of a theft of company property within the worksite, punishment would be extended to all employees.<sup>28</sup>

Workers and the local management committee (a committee that administers cahier des charges matters on behalf of the community) explained that Cotrefor has a system it calls a campagne (campaign) which comes into operation when the company is under time pressure to get all the trees covered by a particular permit logged. During such a campagne, workers are sent to the forest for six days at a time in inhuman conditions, with only a tarpaulin to protect themselves from the rain, cold, snakes, mosquitos and other insects. As already mentioned, the company makes no adequate provision for workers' food, therefore making some of them resort to engage in poaching. The conditions described to Greenpeace appear to be clear violation of labour laws (Code du travail of 16 October 2002, Articles 55, 163, 170 and 201<sup>29</sup>).

Other regulations governing conditions in forest concessions were also found to be violated. For example, conditions in the base camp at Baulu were in breach of regulations governing adequate accommodation, waste disposal and hygiene. In addition the Greenpeace field team witnessed serious pollution of the river Maringa with human faeces, fuel and lubricants from the base camp. The conditions at the base camp, as well as the pollution found, appear to be flagrant violations of several articles<sup>30</sup> of Ministerial Order 21 of 7 August 2008 on Facilities in Forest Concessions.

## Corruption

Greenpeace investigators interviewed a range of government officials and customary leaders in the concession area. Six of these individuals confirmed that they received monthly payments from Cotrefor, which they referred to as their "prime" (bonus). This appeared to be an instance of corruption, as these payments were additional to taxes due and permitted payments to local bodies. One respondent said that payments of the order of 25,000 or 30,000 FC (€25–30) a month were made to such individuals when it was time for them to sign transport authorisations for consignments of logs, and that once they had signed the documents they would receive an additional bag of salt and 10,000 FC "for their mothers". This represents a potential violation of the criminal code (Code penal Congolais 2004), articles 147 bis and 148.<sup>31</sup>

## Abandoned logs

During the two field missions several abandoned logs were found. Abandoning logs is illegal and a very wasteful and destructive practice: felling trees that are not then used represents unnecessary environmental damage, offers an opportunity for overharvesting if the volumes abandoned are not reported, and deprives the state of the taxes due on each harvested tree. The evidence demonstrates that there appear to have been clear violations of Article 42 of Ministerial Order 35 of 5 October 2006 on Forest Exploitation.<sup>32</sup>

## Below-diameter logging

The minimum diameter of trees permitted to be logged is established officially by MEDD for each species to prevent overharvesting, ensuring a healthy stock of trees for future logging operations.<sup>33</sup> However, companies in search of a quick profit engage in below-diameter logging. For the companies to be able to trade the resultant undersized logs requires either an absence of official oversight or connivance on the part of government officials. During their December field mission Greenpeace investigators witnessed boats carrying Cotrefor logs that included very small trees. During the February mission the investigators were able to measure logs on Cotrefor trucks and at the worksite, of the species Bossé (*Guarea cedrata*) and Kosipo (*Entandrophragma candollei*), below the official minimum diameters of 60 cm and 80 cm respectively.<sup>34</sup> This serves as evidence of further violations of Article 42 of Ministerial Order 35 of 5 October 2006 on Forest Exploitation.<sup>35</sup>



From top: Workers left to fend for themselves in the forest. A monkey, killed by poachers. Tola wood abandoned in the forest © Greenpeace



A log that was felled in 2103 but has been left to rot ©Greenpeace

### Yearly cutting permits signed during the year of harvest

Despite being contrary to forest law, this is a regular practice. Yearly cutting permits (Autorisations de coupe industrielle de bois d'œuvre (ACIBOs)) should be signed before the start of the calendar year of harvest. A number of Cotrefor yearly permits for 2013 and 2014<sup>36</sup> had been signed after the 31 December deadline, in March and April of the year of harvest. This appears to have contravened Article 4 of Ministerial Order 11 of 12 April 2007 on Cutting Permits.<sup>37</sup>

### Evidence of other infractions

The Greenpeace investigators also saw a May 2014 letter from Cotrefor's Secretary General to the manager of the site at Baulu, reprimanding him over several legal and social issues for which he is responsible.<sup>38</sup> In particular, the Secretary General reminded him to execute the company's obligations under the cahier des charges (social contract – a compulsory agreement between a logging company and a community or communities within its concession area, in which certain material and other socio-economic benefits for the community are stipulated to be provided by the company) signed with the community of Loma in 2010, including road and bridge maintenance and the building of three schools. He was also urged to ensure that other rules were followed, such as safety standards for transporting people in company boats, and the need to give contracts to workers who have worked for the company for a year without one.

### Visits to GA 035/05, Bumba Territory, Equateur Province

A Greenpeace-commissioned field mission in December 2013 and a Greenpeace France mission in August 2014 to the now deserted GA 035/05 in Bumba territory showed that Cotrefor had left the area in 2013. Nevertheless the company had left behind evidence of unlawful and destructive logging practices and a cavalier attitude to its social obligations.

### Unfulfilled cahiers des charges

Several communities within the former concession area visited by Greenpeace France in August 2014 explained that Cotrefor had failed to fulfil its obligations set out in the cahiers des charges. The former president of the local management committee from Boli-Sud explained that in February 2013, when he asked Cotrefor to comply with the cahier des charges for his community, he was arrested, jailed for ten days, released and jailed again. He had to pay the police around 200,000 Congolese francs (around €180 or US\$220) to secure his release. He told the Greenpeace field team that the social contract remained unfulfilled, with the community still waiting for road maintenance, a health centre and schools.<sup>39</sup> These failings appear to be clear evidence of Cotrefor's actions that are in violation of Ministerial Order 28 of 7 August 2011 on Concession Templates and Cahiers des Charges.<sup>40</sup>

### Logging irregularities

The 2014 Greenpeace field team also found evidence of prohibited logging practices around the abandoned Cotrefor logging area, including abandoned logs and harvesting within 50 m of streams. This indicates that Cotrefor had committed further violations of Article 42 of Ministerial Order 35 of 5 October 2006 on Forest Exploitation.<sup>41</sup>

### Petition from communities exposing further violations

In November 2013 the village of Befale, in collaboration with a local NGO, published a petition addressed to the Prime Minister of the DRC<sup>42</sup> whose text exposed a whole range of violations within CCF 009/11, including violation of boundaries negotiated with the communities, failure to fulfil the social obligations set out in the cahier des charges, failure to respect workers' rights and failure to comply with logging regulations.

OGF conducted an IM-FLEG field mission in October 2013 in Cotrefor concession area CCF 018/11, Banalia Territory, Orientale Province.<sup>45</sup> It uncovered evidence of a range of violations.

### Unauthorised logging

The most serious infraction found was logging without authorisation<sup>46</sup> of at least 137 trees, mostly of the endangered species afrormosia. This constituted a violation of Article 97 of the Forest Code,<sup>47</sup> Article 7 of Ministerial Order 35 of 5 October 2006 on Forest Exploitation<sup>48</sup> and Articles 1 and 4 of Ministerial Order 11 of 12 April 2007 on Cutting Permits.<sup>49</sup>

### Other infractions

The report goes on to give a long list of other infractions,<sup>50</sup> including:

- Out of boundary logging. GPS analysis and field observations by OGF show that Cotrefor had been logging around 2 km beyond its concession boundaries in an area held by another industrial logging company. This constituted a violation of Article 8 of Ministerial Order 36 of 5 October 2006 on Management Plans.<sup>51</sup>
- Lack of application of Reduced Impact Logging measures. OGF found that logging roads were not closed off to deter poaching and future crop trees were not indicated in the cutting blocks. Marking and protecting future crop trees is a crucial part of responsible forest management, serving to preserve the economic value of the forest by maintaining a good timber stock. Failure to adhere to this approach depletes and degrades the forest instead of managing it for future generations. OGF's findings on this issue indicate that Cotrefor had committed violations of Article 32 of Ministerial Order 35 of 5 October 2006 on Forest Exploitation.<sup>52</sup>
- No physical delimitation of permit limits. Permit limits were not delimited for the annual cutting permit 036/2013/PO/06 in operation at the time of the field mission. This constituted a violation of Article 5 of Ministerial Order 11 of 12 April 2007 on Cutting Permits.<sup>53</sup>

- Incorrect and absent marking of logs. A number of logs in the forest and in Cotrefor's log yard were marked incorrectly or not at all. The law describes very clearly when and how logs should be marked: failure to mark logs correctly means that their origin cannot be established by officials either in the DRC or in importing countries. Failure to mark logs can indicate laundering of illegally harvested wood. This evidence means that Cotrefor had committed multiple violations of Article 48 of Ministerial Order 35 of 5 October 2006 on Forest Exploitation.<sup>54</sup>
- Logging of afrormosia without special permit. As an endangered species regulated by CITES, afrormosia can only be logged with a special cutting permit (see page xx). However, Cotrefor was found to be logging afrormosia despite having only a ordinary permit. As a result, it was in violation of Article 3 of Ministerial Order 11 of 12 April 2007 on Cutting Permits.<sup>55</sup>
- Logging of non-authorized species. In addition to the logging of afrormosia, Cotrefor was found to have systematically harvested over 100 m<sup>3</sup> of timber of species that it was not authorised to cut because they were not included in the logging permit that specifies all species to be harvested along with allowed harvest volumes. This constituted a violation of Article 19 of Ministerial Order 35 of 5 October 2006 on Forest Exploitation.<sup>56</sup>
- Failure to comply with cahier des charges. The local management committee explained to the OGF mission that Cotrefor, as in its other concessions, had failed to fulfil the obligations of the cahier des charges agreed with the communities. For example, it had not constructed the promised school and community IT and social centre, nor did it provide information on logging operations to the local management committee. Accordingly, the company was in violation of Article 89 of the 2002 Forest Code.<sup>57</sup>

## OFFICIAL INSPECTION MISSIONS

In the DRC an Independent Monitor of Forest Law Enforcement and Governance (IM-FLEG) has been working since December 2010 to check forest operations in the field as well as to analyse and give recommendations on improving forest laws and their enforcement – an approach that has been adopted in a number of Central African countries. In the DRC the IM-FLEG has an official mandate from the government and was established with funding from international donors. Its field missions are conducted jointly with government officials and its reports are published only after they have been discussed by a Reading Committee, including representatives of the DRC government, donor institutions, the forestry sector and civil society. The UK-based non-profit organisation Resource Extraction Monitoring (REM) acted as IM-FLEG from December 2010 to April 2013,<sup>43</sup> at which point the DRC-based Observatoire de la Gouvernance Forestière (OGF)<sup>44</sup> took over the role, which it retains today. OGF has a partnership with the Field Legality Advisory Group, a regional organisation supporting independent forest monitors in the Congo Basin.

The role of the IM-FLEG is extremely important as a means of increasing transparency in the forestry sector, but its recommendations on improving governance and on penalising companies are rarely followed because of a lack of political will and the indifference of donors.

# Organized Chaos

## The Democratic republic of Congo's forestry sector

Scarred by decades of conflict, mired in corruption and lacking in key infrastructure despite its vast mineral wealth and enormous natural resources, the Democratic Republic of the Congo (DRC) is one of the world's less stable states, ranking in the 'very high alert' category in the Fund For Peace's Fragile States Index, just behind South Sudan, Somalia and the Central African Republic.<sup>58</sup>

In 2013 Greenpeace Russia's mapping team, together with leading scientists and the World Resources Institute, published findings from a model which predicts that intact forest landscape degradation in the DRC will double this decade.<sup>59</sup> These researchers also found that the 10-year forest degradation rate within designated logging permit areas was 3.8 times higher than in other primary forest areas. While much of the deforestation and degradation is undoubtedly due to small-scale agriculture and artisanal logging for fuelwood and local timber needs, extensive research carried out by Greenpeace Africa and a number of other organisations shows a range of fundamental problems in the DRC's industrial forestry sector that combine to threaten the country's irreplaceable natural heritage.

A 2014 report by the UK-based think-tank Chatham House summarises the findings of a series of field inspections by the country's Independent Monitor of Forest Law Enforcement and Governance (IM-FLEG), which it says offers a mere "snapshot or baseline of the scale of illegalities" in the DRC's logging sector:

In total, [the IM-FLEG] visited 21 industrial logging sites between July 2011 and August 2012. This included 18 of the 28 industrial logging concessions that were active during the period (65%). The results demonstrate systematic illegal activity and breaches of regulations by industrial loggers in the country.

During these investigations, it found 11 cases of failure to mark logs or stumps; six cases of logging above permitted volume; four cases of felling unauthorized species; four cases of

failure to comply with social clauses; four cases of failure to pay area tax; three cases of logging without a permit; three cases of logging under-diameter trees; and one case of logging without a concession.<sup>60</sup>

The IM-FLEG attributes the severe lack of compliance with forest law on the part of private sector operators to the "derisory" numbers of enforcement officers, insufficient powers, a lack of training and resources, and inadequate financial penalties, among other factors.<sup>61</sup> According to Global Witness, in the DRC "forest law enforcement is almost non-existent."<sup>62</sup>

The IM-FLEG particularly deplores the undermining of export controls by the lack of provision for forest authorities to be involved, noting that "the timber export procedure, in terms of traceability and enforcement by the forest administration, is not complete and remains above all dependent on general customs procedures" and that "export monitoring on the ground is virtually impossible because MECNT agents are not authorised to work in the border posts."<sup>63</sup> Small wonder that the Chatham House study concludes that "At present, it is unlikely that any of the DRC's timber production could plausibly meet EU due diligence requirements."<sup>64</sup>

The same study notes the lack of any "official plan of action regarding how to tackle illegal logging and improve forest governance" or of any "overarching forest policy".<sup>65</sup> While it praises the "fundamental legal framework" of the country's forest legislation it remarks that most of the implementing regulations of the cornerstone of that legislation, the 2002 Forest Code, had still not been promulgated as of 2013,<sup>66</sup> and that the process of converting pre-Forest Code logging titles into modern 'concession contracts' (including forest management plans and agreements with local communities) has been delayed by years.<sup>67</sup> While the government declared the conversion process complete in August 2014,<sup>68</sup> it is unclear how many (if any) forest management plans have been filed (none are found online<sup>69</sup>) out of 57 concession contracts.

*The DRC's logging industry is in a state of organised chaos – a chaos to a large extent engineered by officials and companies for their own benefit.*



Greenpeace France activists deliver a 4 ton and 8.5 meter long tropical timber log in front of the Ministry of Ecology in France. The action comes two years after the entry into force on 3 March 2013 Timber Regulations of the European Union, meant to stop imports of illegal timber in Europe. © Pierre Baelen

While the forestry sector ought to be a significant source of income for the DRC government, enabling money to be spent on improved governance and enforcement, in practice tax avoidance is rampant, with the connivance of the authorities. According to research by Global Witness,<sup>70</sup> in 2012 less than 10% of revenues due from the forestry area tax (the most important tax on the sector) were actually collected, despite it being set at a far lower level than in other Central African countries.<sup>71</sup> Global Witness attributes much of the shortfall to illegal arrangements between the forestry sector and MECNT officials, whereby the area tax is charged only on the exploitable area of a concession, as opposed to the entire area as required by law.<sup>72</sup>

This is not the only way in which the authorities abet the logging industry's flouting of the law. According to the IM-FLEG, 94% of artisanal permits issued between 2009 and 2011 were issued not to individuals but to companies, in violation of the regulations,<sup>73</sup> enabling them to access timber while circumventing the country's 2002 moratorium on new industrial logging titles, that was installed as part of

a World Bank led programme of forest sector reform. At a more local level, forestry enforcement officers often take corrupt payments rather than sending cases to court.<sup>74</sup> That there is widespread corruption in the forestry sector should hardly come as a surprise given that the DRC is ranked equal 154th out of 175 countries in Transparency International's 2014 Corruption Perception Index.<sup>75</sup> The country also has very poor results across the whole range of World Bank governance indicators (Voice and Accountability, Political Stability, Government Effectiveness, Regulatory Quality, Rule of Law, Control of Corruption).<sup>76</sup>

The picture that emerges, then, is of a country without effective governance structures, where the forestry sector is organised to benefit international companies and domestic elites. The resultant controlled chaos stokes corruption and conflict and gives rise to logging practices that damage ecosystems, threatening biodiversity and depriving the wider Congolese population of vital ecosystem services and of any meaningful share in the wealth generated by the country's vast natural resources.

A general view of Cotrefor operating within Kinkole Port, about 24 km from Kinshasa. © Clément Tardif



## International regulations

# How and why trade in illegally harvested wood continues

The European Union Timber Regulation (EUTR)<sup>77</sup> which came into effect in March 2013 prohibits the placing on the European Union (EU) market of illegal timber or products derived from such timber, and requires operators (the companies who first place the timber on the EU market) to exercise "due diligence" to ensure the legality of the timber they import. They must also be able to demonstrate that they have done so. However, a number of Greenpeace EU based offices' investigations have shown that, in several EU Member States, operators are failing to comply with the EUTR obligations and competent authorities are not ensuring its timely and effective enforcement. Furthermore, a number of Member States (e.g. France, Greece and Spain) have not yet completed the implementation of the regulation at the national level.

In March 2013, Greenpeace Belgium alerted the Belgian authorities to the arrival in the port of Antwerp of a consignment of sawn afrormosia from the Congolese logging company Tala Tina SPRL, for the Belgian importers Vandecasteele and Denderwood. The species is listed in Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and can only be traded internationally with valid CITES permits (see box on page xxx). The Belgian authorities initially blocked the shipments, but despite a succession of mutually contradictory declarations about the origin of the wood from Tala Tina and the Congolese CITES authorities and despite lack of proof of legality, they released the wood a few weeks later. According to Belgian newspaper 'Le Soir', this decision arose from a desire not to antagonise the country's ex-colony<sup>78</sup> – even though the DRC environment minister had in the meantime ordered a criminal investigation into the case. While the EUTR stipulates that timber compliant with CITES is deemed to be in compliance with the EUTR, the competent authorities of EU states still have an obligation to ensure that CITES documentation is actually valid – an obligation that the Belgian authorities seem not to have taken seriously in this case.<sup>79</sup> In practice CITES permits appear to be issued by the DRC authorities more

or less on demand, and thus offer no guarantee of legality.<sup>80</sup>

In January 2014, Greenpeace France highlighted the unwillingness of the French Ministry of Agriculture to take action to prevent the importation via the port of Caen of timber logged by Sicobois, a company whose illegal logging activities were documented by Greenpeace Africa and other NGOs on multiple occasions in 2013 (and notified to the DRC authorities), and whose employees have also engaged in violence against local residents.<sup>81</sup> Again, in June 2014 French Greenpeace activists blockaded the vessel Safmarine Sahara in the port of La Rochelle, demanding that the French government investigate its cargo of around 3,000 m<sup>3</sup> of suspect timber from the DRC.<sup>82</sup> Although the EUTR was agreed back in 2010, France did not pass the legislation necessary for its enforcement until October 2014. Responsibility for enforcement has been divided between the Ministry of Agriculture and the Ministry of Ecology, and while the former has now moved to develop procedures for its staff, the latter appears still to have taken few steps towards putting in place an inspection regime.<sup>83</sup> As a result, over two years after the EUTR came into effect not a single inspection has been carried out.

A slightly more decisive attitude was seen in November 2013, when illegal shipments of endangered<sup>84</sup> wengé (*Millettia laurentii*) logs from the Congolese firm Bakri Bois Corporation (BBC) destined for two German operators were confiscated after the German authorities established that official documents supposedly from MECNT were forged. The wood had been unloaded in April at Antwerp on behalf of the Swiss-based company Bois d'Afrique Mondiale SA (BAM), and the Belgian authorities had allowed it to continue its onward journey, even though admitting to doubts about its legality after Greenpeace Belgium had alerted them. Despite the German authorities' subsequent confiscation of the wood at the premises of the two German companies, however, at the time of writing those authorities had instituted no criminal investigation, treating the matter

*The absence of binding legislation in other major importing countries such as China, India and Japan is a serious loophole in the global effort against the illegal timber trade.*



Local Population on the Congo River in the DRC. © Clément Tardif

instead as an administrative offence (as German legislation implementing the EUTR entitles them to do). Meanwhile other batches of illegal BBC wood in the Czech Republic<sup>85</sup> and Italy, originating from the same consignment, had not been confiscated, although authorities in both countries had been informed of the shipments in July 2013.<sup>86</sup>

The cases highlight the incomplete implementation and deficient enforcement of the EUTR in several Member States, as well a lack of coordination and cooperation between the competent authorities of Member States. Competent authorities have a duty, under the EUTR, to ensure that illegal timber is not placed on the market in their territory and must take action to prevent its circulation, irrespective of the nationality of the operator.

Beyond Europe, some other major timber importing countries have introduced legislation with a similar aim to that of the EUTR. The US was the first country to ban imports of illegally sourced wood products, through its 2008 amendments to the Lacey Act from 1900 on wildlife trafficking. US law places the onus on the buyer to decide the best way of conducting due diligence, and makes it clear that documents are not in themselves to be accepted as final proof of legality. More recently, Australia passed the Illegal Logging Prohibition Act 2012, which took effect from November 2014.<sup>87</sup>

However, the absence of binding legislation in other major importing countries such as China, India and Japan is a serious loophole in the global effort against the illegal timber trade. China is now the world's biggest importer, consumer and exporter of timber and wood products.<sup>88</sup>



A truck carries Cotrefor staff to Kinkole port, 24 km from Kinshasa. © Clément Tardif



Local children in Yahonde village. The Cotrefor logging company which was working in the local area, suddenly left the region, abandoning many logs. Plundered forests, physical intimidation and unfulfilled promises is the legacy of the Democratic Republic of Congo's broken industrial logging model according to new findings from Greenpeace Africa, after the environmental organisation visited the communities affected by the operations of logging companies. © Clément Tardif

# Cotrefor's International Trade

## Placing illegal timber on the global market

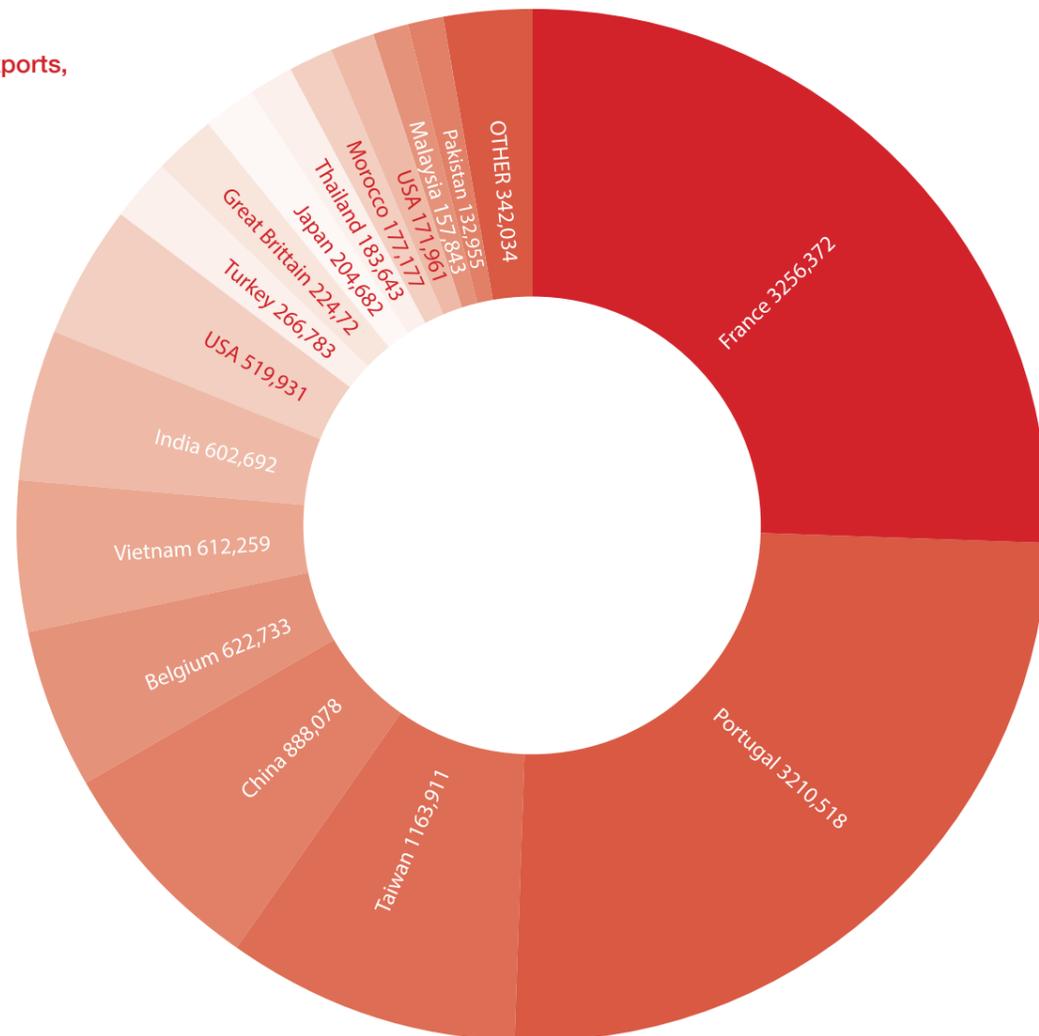
With such a bleak picture of forest governance in the DRC, it seems hardly surprising that exports of illegal and destructively sourced timber are rampant. Yet for those exports to occur there must be importers willing to trade in timber of illegal (or at least dubious) origin, end users willing to purchase it, and governments in emerging and developed nations unwilling or unable to take effective action to prevent those transactions.

As the field missions by Greenpeace France and Africa and OGF have demonstrated, Cotrefor is a striking example of a company with a complete disregard for the regulations touching almost every aspect of industrial logging in the DRC. But as we observed earlier, this level of illegality, along with

its destructive environmental and social effects, is sustained and made possible by the demand for tropical timber in emerging and developed countries and the willingness of importers, end users and national authorities to turn a blind eye to evidence that timber is tainted – or at least to take on trust assurances of legality and sustainability that closer inspection show to be hopelessly unreliable. So who are the importers who engage in this tainted trade?

As the charts below show, trade data from the DRC (incomplete but the best available from official sources) indicates that Cotrefor supplies its products, both logs and sawn wood, to a whole range of companies across the world.

Cotrefor wood exports, weight in tonnes



Greenpeace national and regional offices' undercover research in the EU, China and USA has confirmed trade in Cotrefor wood to a number of countries, and begun the process of putting names to the companies that import its suspect timber.

### France

Huge stacks of logs from all three Cotrefor logging titles have been found by Greenpeace France researchers in the last few years in the French ports of La Rochelle and Caen. According to official DRC documents about exports, these were traded by companies such as F Jammes SAS, Tropical Wood Trading, Neuholz, African Logging, ABEX SA, Timberath and Angot Bois SARL. Export data from the DRC shows that in April 2015 new Cotrefor shipments arrived at Montoir de Bretagne (the port of St-Nazaire) in western France for an unknown company. All the companies mentioned above deal with the trade from the DRC to France, but the timber may actually be placed on the French or other markets by other companies.

### UK

An important link in Cotrefor's global trade is provided by NHG Timber Ltd, a UK-based company that trades Cotrefor products to destinations all over the world. Greenpeace UK undercover investigations have found that NHG Timber Ltd clients for Cotrefor timber in 2014 included the Belgium-based Lemahieu group, the US-based East Teak Fine Hardwoods Inc and J.Gibson McIlvain Co, and the UK-based Brooks Bros Ltd, Whitmore's Timber Co Ltd and Arnold Laver Ltd. In April 2015 Cotrefor shipments traded by NHG Timber Ltd arrived in Antwerp (Belgium), but their ultimate destination is as yet unclear.

### USA

Greenpeace Africa and USA research, public databases in the USA such as Tradelink and the Congolese Ministry of Environment's website<sup>89</sup> all show that Cotrefor timber is traded to a number of US-based companies including East Teak Fine Hardwoods Inc, J Gibson McIlvain Company, Hardwoods Specialty Products US LP and Huntersville Hardwoods Inc. Recent shipments of afrormosia to the USA have been highly suspicious, as DRC-based logging companies may be trading them under the dubious 'transitional additional quota' introduced by the DRC government to enable companies to sidestep stricter CITES requirements and sell excess stocks.<sup>90</sup> Moreover, DRC export data show afrormosia was exported on 26 March 2015, even though trade in all CITES species from the DRC was suspended from 19 March to 15 April because of the country's failure to submit a national ivory action plan.<sup>91</sup> DRC export data show a DRC-based company called Pacific Trading seems to play an important role in shipping Cotrefor wood to the US.

### Belgium

Antwerp is a key port for the importation of wood from the DRC for processing or use in Belgium, as well as for transport further into Europe. In March 2015, shipments of afrormosia timber from Cotrefor were traded by Exott SPRL. UK-based NHG Timber Ltd (see above) is an important player in trade through Antwerp, according to DRC government export data. Greenpeace Belgium has found Cotrefor timber in the port of Antwerp on several occasions since 2013, including logs from concession CCF 009/11 and the company's former title GA 035/05.

### Germany

According to DRC government export data German-based FW Barth & Co GmbH trades Cotrefor wood to destinations around the world. There are two companies listed in Germany under this name. One of them is a trader based in Korschenbroich,<sup>92</sup> the other an agent in Hamburg.<sup>93</sup>

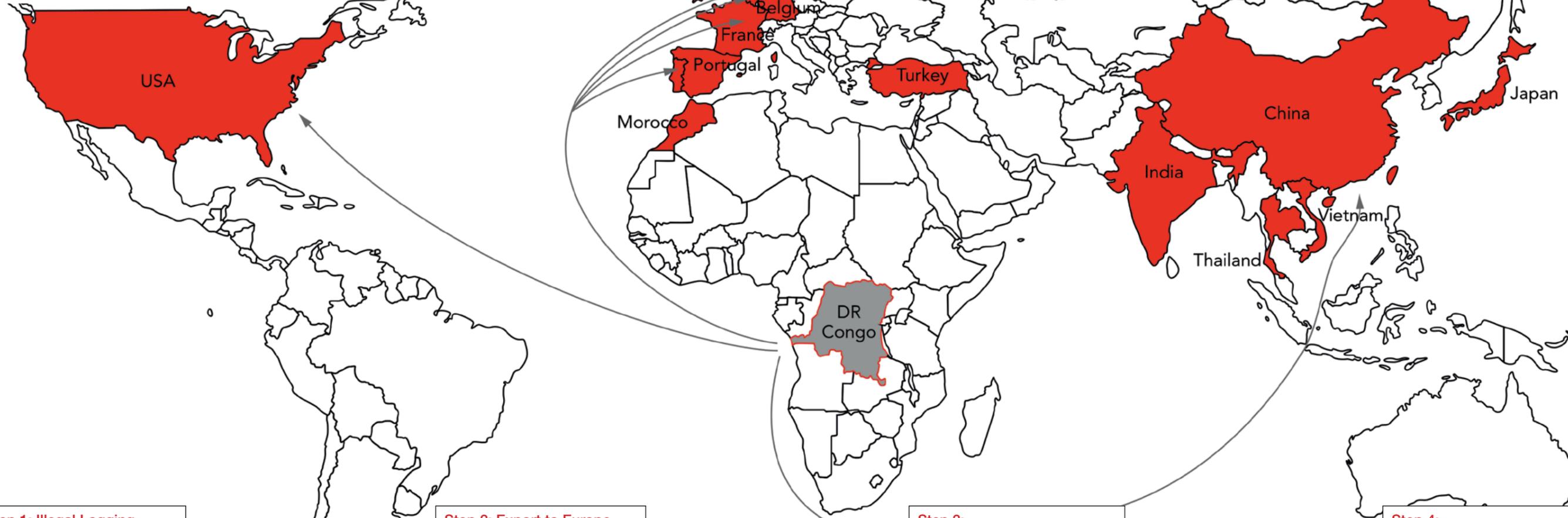
### Portugal

In the port of Viana do Castelo Greenpeace Spain investigators spotted Cotrefor logs from CCF 009/11 in March 2015. According to DRC government export data companies involved in timber trade to Portugal include Neuholz Investment Ltd, and French-based Angot Bois SARL and F Jammes SAS. In April 2015, the French company Angot Bois SARL traded Cotrefor shipments from the DRC to the Portuguese ports of Leixões. This port seems to be a key entry point for DRC timber into the EU.

### China

In August 2014 and March 2015 Greenpeace China found logs from CCF 018/11 in the port of Zhangjiagang on the Yangtze river. During the 2015 port research, Greenpeace China found logs from logging permits that were issued in March 2013, during the year of harvest and so in breach of the official deadline. These permits also covered the harvesting of afrormosia, in violation of the regulation that the species can only be harvested with a special logging permit because it is protected. According to DRC government export data companies trading Cotrefor timber to China include Global and Infinite Traders SAL, NHG Timber Ltd and China Plaited Products Co Ltd. China Plaited Products Co Ltd. trades in afrormosia from Cotrefor according to the MEDD website.<sup>94</sup>

# The four step journey of Cotrefor wood



**Step 1: Illegal Logging in the Congo Basin**



Illegal logging is rampant in the DR Congo and other Congo Basin countries with much of the wood destined for Europe, China and elsewhere. Greenpeace has monitored the operations of one of DR Congo's large industrial logging companies, Cotrefor and found indications of numerous violations in its concessions such as logging without a valid permit. © Greenpeace Africa



**Step 2: Export to Europe, USA and China**



The felled wood is transported from the concession areas by rivers to ports, including Matadi. From there it is shipped to a number of destinations including France Portugal and China. © Greenpeace Africa



**Step 3: Worldwide distribution**



Agents play an important role in distributing timber worldwide. These include NHG Timber in the UK, Pacific Trading based in Congo and shipping mainly to the US and FW Barth & Co in Germany. © Greenpeace East Asia



**Step 4: Sold and used**



Cotrefor wood is used in a wide array of products including flooring and in construction whilst precious species like Afrormosia are used in high-end products including furniture. © Creative Commons

Boil-Mopotu primary school in Yambangia village, about 45km of Lisala. The Cotrefor logging company exploited local forests in exchange for building a village school, which has been left incomplete. Plundered forests, physical intimidation and unfulfilled promises is the legacy of the Democratic Republic of Congo's broken industrial logging model according to new findings from Greenpeace, after the environmental organisation visited the communities affected by the operations of logging companies. © Clément Tardif



# Conclusions and recommendations

Cotrefor's illegal and destructive logging threatens endangered species such as the bonobo and afrormosia, as well as failing to deliver on social obligations and sustainable development. Its legacy and that of companies like it is a logged-out forest and deprived communities. It is time for the DRC authorities and the timber-importing nations whose demand is fuelling this manmade disaster to recognise that their response hitherto has been inadequate, and to take decisive action to stop Cotrefor and others despoiling the rainforests of the Congo Basin.

Accordingly, Greenpeace calls on the DRC government to:

- immediately act on all recommendations (including sanctions) from the IM-FLEG field missions to Cotrefor's logging concessions, and investigate the new findings of the Greenpeace Africa field missions;
- keep the moratorium on new logging titles in place until all its conditions<sup>95</sup> have been met and the organised chaos of illegality and corruption in the forest sector is under control;
- review the legal conversion process in general, and specifically the two concessions that appear to be illegally held by Cotrefor;
- stop issuing CITES permits for afrormosia and suspend afrormosia logging until and unless CITES enforcement is improved to an extent that legality and responsible harvesting can be assured and a robust scientific basis can be presented for logging of the species.

In view of the state of organised chaos and widespread illegality that exists in the DRC forestry sector, and given the overwhelming evidence of multiple violations by Cotrefor publicly available from IM-FLEG and external forest monitoring reports and the additional evidence that Greenpeace has been able to gather during a few short field missions, the conclusion is inescapable that companies buying Cotrefor products run a high risk to contribute to unlawful practices and forest destruction.

For companies placing Cotrefor wood on the EU market it means they cannot have executed proper due diligence in establishing that there is a negligible risk that the wood they are trading is illegal – as the EUTR requires them to do. On the contrary, given the nature and range of the illegalities documented in its concessions, the company's wood must be considered as carrying a high risk of originating from destructive practices and having been illegally harvested.

Greenpeace calls on the governments of timber-importing nations such as EU Member States, China and the USA to open investigations immediately into companies trading Cotrefor timber products and other timber from the DRC. Authorities must use every route open to them, including international human rights and labour laws and conventions, CITES, the Lacey Act and the EUTR, to stop illegal and destructive trade. Importing nations should use diplomatic avenues to push for legal and policy reforms and improved forest governance in the DRC, and make sure that their donor projects contribute to this.

Additionally, Greenpeace urges the European Commission and EU Member States to take the opportunity presented by this year's mandatory review of the EUTR<sup>96</sup> to make the necessary improvements to its implementation in national law and its enforcement. In particular they should take into account the need to prevent imports of illegal CITES wood, should take steps to ensure more effective controls by competent authorities and should extend the product annex to include more processed products.

Greenpeace calls on Cotrefor's clients, and on their clients further down the supply chain, to withdraw Cotrefor timber from sale and refrain from further purchases to avoid its further circulation on the market, pending the outcome of the investigations mentioned above and until legality of the wood can be assured.

Finally, Greenpeace calls on CITES to suspend the DRC from all trade in CITES species while it subjects the country to a full review.

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