

Rights and Resources Initiative  
 Republic of Congo ER-PIN Assessment  
 Date of ER-PIN submission: 10 July, 2014

**Grading for ER-PIN Assessments:**

Color	Qualification	Analysis
Green	The indicator is clearly addressed and supported by country stakeholders and other sources of evidence;	Reasons for attributed grade should be clearly stated and supported by evidence.
Yellow	The indicator is partially addressed, ER-PIN claims are contested, and/or supporting evidence is weak;	
Red	The indicator is not addressed or is mentioned but not defined/explained, nor supported by evidence and local stakeholder input.	

**Section 1: ADVANCING INDIGENOUS AND COMMUNITY RIGHTS TO LAND AND FORESTS:** To what extent does the proposed emission reduction program protect and advance the rights of Indigenous Peoples (IP) and local communities (LC) to land and forests within REDD+ systems and processes?

**1) Stakeholder participation in ER-PIN planning and ERP design**

Grade	Indicators	ER-PIN Assessment
	1a) The ER-PIN design process shows evidence of full and effective engagement of locally affected populations and vulnerable groups, including women, indigenous peoples and local communities	Partial, the ER-PIN identifies a series of relevant stakeholders among government and private sector entities, but the role of civil society and the extent of participation remains unclear in the document (ER-PIN, 10). A series of consultations were held (ER-PIN, Appendix 5). Still, Gisbergen (2014) stated that consultations focused mostly in information sessions and had little space for decision-making <sup>1</sup> .
	1b) The ER-PIN presents a clear and realistic approach for ensuring IP/LC involvement in the design and implementation of the full ER Program	Partial. The ER-PIN states that local communities and IPs will participate in the MRV system and in forest management through cocoa activities and agro-forestry (ER-PIN, pp. 26, 46) but it does not define their participation in key aspect such as tenure reform and benefit sharing mechanisms.

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**2) Land and forest tenure**

Grade	Indicators	ER-PIN Assessment
	2a) Robust tenure assessments (i.e., assessment takes into account customary and legal land hold, disputed areas, challenges, etc) in the geographical area of the proposed ER Program were conducted as part of the SESA	No. There has been no tenure assessment within the geographical targeted area of the program. It should be conducted as part of the SESA, which was not completed by the time of this analysis.
	2b) Land and resource tenure assessments were publically vetted and endorsed by all concerned stakeholders;	No. The topic is not dealt with the ER-PIN.
	2c) The land use / land tenure context of the proposed ER Program, including implementation risks (conflicting claims) and available arbitration processes is well defined.	Land use and tenure is described within the ER-PIN in general terms. As stated there, customary rights of local communities are not recognized and there are several limitations to the law recognizing Indigenous Peoples rights (ER-PIN, pp. 55-57).
	2d) The process for addressing emerging land and forest tenure issues (e.g., conflicting claims, tenure insecurity for IP/LC and women) is clearly defined in the ER-PIN	There is no robust plan to deal with tenure issues and land use overlap (ER-PIN, pp. 13, 55-57). The national and departmental REDD+ committees, when implemented, should serve as arbiters among stakeholders, but these were still ongoing processes by the time of this analysis (ER-PIN, p. 27).

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**3) Assignment of rights to forest carbon**

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	3a) The legal framework for carbon rights is defined in the ER-PIN	The legal framework is not defined in the ER-PIN. The R-PP considers two options on the definition of rights to forest carbon. The first one would be to consider it a natural resource, conferring its ownership to the State in accordance to Article 17 of the RoC Constitution and Article 3 of the Forest Code (ER-PP, p.96). The second option would be to consider these rights as intangible personal assets. Thereby, rights would be granted upon proof of property rights and would be freely transferable. Despite the lack of legal recognition of carbon rights, they would be based on tenure rights (ER-PP, p.96-97). The issue was object of debate between state and civil society, with the latter leaning towards the second option due to the possibility of sharing these rights among those involved in the activity.
	3b) The process for dealing with contested and/or overlapping land, forest and carbon claims is defined.	The ER-PIN recognizes overlap between REDD+ activities and commercial logging industry on what concerns mapping, monitoring and inventory of carbon. (ER-PIN, pp.55-57). To resolve overlaps, the ER-PP suggested the implementation of a National Land Allocation Plan (PNAT) (ER-PP, p. 13) and the ER-PIN, the creation of National REDD+ Registry could ensure REDD+ funding (ER-PIN, p.60).
	3c) The legal basis for the transfer of ER titles is defined.	The ER-PIN does not clarify rights to carbon, nor how the titles would be transferable.

**4) Equitable benefit sharing and non-carbon benefits**

Grade	Indicators	ER-PIN Assessment
	4a) The ER-PIN presents a transparent and verifiable process to equitably share carbon-related benefits (e.g., REDD+ revenue streams).	The benefit sharing mechanism has not yet been developed (ER-PIN, p.57). According to the ER-PIN, revenues will be distributed upon performance and emission reduction in relation to set reference levels (ER-PIN, p. 26).
	4b) The ER-PIN presents a transparent and verifiable process to prioritize and equitably share non-carbon benefits (e.g., alternative business models and revenue streams).	The ER-PIN presents a list of non-carbon benefits (ER-PIN, p.60) it does not, however, presents a transparent and verifiable process.
	4c) The benefit sharing mechanisms outlined in the ER-PIN are broadly supported by indigenous and forest dependent communities, including women.	Draft benefit sharing mechanisms were presented at the 3rd edition of the International Forum of Indigenous Peoples of Central Africa (FIPAC), in 2014. Delegates showed concern towards several aspects such as payment through cash, as opposed to livelihoods related benefits. However, the mechanism has not yet been developed (ER-PIN, p. 25).

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**5) Alignment of ERP strategies with main drivers of deforestation**

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	5a) The drivers of deforestation and forest degradation identified in the ER-PIN are consistent with expert analyses and local stakeholder input.	Specific assessments were prepared for the departments of Sangha and Likouala (ER-PIN, pp. 72-80). A study organized by two human rights organizations in the RoC questioned the official results. According to this study, drivers of deforestation were evaluated in very general terms without differentiating between the relative declination of different actors and how they relate to each other, resulting in incrimination of local communities and Indigenous Peoples as the main actors of deforestation (EMEKA, 2014). Communities and indigenous peoples also raised concerns. They fear cocoa or other ER program related plantations could overtake food-based production (ER-PIN, p.25).
	5b) Challenges to overcoming identified drivers (i.e., technical, institutional, political or economic) are clearly defined.	The assessment identified as barriers to the program: weak enforcement of logging laws and regulations; high population growth, low standard of living, the high opportunity cost for oil palm plantation and large agro-industries to shift to sustainable natural resource management among others (ER-PIN, p.19).
	5c) Proposed ER Program interventions specifically target the main drivers and their related challenges.	The ER-PIN suggests in the forest sector, to implement sustainable forest management (SFM), to increase the number of protected areas, to revive the cocoa culture and to promote community agro- forestry plantations. Some of these interventions, however, might have controversial results to local and indigenous communities. For example the creation of protected area may result in the displacement of these communities, is the displacement of indigenous and local people caused by the creation of protected areas. <sup>2</sup>

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**6) Safeguards framework**

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C	6a) The country has completed its SESA and elaborated an ESMF (yes/no; if yes then consider b through e; if no, got to 6f)	No; no.
C	6b) The assessment of social and environmental considerations was conducted in a transparent and participatory manner.	
C	6c) FPIC is presented as a requirement of the ESMF.	
C	6d) The EMSF identifies key steps, including budget and timeline, to strengthen forest governance issues within the national legal framework	
C	6e) The ER-PIN presence a credible grievance/dispute resolution mechanism, based on the FGRM assessment.	
C	6f) The ER-PIN describes the design of the Safeguard Information System and its application in the context of the ER-P.	The ER-PIN does not describe Safeguard Information System in the context of the ER program.
C	6g) Proposed safeguards adequately address the land and resource rights of indigenous peoples, forest communities and women	Safeguard mechanism still lack progress and depend highly on the completion of the SESA and the ESMF. Furthermore, rights of local and indigenous communities were assessed only superficially in risk mitigation (see Appendix 10).

**Section 2: BROADER GOVERNANCE CHALLENGES FOR ADDRESSING DEFORESTATION DRIVERS:** To what extent does the proposed emission reduction program consider other key forest governance challenges for achieving REDD+?

**7) Government capacity and coordination in ERP planning and implementation**

Grade	Indicators	ER-PIN Assessment
	7a) The ER-PIN shows evidence of coordination across sectors, line ministries, and levels of government (local, sub-national, national).	The ER-PIN describes institutional arrangements designed for the ER-Program, with functions concentrated mainly in three main bodies: the CONA-REDD, REDD+ Departmental Committees (CODEPA-REDD) and National REDD+ Coordination (CN-REDD) (ER-PIN, pp. 26-29). Despite linking a considerable range of government institutions and stakeholders, the committees have not yet been fully established (Ministère De L'économie Forestière et Du Développement Durable, 02/2015).
	7b) The ER-PIN identifies opportunities for community-based interventions, including natural resource management, tenure recognition, and other dedicated REDD+ investments.	The ER-PIN states the lack of community engagement in the program was assessed as a risk and that consultations processes are dealing with the issue (ER-PIN, p.50), but it does not describe in detail any direct community-based participation.
	7c) The ER-PIN discusses efforts to combat corruption and the measures that will be used in the ER Program.	Corruption is not addressed in the ER-PIN. The R-PP mentions requirements of transparency and an anti-corruption law applicable to the REDD+ process (ER-PP, p.97).

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**8) Transparent monitoring and oversight of REDD+**

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	8a) The ER-PIN shows evidence of an open-access information management systems for REDD+	An information management system has not been established. The ER-PIN indicates that such functions should be conducted within the national committees, especially National REDD+ Committee (CONA-REDD+) given its ties with stakeholders, but the committees are not yet implemented.
	The ER-PIN proposes mechanisms to independently and transparently:	
	8b) Monitor the social and environmental impacts of REDD+ investments;	The ER-PIN proposes arrangements composed of members of civil society (i.e. CACO- REDD+) that will provide general oversight of the ER program. Nevertheless, the ER-PIN does not present a concrete plan to deal or monitor social and environmental impacts of proposed actions (ER-PIN, p. 27).
	8c) Monitor the application of safeguards via the Safeguard information system	A Safeguard information system was not designed yet.
	8d) Monitor the effectiveness of governance-related interventions;	Governance challenges are to be addressed by the CONA-REDD in articulation with committees at departmental level. The ER-PIN also states the ensemble (CN-REDD, CODEPA e CONA) should be responsible for the strategic options and governance should be monitored and improved sustainable management of forest (SFM) (ER-PIN, pp. 9, 13). Still, the description of mechanisms is vague and the committees have not been established.
	8e) Track and coordinate international finance flows;	The ER-PIN does not mention a fund monitoring mechanism per se, but it foresees the creation of a National REDD+ fund to manage national and international resources related to REDD+ (ER-PIN, p. 27). It should be accountable to requirement of transparency and should guarantee the participation of Indigenous people in the decision making of the fund in cooperation with the REDD+ fund and Community Development Fund (R-PP, p96).
	8f) Monitor the distribution of carbon and non-carbon benefits	Monitoring of the benefit-sharing mechanism is planned to be established within the MRV, but no detailed description was found (ER-PIN, p.48).

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**Section 3: OVERALL ASSESSMENT**

<b>Grade</b>	<b>Indicators</b>	<b>ER-PIN Assessment</b>
	9a) The proposed emission reduction program protects and advances the rights of indigenous peoples and local communities to land and forests within REDD+ systems and processes.	Although the ER-PIN considers indigenous peoples and local communities when describing the ER-Program and it does not sufficiently protect nor advance their rights. Furthermore, some of the proposed strategies (e.g. to tackle drivers of deforestation) may negatively affect local and indigenous communities.
	9b) The proposed emission reduction program presents a credible plan for addressing governance issues at national and sub-national levels, and establishes clear processes for monitoring progress on critical risk factors.	The ER-PIN does not present a credible plan for addressing governance, and only partially establishes processes for monitoring progress on critical risk factors.

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<sup>1</sup> Van Gisbergen, Indra (FERN): Civil society participation in FIEGT and REDD+ in the Republic of Congo, available at: [www.etfrn.org/file.php/230/3.2gisbergen.pdf](http://www.etfrn.org/file.php/230/3.2gisbergen.pdf), pp 57

<sup>2</sup> RRI. 2015. Protected Areas and the Land Rights of Indigenous Peoples and Local Communities. Washington DC. Rights and Resources Initiative. Available at [http://www.rightsandresources.org/wp-content/uploads/RRIRreport\\_Protected-Areas-and-Land-Rights\\_web.pdf](http://www.rightsandresources.org/wp-content/uploads/RRIRreport_Protected-Areas-and-Land-Rights_web.pdf)