

Panel's findings with regard to compliance with Bank policies, and Management's views

OP/BP 4.01 – Environmental Assessment

Component 3 of the Emergency Recovery Project

- Panel finds that this component did not comply with OP 4.01 because the EA was completed and distributed late.

Management agrees.

Component 2 of the Emergency Recovery Project

- Panel finds that this component did not comply with OP4.01 because: (i) an EA was not prepared; and (ii) important socio economic and environmental issues of forest use were not adequately considered.

Management clarifies that: (i) the pilot zoning was dropped before it started, which made the EA irrelevant for this activity; and that (ii) the dropped zoning plan had been designed to satisfy the requirements to comply with OP4.01 including studies, consultations, disclosure, consideration alternatives and collection of baseline data (TORs completed in February 2004 in Annex).

OP/BP 4.04 – Natural Habitats

Component 2 of the Emergency Recovery Project

- Panel finds that this component did not comply with OP4.04 because it found little evidence of attempts to involve local communities to be affected by the Project.

Management clarifies that: (i) the pilot participatory zoning never started and, had it started, it included the consultation, disclosure, and analytical work required by OP/BP 4.04; and (ii) a Consultation Protocol was prepared and is being implemented for the legal review. Furthermore, this component did not involve any loss of critical natural habitats.

OP/BP 4.12 – Involuntary Resettlement

Component 2 Emergency Recovery Project

- Panel finds that this component did not comply with OP4.12 because there was no analysis whether a resettlement framework was needed to provide for the potential case that Pygmy People lose access, even partially to sources of livelihood as a result of concession titles or operations.

Management clarifies that: (i) the pilot zoning was dropped before it started, which made an RFP irrelevant for this activity; (ii) a Consultation Protocol was prepared and is being implemented for the legal review to ensure full participation of Pygmies and prevent loss of source of livelihoods; and (iii) the legal review is meant to (a) cancel illegal concessions and to (b) introduce additional social provisions in remaining compliant concessions in favor of local communities.

OP 4.15 – Poverty Reduction

Component 2 of the Emergency Recovery Project

- Panel finds that this component did not comply with the objective of Bank policy on poverty reduction because it found evidence that the promised benefits to local communities from the concessions such as schools, clinics, and other facilities have not materialized.

Management clarifies that: this component: aimed at restoring essential governance conditions to removing the legacy of mismanagement of forests and to allow local communities to benefit more from forests in the future; (ii) did not finance nor encourage any logging operation; and (iii) only included technical assistance, and was not intended to deliver schools, clinics, and other facilities.

OD 4.20 – Indigenous Peoples

Components 2 and 3 of the Emergency Recovery Project

- Panel finds that this project did not comply with OP4.20 because: (a) there was no appropriate screening in early stage of the project to determine the possible presence of Indigenous Peoples in areas affected by the Project; (b) OD4.20 was not triggered during preparation; (c) an IPDP was not prepared during preparation; and (d) a strategy for local participation was not developed during preparation.

Management agrees with a) and b), and clarifies items (c) and (d): (i) an IPDP was prepared and is being implemented for Component 3; (ii) a Consultation Protocol was prepared and is being implemented for the legal review; (iii) the pilot zoning was dropped before it started, which made an IPDP irrelevant for this activity; and (iv) the design of the dropped pilot zoning included the consultation, disclosure, analytical work, and collection of baseline data required by OP4.20.

Component 2 of the Emergency Recovery Project (Legal Review)

- Panel finds that encouraging participation of indigenous people in the legal review is consistent with OP 4.20.

Management agrees.

OP/BP 4.36 – Forests

Component 2 of the Emergency Recovery Project (Pilot Participatory Zoning, Legal Review)

- Panel finds that this component complied with OP4.36 because: (i) it did not involve any significant conversion of critical forest areas or natural habitats; (ii) the Bank advised the government to cancel concessions that were illegal or had expired; and (iii) the Bank promoted independent monitoring by a well known international NGO to help tackle illegal logging.

Management agrees.

OPN 11.03 – Cultural Property

Emergency Recovery Project

- Panel finds that this project was not consistent with OPN11.03 because project documents at design and appraisal did not identify cultural property and spiritual value of forest areas to Pygmy peoples or appropriate measures to avoid impacts to areas that might fall within the definition of cultural property under Bank policy.

Management agrees.

OP/BP 13.05 – Supervision

Emergency Recovery Project Component 2 (Pilot Participatory Zoning, Legal Review)

- Panel finds that Bank's recognition of breaches of the moratorium and its responses in aide-memoires through July 2005 were consistent with OP13.05. (However Panel also finds that Management apparently did not make timely follow up efforts at sufficiently high-level to ensure necessary actions in response to its findings, and that none of supervision documents after July 2005 refer to potential violation of the moratorium).

Management agrees that OP13.05 was complied with. It clarifies that (i) in 2005 Management raised the potential violations of the moratorium with President Kabila, whose follow-up helped strengthen the moratorium and launch the legal review, through the October 2005 Presidential Decree; and (ii) after the decree was adopted, the Bank focused on supporting the implementation of the Presidential Decree, and continued to make his views on the moratorium known to all stakeholders notably through its website and a publication "Forests in Post-Conflict DRC" distributed at a Congo Forest Event chaired by the President of the Bank during the April 2007 Spring Meetings.