

Engaging Communities in the Future of Messok Dja

November 25, 2019 Update

Context

Messok Dja is part of the Tri-National Dja-Odzala-Minkebe (TRIDOM) landscape which is one of the most intact forest blocks remaining in the Congo Basin. The region is home to the largest elephant population in the Congo Basin, western gorillas and chimpanzees, 11 species of monkeys, three species of pangolin, the endangered African grey parrot, the enigmatic Picatharte and the majestic crowned eagle. Recent WWF biodiversity surveys of the Messok Dja forest confirmed its dense foliage to be an important migration corridor for animals between National Parks in Cameroon and Republic of Congo.

Alongside this incredible wildlife, Messok Dja is home to about 8,000 inhabitants, of which approximately 300 (3-4 %) are indigenous Baka, all living in villages along the roads. Most villages are mixed ethnically, with some all-BaKa villages. Inhabitants of these villages are highly reliant on the local natural environment. The main economic activities in these villages include artisanal gold mining, agriculture (growing of cacao as a cash crop), hunting bushmeat and some fishing. The Baka indigenous peoples' traditional lifestyle is more intimately linked to hunting and gathering in the forest, though they also work as day laborers in cocoa plantations.

The region's biodiversity, including in the Messok Dja forest currently faces significant threats from poaching (especially for ivory, commercial bushmeat, grey parrots), demographic expansion, the spread of artisanal and semi-industrial gold mining and illegal logging. The discovery of rich iron deposits throughout the Espace Tridom Interzone Congo region and the planned development of the Chollet hydropower dam close to Messok Dja pose additional threats and therefore also influence WWF's strategy.

WWF is working towards an outcome that can ensure the sustainability of Messok Dja's ecosystem with the support and participation of the Local Communities and Indigenous Peoples who depend upon it for their livelihoods.

Legal Situation

Under the Forest law, all logging companies are required to develop a management plan,¹ which defines the different "series" of the concession² including a proportion of their concession as a conserved area (*series de conservation*),³ where they cannot harvest trees. However, the law does not specify what proportion of the total concession should be designated as a série de conservation, and it can also be divided into multiple units within the concession.

At present, the Messok Dja forest falls within two commercial logging operations (concessions) SEFYD (Chinese) and SIFCO (Lebanese). WWF has been negotiating with both logging companies

¹ Article 55 Loi n°16-2000 du 20 novembre 2000 Code forestier du Congo

² Série de production, série de conservation, série de protection, série de développement communautaire, série de recherche scientifique. Article 4 Arr6te n° 5053 du 19 juin 2007 définissant les directives nationales d'aménagement durable des concessions forestières

³ Detailed in Section 2.2 of the Directives Nationales d'Aménagement Durable des Forêts Naturelles du Congo. Centre National d'Inventaires et d'Aménagement des Ressources Forestières et Fauniques (CNI AF) du Ministère de l'Économie Forestière

whose concessions overlap with the Messok Dja forest to place their *série de conservation side by side* in the Messok Dja forest creating an uninterrupted corridor for the local wildlife. To date, SIFCO has agreed. However, while SEFYD's current management plan has reserved a small part of the Messok Dja forest for conservation, a larger part is still earmarked for logging (*série de production*). SEFYD is requesting compensation in exchange for designating this overlapping *série de production* as a *série de conservation*.

On the other hand, prior to 2017 when its management plan was validated, SEFYD logged part of the area that WWF is seeking to establish as a zone free from resource extraction (Messok Dja). SEFYD's management plan still designates part of the Messok Dja forest as a *série de production*, with the *série de conservation* split into two separate blocks (one part in Messok Dja and the other is far to the west on the border with Gabon).

Furthermore; it should also be noted that the *série de conservation* only protects a forest as long as the same company holds the concession rights (which last 30 years). Convinced of the importance of the area's biodiversity, the government is negotiating with the two logging companies to find a longer-term arrangement for the protection of the Messok Dja forest - and its unique biodiversity.

The Republic of Congo's Legal Framework on the Rights of Local Communities and Indigenous Peoples

The Republic of Congo's legal framework recommends that all protected areas be managed with the participation of the local population, including in the drafting and implementation of management plans.⁴ Furthermore, the customary use and ownership rights to land of Indigenous Peoples in the Republic of Congo are recognized by law, even in the absence of a land.⁵

WWF's Efforts to Consult and Engage All Stakeholders Local Communities and Indigenous Peoples

It should be emphasized that the Republic of Congo's legal Free, Prior and Informed Consent (FPIC) requirements apply only to Indigenous Peoples. However, due to the vulnerability of the local communities living around Messok Dja, and their reliance on the local ecosystem for their livelihoods, we at WWF feel it is critical that **all** stakeholders are consulted and included in the process of conservation, both Indigenous Peoples and local communities. This is in line with our

⁴ Article 20 Law No 37-2008 on fauna and protected areas

⁵ Articles 31 and 32 Law No. 5-2011, on the promotion of indigenous Peoples. Despite this recognition, land can still be expropriated by the state for public utility purposes, such as the establishment of protected areas. Prior to 2019, no implementing regulations to the Law No. 5-2011, on the promotion of Indigenous Peoples existed, creating a state of legal confusion as to the procedure to follow where public or private entities carried out activities potentially impacting the rights of Indigenous Peoples. In July 2019 the national government adopted several decrees guiding implementation of the law on Indigenous Peoples, which clarify that when establishing national parks, protected areas, economic zones and tourism sites, the intrinsic value of Indigenous Peoples' goods, sacred and spiritual sites (Article 5 Décret n° 2019-200 du 12 juillet 2019). The law also requires Indigenous Peoples to be consulted and involved in the design, implementation, monitoring and evaluation of measures, programmes and or projects that may affect them, including in sparsely populated areas (Article 4 Décret n° 2019-201 du 12 juillet 2019). Furthermore, when implementing activities for the protection of the environment the rights of Indigenous Peoples to access sacred sites and exercise their customs and rituals must be respected (Article 6 Décret n° 2019-200 du 12 juillet 2019). **Where the Free Prior and Informed Consent of Indigenous Peoples has been obtained**, both public and private entities are required to map these sites in a participatory manner, as part of any agreement to implement legislative provisions, programmes and/or development projects that may affect their lives (Article 7 Décret n° 2019-200 du 12 juillet 2019).

belief that people and conservation are inseparable.⁶

WWF has been advocating for the government to apply a participatory approach to find a solution to address the significant drivers of biodiversity loss and environmental destruction in the Messok Dja forest.

Without an enabling legal framework in place at the time, we followed relevant guidance and best practices to implement the internationally recognized principle known as Free, Prior and Informed Consent FPIC. Efforts to identify and engage stakeholders began as early as 2012 and WWF sought assistance from organizations specialized in stakeholder engagement in 2018.

In June 2017 we initiated a participatory land use mapping process to see who is using the Messok Dja forest and identify key livelihood activities in and around the forest, as well as the communities' areas of activity within the forest.

In November 2018, we built on this initial ground work, bringing in additional external support through a consortium of three local NGOs specialized in stakeholder engagement, community rights and socio-economic issues to build the capacity of the local communities and Indigenous Peoples with a view to finding solutions to the environmental threats facing the Messok Dja forest in a participatory manner.

The NGO Consortium consisted of *Brainforest (Gabon)*, *Comptoir Juridique Junior (RoCongo)* and *Cercle des Populations Autochtones de la Sangha (RoCongo)*. We also engaged the Forest Peoples Programme to provide a separate evaluation and feedback on the FPIC process in June 2019.

Through the process of consultation, the local population raised their concerns about the possible negative consequences of establishing a protected area in the Messok Dja forest:

1. Concerns surrounding the restriction of access to traditional hunting grounds and sacred sites within the forest
2. Concerns about potential excesses by eco-guards tasked with enforcing anti-poaching laws (particularly confiscation of bush-meat)
3. Concerns over protected species destroying crops (human-wildlife conflict)
4. Concerns voiced by many Baka Indigenous Peoples that any benefits linked to the establishment of a protected area would disproportionately benefit the Bantu majority.

In light of the concerns identified during the consultation and an absence of unanimous support for the establishment of a protected area, both the NGO Consortium and FPP advised that the process of creation of Messok Dja as a protected area be deferred and that a more progressive and comprehensive process of engagement with local communities and Indigenous Peoples be initiated. The establishment of a framework for ongoing dialogue at the local level was a key recommendation, intended to lay the foundations for concerted management of natural resources with all actors at the local level.

In response to the findings and recommendations of the two studies, a multi-stakeholder workshop was organized on 18-19 November to bring all concerned Parties together. With support from WWF, the workshop was led by the government, with key arrangements such as invitations, also made by the government. An independent facilitator was also hired, and the NGO consortium were enlisted

⁶ https://wwf.panda.org/our_work/people/

to organize capacity building sessions to prepare the local community delegates for the multi-stakeholder workshop.

Delegates from thirty-five⁷ communities potentially impacted by the creation of a protected area in Messok Dja attended, as well as representatives from several different ministries,⁸ local administrations (Prefect, Sub-Prefect, County Council), as well as representatives from the two logging companies came together to consider the findings of the NGO consortium and FPP report, to air their concerns and to determine the extent to which there is appetite to collaborate moving forward.

During the workshop, Parties stated their respective positions, namely:

- Delegates from 10 communities expressed major concerns about the potential of a protected area to exacerbate human elephant conflict and opposed its creation in the absence of mitigating measures. Delegates also expressed appreciation for the process of engagement and the efforts of WWF local community engagement staff and conveyed a willingness to continue discussion.
- Delegates from 24 communities expressed conditional support for the creation of a protected area but stated clearly that further discussions were required before they agreed and that measures would need to be taken to address their concerns (highlighted above). The delegates also highlighted their need for increased action from the government to provide them with key social services, such as health clinics, schools and local economic development.
- Delegates from 3 communities expressed their support for the establishment of a protected area, stating both environmental (improved resilience of local fauna) and economic benefits (local jobs) as reasons for their support.
- A representative from SEFYD reiterated the company's intention to log within its concession and that its agreement to modify its management plan (i.e. grant the serie de conservation in the requested area alongside SIFCO's thus enabling the creation of a sufficiently large zone to establish a protected area in accordance with national law) was conditional on adequate compensation being provided by the government
- The government reiterated its desire to establish a protected area but acknowledged the importance of local participation and stated its commitment to applying the new national legislation on engagement of Indigenous Peoples.

From WWF's perspective, the workshop was a success in terms of rebuilding trust among parties and establishing a foundation for on-going engagement. WWF is committed to working towards a solution that can serve the interests of both nature and local communities as well as local Indigenous Peoples. As an immediate follow-up to the workshop, WWF is organizing a series of debrief meetings to support the community delegates who attended the workshop to convey what was discussed to the rest of their communities and to gather their reactions.

In addition, WWF has been working consistently to address the different concerns and priorities raised such by:

⁷ During the consultations 36 communities were consulted, out of 37 mapped. The Dia community refused to participate in the consultation process until they were compensated for all past damage to their fields caused by elephants. The last of the 37 mapped communities was a Baka one, however, by the time the consortium returned for the FPIC process, the community had split up and moved on.

⁸ Including the Agency in charge of Protected Areas (ACFAP), Ministry of Justice (Directorate for the Promotion of Indigenous Peoples), Ministry of Forest Economy (MFE), Ministry of Planning, Statistics and Regional Integration

- Developing a code of conduct for the eco-guards funded by the ETIC programme (done). This code of conduct forms the basis for the development of a national code of conduct which will be enacted by a ministerial ruling,⁹ which is an on-going process.
- Carrying out additional trainings for eco-guards on human rights, making it very clear that failure to follow procedure will result in dismissal (done)
- Establishing a grievance mechanism managed by a community outreach officer, who is tasked with investigating, documenting and pursuing any and all complaints against eco-guards (done, ongoing)
- Developing an independent multi-stakeholder platform composed of delegates from local communities and local government representatives to discuss solutions to the identified challenges (being finalised). The platform will be supported by several thematic committees tasked with developing solutions and following up on specific issues (complaints, human wildlife conflict etc.)
- Developing a community conservation strategy which includes ideas of how to address the four fundamental concerns identified above (including a specific Indigenous Peoples component) (on-going)
- Hiring an Indigenous Peoples expert and Social and Policy Officer (on-going)
- Putting in place an Environmental and Social Safeguards Framework (ESSF) in the Messok Dja programme, with the support of an external international expert (on-going).

Final Legal Act or Decree

The culmination of these efforts could be a final act or decree awarding a stronger protection status for Messok Dja, one of the Congo Basin's most biodiverse sites that underpins the health and well-being of its ecosystems, wildlife and communities. But this should only occur with the agreement of local communities and Indigenous Peoples WWF remains committed to do our best to ensure we can work together with all stakeholders to identify the best way forward to protect these lands and the people and species that depend on it.

⁹ Arrêté Ministériel