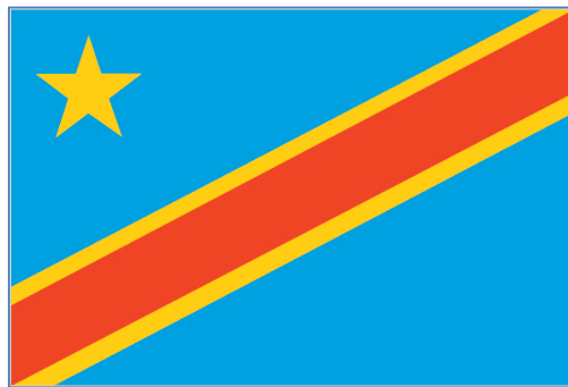


CLIMATE CHANGE LEGISLATION IN
Democratic Republic of the Congo

AN EXCERPT FROM

The 2015 Global Climate Legislation Study
A Review of Climate Change Legislation in 99 Countries



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Democratic Republic of Congo

Legislative Process

The DRC has a bicameral parliamentary system, where legislative power belongs to the National Assembly and the Senate. The 108 members of the Senate are elected by provincial assemblies (since 2007), while the 500 members of the National Assembly are elected from open lists using proportional representation (since 2006). Members of both the Senate and the National Assembly are elected for five-year terms. Last National Assembly election was held in 2011 and the next is expected in 2016. The President is the head of state and appoints the members of the cabinet, while the Prime Minister is the head of the government.

The Constitution, adopted in 2006 and modified in 2011, is the highest ranking norm. It establishes a strict separation between “laws” and “regulations”. Laws determinate general principles and rules in domains explicitly quoted in the Constitution, such as civil or economic rights, property rights, forest management, mining, protection of the environment and energy. After a law is approved by both Houses, it is sent to the President, who must sign (promulgate) the law. The Constitutional Court might return a law considered unconstitutional to the Parliament to be modified and voted on again. On the other hand, regulations (decrees) establish rules outside of the ‘law’s domain’ determined by the Constitution or specify the implementation of the laws.

Approach to Climate Change

The Democratic Republic of Congo ratified the UNFCCC in 1995 and the Kyoto Protocol in 2005. DRC is a non-Annex I country under the Kyoto Protocol. In response to Agenda 21 of the United Nations Rio Conference in 1992 and with the help of the UNEP, DRC adopted its first National Environmental Action Plan in 1997, addressing the country’s major issues related to poverty, population growth and environmental protection.

Serious food problems for the population reflect the limited area of agricultural land, and low intensity and productivity. The fundamental structure of the economy has changed little in the past 20 years, being highly dependent on agriculture and natural resource extraction. The UN expects the short to medium term development of the country to continue to be based around the extraction of natural resources, principally timber, minerals, gas and oil. The DRC’s national development vision, as set out in its Poverty Reduction and Growth Strategy Papers, aims to increase growth in extractive industry to 8-9% between 2011 and 2015, facilitated by infrastructure investment to enable the country to draw down its natural capital.

Development has been impacted by the Second Congo War, which began in 1998 and involved numerous foreign armies and multiple militia groups, killing 5.4m people. As a result, there has not been a particularly strong history of action on climate change legislation. Nonetheless, the country does have a National Adaptation Plan on Climate Change, and has engaged actively at the forefront of global REDD+ activities. It has also recently revised and implemented new environmental legislation that may be relevant to climate change.

In 2001, the Minister of Environment, Nature Conservation and Tourism created the Directorate of Sustainable Development. It aims to implement the recommendations and resolutions of the World Commission on Sustainable Development and the COP to the Conventions of Biodiversity, Climate Change and Desertification. The second update to the Growth and Poverty Reduction Strategy Paper (GPRSP2, 2011-2015) includes protection of the environment and fighting climate change as one of its four main strategic pillars, along with strengthening governance and peace; diversifying the economy, accelerating growth and promoting employment; and improving access to basic social services and strengthening human capital. The Environment Protection Law (2011) promotes mainstreaming of environmental and sustainable development issues into all policies, plans and

programmes across all relevant sectors, and includes an obligation to adopt and implement national measures for climate change mitigation and adaptation and disaster management. However, DRC's ability to engage with the development process and implement laws over the medium term depends on being able to maintain a tenuous stability and provide economic development to one of the poorest populations in the world.

Energy Supply

Some 95% of energy needs are currently being met by biomass. However, the country has a potentially diverse energy mix from oil, gas, solar and hydro-electric. Estimates suggest that the DRC has the potential to supply 100GW of power from hydro-electric power generation, but less than 3% of it is currently exploited. Government policy (defined in GPRSP2) aims to meet national energy needs by developing electricity production, improving access to electricity, increasing electricity exports to the sub-region and developing renewable energy. These goals are to be achieved by liberalising the electricity sector (production, transportation and distribution) and increased public and private investment. The Government intends to restructure the National Electricity Company (SNEL), set up a Regulatory Authority, rehabilitate hydroelectricity plants and existing transmission and distribution infrastructures and construct additional infrastructure. New hydroelectricity plants will be launched in Kakobola, Grand Katende and Zongo II, as well as the mega project of Inga III and Grand Inga dams, which would represent the world's largest hydropower scheme (expected 40GW power capacity).

A new Electricity Sector law was promulgated in June 2014, which aims to consolidate laws relating to electricity generation, transmission, distribution, trading and use, as well as promotion of competition in the sector and support of energy efficiency and environmental policy. To increase access to energy in rural areas and secondary cities, a National Electrification Agency and a National Electrification Fund have been created.

REDD+ and LULUCF

DRC's forests are the second largest in the world by area, extending over more than 100 million ha. Due to the pressures of agriculture and resource extraction, DRC is amongst the top 10 countries in terms of loss of forest cover (measured on an annual basis), with an estimated deforestation of more than 350,000 ha per annum from 2000-2010. Household-scale slash and burn agriculture and exploitation of wood for fuelwood (including charcoal) and timber appear to be the major drivers of deforestation and forest degradation, including in the eastern conflict zones, where four of the DRC's national parks are found. More than half of DRC's territory is now covered with mining and extractive concession licences, which overlap with one another and also with protected areas. This presents a large challenge to the rural poor who continue to be dependent on forest resources for their livelihoods. Also, less than a third of timber is processed in-country, meaning that significant value added for the tropical hardwoods is captured outside DRC. In addition, many concession licences are poorly negotiated and provide only limited revenues for central government.

While there have been improvements in the institutional framework to manage natural resources (the mining and forest codes of 2002), laws tend to be fragmented and ad hoc, a problem that is now being addressed under the National Forestry and Conservation Development Programme (PNFCN). Because of the huge forest resources which are now coming under increasing pressure, there is a potential for DRC to engage in REDD+ activities and the government is implementing REDD+ preparedness. The initial National Programme helped launch and structure the country's national REDD+ short/medium-term strategy. After being approved by the UN-REDD Programme Policy Board, DRC's National Programme (Readiness Plan) was signed and funds were disbursed in 2012. However, given DRC's weak institutional capacity for sustainable forest governance and low level of private sector involvement in REDD+ related activities, ensuring the sustainable management of DRC's forests in practice represents a continuous challenge.

GLOBE International, GLOBE DRC and the Ministry of Environment and its National REDD Co-ordination (CN-REDD) established an official partnership in 2012, supported by UNEP, which led to GLOBE DRC legislators agreeing on a road map for key legislative proposals in 2014, including reforms related to land tenure, environmental and social safeguards, carbon ownership and benefit sharing. In February 2014 the Law on the nature conservation, which is primarily concerned with biodiversity protection, was adopted. It also calls for national measures to reduce emissions from deforestation and forest degradation and recognises co-benefits of protecting natural forests (resilience of ecosystems and maintaining the stock of carbon forest).

Finally, DRC also receives funding from a number of international funds, such as the Climate Investment Fund Forest Investment Programme, as implemented by the African Development Bank (AfDB). Its investment plan was finalised in 2011, with the programme receiving USD58.4m. The goal is to support the DRC's REDD+ initiatives, including the AfDB's project addressing deforestation and degradation in the Mbuji Mayi/Kananga and Kisangani areas. In addition, the Carbon Fund has approved an investment of USD50-USD70m for the DRC for a new REDD+ pilot project to tackle deforestation around the capital, Kinshasa (where there is demand for charcoal, timber and food from a growing population), and simultaneously address climate change, poverty reduction, natural resource conservation and biodiversity protection. DRC also participates in CDM projects and is, since the end of 2012, also eligible for support under the EU ETS.

Adaptation

The main document concerning adaptation in the DRC is the National adaptation programme of action (NAPA), published in 2006. The aim of NAPA is to “provide a process for Least Developed Countries (LDCs) to identify priority activities that respond to their urgent and immediate needs to adapt to climate change – those for which further delay would increase vulnerability and/or costs at a later stage”. It calls for a multi-disciplinary approach combining expert opinion with consultations with civil society and NGOs. It covers adaptation in both rural and urban areas. The priorities are strongly focused on basic service provision and ensuring fundamental service provision such as the electrification of urban areas and the provision of water supplies. In addition, the UNDP also financed a Climate Adaptation Programme 2010-2012, which mainly aimed at strengthening the administrative capacity of adaptation management and enabled development of long-term planning mechanisms to cope with uncertainties related to climate change impacts.

Furthermore, DRC's Second Communication to UNFCCC lists a number of priority adaptation options and measures in different sectors vulnerable to climate change (water resources, agriculture, LULUCF, sanitation, wealth and energy).

The government is also required to take climate change adaptation measures and to adopt a National Plan to Disaster Risk Reduction, to manage and to coordinate national measures to protect people, infrastructures and national assets from the impact of natural disasters.

Democratic Republic of Congo: Legislative portfolio

Name of law	Law No. 14/011 (Electricity Sector)
Date	17 June 2014
Summary	The objectives of this law include consolidating laws relating to generation, transmission, distribution, trading and use of electricity and promoting competition in the sector, as well as promoting energy efficiency and environmentally sound policy. It also aims at increasing access to energy in rural areas and secondary cities. The law creates a National Electrification Agency and a National Electrification Fund.

Name of law	Law No. 14/003 on Protection of the Nature
Date	11 February 2014
Summary	<p>The law aims to adapt the DRC legal order of protection of nature to modern principles on biological and genetic resources management and to requirements of international conventions, including among others the Treaty on protection and sustainable management of forestry ecosystems in Central Africa.</p> <p>The law mandates the government to take into account the potential value of forest carbon sequestration services for climate change mitigation while elaborating the National Strategy on Protection of Nature and the National Forestry Programme.</p> <p>The law further calls on the central and regional governments to adopt and implement policies, plans and programmes promoting the contribution of natural and biological resources and ecosystems to the economic growth, rural development, fight against poverty and regulation of the climate.</p>

Name of law	Law No. 11/022 (Fundamental Agricultural Law)
Date	24 December 2011
Summary	<p>Given the huge dependence of the largely rural population on agriculture, this law attempts to support sustainable development; improve agricultural production and provide food self-sufficiency. The purpose of the Law is to promote and increase agricultural production to ensure food security and rural development. Its provisions apply to exploitation; agricultural training and research; financing of agricultural activities; sale of agricultural products; protection of environment; tax and customs regimes; etc. The Law sets a decentralised institutional framework to govern the agricultural policy and creates agricultural advisory boards at the national, provincial and local levels.</p> <p>While these aspects of the law are relevant to climate change with regard to land management and land use change (LULUCF), of particular importance is the stated goal of attracting new technology for sustainable energy production, specifically bioenergy and biogas to help shift the energy mix further towards renewable energy</p>

Democratic Republic of Congo: Executive portfolio

Name of policy	Decree No. 09/40 establishment of management structure of implementing REDD+ process
Date	26 November 2011
Summary of bill	<p>This decree establishes the following management structures:</p> <ul style="list-style-type: none"> National REDD Committee and Inter-ministerial REDD Committee (to ensure multi-sectoral co-ordination in the preparation and implementation of the national REDD+ strategy) ; National REDD Co-ordination (in charge of daily management of the REDD Readiness process). <p>These structures lead the development of an implementation framework for REDD+, including, in particular: (i) participatory development of the national REDD+ strategy; (ii) stakeholder consultation mechanisms; (iii) safeguard mechanisms (definition of socio-environmental standards and implementation of Strategic Environmental and Social Assessment, which will help design an Environmental and Social Management Framework); (iv) reporting and control mechanisms (national authorisation procedures for REDD+ projects, establishment of a national register for all REDD+ initiatives, establishment of a national Measurement, Reporting and Verification system); and (v) mechanism for financial management (national REDD+ process related benefits sharing).</p>

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