THE COCA-COLA COMPANY
REVIEW OF CHILD LABOUR, FORCED LABOUR AND LAND RIGHTS IN THE REPUBLIC OF CONGO SUGARCANE SUPPLY CHAIN

Partner Africa
Ethical solutions in global trade

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EXECUTIVE SUMMARY

This report outlines the results of a study focusing on The Coca-Cola Company ("TCCC" or "the Company") sugar supply chain in the Republic of Congo.

The Coca-Cola Company is committed to both protecting the land rights of farmers and communities in its supply chain in the world's top sugarcane-producing regions, and addressing child and forced labour issues, if any, in the supply chain in the countries associated with sugarcane production. The Coca-Cola Company has endorsed the United Nations Guiding Principles on Business and Human Rights and has signed onto the United Nations Global Compact. Together with enforcement by the state, these industry commitments play a critical role in preventing human rights abuses as cited in the U.S. Department of Labor's List of Goods Produced with Child Labor or Forced Labor. The Company's Supplier Guiding Principles, Sustainable Agriculture Guiding Principles and Human Rights Policy have contributed to upholding human and workplace rights within the Company's supply chain, and serve as testament to its commitment and impact in the global supply chain.

Partner Africa was commissioned by the Company in 2015 to carry out third-party research into the prevalence of forced labour and child labour in the sugar sector in the Republic of Congo, as well as to provide an understanding of the complexities and issues of land ownership in the same industry and country. Research was composed of desk research, stakeholder interviews and field research over a period of three months.

Overview of the sugar supply chain in the Republic of Congo

SARIS Congo, a subsidiary of SOMDIAA, is the only producer and supplier of sugar to The Coca-Cola Company bottling partners (along with other customers[1]), in the Congo Republic. It is the only operating sugar mill and large-scale sugar producer in the Congo Republic. It is therefore not possible to research the sugar sector in the Congo without researching SARIS specifically. In this report, reference is made to SARIS Congo directly, as this company represents the sugar industry in the country. Research was undertaken on the SARIS supply chain into child labour, forced labour and land rights. Relevant literature was reviewed, stakeholders were interviewed, and on-site interviews and observations were conducted. In particular, on site interviews were conducted with:

- 30 workers from SARIS farms
- 30 workers from SARIS mill
- 4 members of SARIS management
- 2 representatives from the SARIS Foundation
- 3 trade unionists
- 3 SARIS workers of whom two are 'Chiefs of Land' and one is a 'Customary Chief'
- 1 government official: the Deputy Prefect of Kayes.

The research found no infringements to local or global child labour or forced labour legislation. Land right issues were present, however, the issues pertain to claims against the Congolese state rather than SARIS Congo itself.

Child Labour

In 2014, the Republic of the Congo was noted by the U.S. Department of Labor as having made a moderate advancement in efforts to eliminate the worst forms of child labour. The government launched the National Action Plan to Fight Against Trafficking in Persons, which aims to improve enforcement activities related to preventing child trafficking. The government also began implementing a social safety net programme to improve access to health and education services for poor families, and assumed a greater financial responsibility for a school-based feeding programme that targeted 215,000 children.

[1] SOMDIAA customer supply chain: February 2016

Although child labour has been reported in certain sectors of the economy[2], this research did not find any evidence of child labour in the sugar sector, including both milling and farming operations. Based on the interviews conducted, documentation reviewed and observations in the field, it was further noted that in addition to the absence of child labour, a number of policies and regulation mechanisms are in place which contribute to ensuring that there is no child labour in the sugar supply chain.

Forced Labour

Incidences of forced labour have been reported in the Republic of Congo, including human trafficking from neighbouring West African countries[3] and incidences of children being trafficked internally from rural areas to the cities of Brazzaville and Pointe-Noire for forced labour, with the expectation that they will receive an education and care.[4] However, this research found no evidence of forced labour in the sugar industry during recruitment, employment or post-employment. Furthermore, the research found that no personal documents were kept from workers by the farm or mill, no debts were used as a form of access or travel control and no incidences of violence towards staff were recorded during field research, interviews and documentation review.

Multiple stakeholders acknowledged that social development projects led by the milling and farming company, SOMDIAA, through the SARIS Foundation, were found to be effective in delivering long-term prevention mechanisms.

Land Rights

Most of Congo's land is owned by the state and managed either directly or through long-term lease concession contracts to resource extraction companies. In accordance with legislation and industry practice, SARIS engages with the state in relation to land acquisition and is given land directly by the state. SARIS Congo has a lease for 48,910 acres of land from the Congolese state, and is in the process of buying the land title deeds. At the time of the research, SARIS only utilised 29,651 acres of its land and therefore will expand into land it already leases over the next 10 years.

During the field research and stakeholder interviews, it was noted that there is an ancestral land claim to the SARIS land. However, the ancestral claim predates SOMDIAA ownership and there is no official or legal documentation to uphold the land claim. In this context and in the context of weak governance structures, there is growing consensus that private sector stakeholders will need to take responsibility in ensuring that land is acquired through consent of government and communities. In response, SARIS, as a local entity, and SOMDIAA, as a group, have begun implementing formalised International Finance Corporations (IFC) Performance Standards across operations in relation to matters of land ownership, transfer and expansion. Bi-annual meetings are held with the Chiefs of Land and agreements are negotiated to employ a percentage of the workforce from these communities, and provide amenities such as water as well as developmental and recreational services to the community.

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[2] U.S. Embassy- Brazzaville. January 27, 2014. U.S. Department of State. "Republic of the Congo," in Country Reports on Human Rights Practices- 2013. Washington, DC; February 27, 2014; http://www.state.gov/j/drl/rls/hrrpt/.

[3] U.S. Department of State. "Republic of the Congo," in Trafficking in Persons Report- 2014. Washington, DC; June 2014;http://www.state.gov/j/tip/rls/tiprpt/countries/2014/226704.html.

[4] U.S. Embassy- Brazzaville. January 14, 2015.

INTRODUCTION

The Coca-Cola Company is committed to both protecting the land rights of farmers and communities in its supply chain in the world's top sugarcane-producing regions, and addressing child and forced labour issues, if any, in its supply chain in the countries associated with sugarcane production. The Coca-Cola Company has endorsed the United Nations Guiding Principles on Business and Human Rights and has signed onto the United Nations Global Compact. Together with enforcement by the state, these industry commitments play a critical role in preventing human rights abuses as cited in the U.S. Department of Labour's List of Goods Produced with Child Labour or Forced Labour.

TCCC subscribes to Food and Agriculture Organization's Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT). The VGGT is aimed at the State, but argues that all non-state actors (including business enterprises) have a responsibility to respect human rights and legitimate tenure rights.

"The VGGT's founding principles include:
• Recognizing and respecting all legitimate tenure rights and the people who hold them
• Safeguarding legitimate tenure rights against threats
• Promoting and facilitating the enjoyment of legitimate tenure rights
• Providing access to justice when tenure rights are infringed upon
• Preventing tenure disputes, violent conflicts and opportunities for corruption"[5]

TCCC also aligns with the African Union's Guiding Principles on Large-Scale Land (AU Guiding Principles). These principles deal specifically with large-scale farming in an African context. The AU describes the principles saying "These Guiding Principles are African-owned. They were drafted and reviewed by teams of experts on land governance and agricultural investment in Africa before being finalised based on the outcomes of a multi-pronged consultation exercise with a wide range of constituencies and stakeholders involved with land governance in the Africa region"[6].

Furthermore, the Company aligns with The Analytical Framework for Land-Based Investments in African Agriculture, by the New Alliance; this is a framework developed for financial investors, agricultural project operators and supply chain companies investing in agricultural land in developing countries. This framework, while cautioning investors from taking on the role of government, indicates the importance of investors supporting and supplementing the activities of government. In some cases, it will be in the investors' best interests to go beyond the minimum legal requirements, as identified in the VGGT. The Framework was jointly developed by land experts from the African Union, UN Food and Agriculture Organisation (FAO), and several donor governments and it suggests a series of questions that an investor should ask and undertake.

In line with the VGGT, the AU Guiding Principles, and the Analytical Framework for Land-Based Investments in African Agriculture, TCCC's Supplier Guiding Principles Good Practices include:

1. Demonstrating that acquisition has not been assembled through expropriation or other form of legal seizure without Fair, Prior, Informed Consent (FPIC) process and fair compensation for land, resettlement and economic impact to the affected communities.
2. Demonstrating that alternatives to a specific land acquisition were considered to avoid or minimize adverse impacts on the affected communities.
3. Ensuring the presence of grievance mechanisms to receive and address specific concerns about fair compensation and relocation if, applicable.[7]

The Company's Supplier Guiding Principles, Sustainable Agriculture Guiding Principles and Human Rights Policy have contributed to upholding human and workplace rights within the Company's supply chain, and serve as testament to its commitment and impact in the global supply chain.

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[5] FAO. 2012. Voluntary Guidelines on the Governance of Tenure. http://www.fao.org/docrep/016/i3016e/i3016e.pdf.
[6] African Union, African Development Bank and United Nations Economic Commission for Africa. 2014. Guiding Principles On Large Scale Land Based Investments In Africa. http://www.uneca.org/sites/default/files/PublicationFiles/guiding_principles_eng_rev_era_size.pdf.
[7]The Coco-Cola Company. 2013. Human and Workplace Rights Issue Guidance: Supplier Guiding Principles. http://www.coca-colacompany.com/content/dam/journey/us/en/private/fileassets/pdf/2014/02/issuance-guidance.pdf.

Partner Africa was commissioned by The Coca-Cola Company in 2015 to carry out third-party research into the prevalence of forced labour and child labour in the sugar sector in the Republic of Congo, as well as to provide an understanding of the complexities and issues of land ownership in the same industry and country. Research was composed of desk research, stakeholder interviews and field research over a period of three months during the harvest season.

Definitions to determine the scope of the three themes were drawn from the International Labour Organisation, The Institute for Human Rights and Business, The Coca-Cola Company Human Rights Policy, The Coca-Cola Company Supplier Guiding Principles, The Coca-Cola Company Human and Workplace Rights Issue Guidance, and the United Nations Guiding Principles.

Forced labour was defined as a situation in which people are coerced to work through the use of violence or intimidation, or by subtler means such as accumulated debt, retention of identity papers. Child labour was defined as work by minors under the age of 16 as per local law and hazardous child labour as work that deprives children of their childhood, their potential and their dignity and that is harmful to their physical and mental development. Land rights referred to rights related to land and land use. These may include indigenous land rights, women's rights, access to housing, food and water, environmental rights, and land sovereignty. The measurement of land rights was against the local Congolese law as well as the Free Prior and Informed Consent guidelines.[8]

[8] FPIC Guidelines as defined by Oxfam Australia, 'Guide to free Prior and Informed Consent' published June 2010.

METHODOLOGY

The project comprised of a review of all relevant literature, stakeholder interviews, on-site interviews by a team of independent researchers and on-site documentation review.

<table>
<tr><td>Review of Relevant Literature</td><td>A systematic and comprehensive review of relevant literature was undertaken. Literature consulted included, but was not limited to, official reports, media reporting, The Coca-Cola Company Supplier Guiding Principles’ Audit Reports, NGO and human rights organisation reports, country specific legislation, and country specific development reports.

Please see the Appendix for a detailed list of country specific development reports.</td></tr>
<tr><td>Stakeholder Interviews</td><td>A full stakeholder analysis was undertaken to identify key stakeholders and role players in and out of The Coca-Cola Company sugar supply chain. A team of researchers have conducted interviews in person, over telephone and through internet calls with all identified stakeholders. Stakeholders involved included:

• Sugarcane growers and processors
• Local and international research organisations
• Local and international NGOs
• Human rights organisations
• Government officials

Stakeholders have thus far been divided into two categories: over-arching stakeholders who were relevant to all countries and country specific stakeholders. Specific interview schedules were used for interviews with mill and farm workers, mill and farm management, adjacent farm owners, government officials and stakeholders.</td></tr>
<tr><td>On-site Interviews and Observations</td><td>A mix of in-depth, group and individual interviews were conducted. On-site interviews were conducted at a range of locations including the mill, interviewees’ homes and government offices. Fieldworkers ensured certain standards for interviews such as ensuring all worker interviews were carried out in private without the attendance of a mill manager or supervisors and in venues not associated with disciplinary hearings or management boardrooms.

On-site interviews were undertaken with:
1. Sugar mill owners
2. Small to medium sugar farm owners
3. Large sugar farm owners
4. Sugar farm and mill workers
5. Adjacent property owners
6. Government officials
7. Community members

Specifically, on-site interviews focused on the following:

Child Labour:
• Workers were asked whether they have seen or knew of any children working on the farm or mill and whether this would be possible.
• Farm and mill owners were asked about what policy, management and monitoring systems were in place to ensure no child labour occurred in the supply chain.
• Official mill and farm policy documents were checked to ensure a written commitment against child labour in the supply chain.</td></tr>
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Forced Labour:

- Workers were asked whether they had to hand over any important documents in order to be employed and whether these documents were being held by mill and farm management.
- Workers were also asked whether they were allowed to be members of unions or workers groups.
- Workers were asked about violence and intimidation on the site.
- Farm and mill owners were asked about grievance settlement mechanisms with workers on site.

Land Rights:

- Workers, community members, adjacent farm owners and small farm owners were asked about their land ownership.
- Inquiry was made into how land was acquired and how any expansion in the future was planned.
- Original land title documents were checked.
- Government officials were asked about land policy and land lease arrangements between SARIS and the state.

In order to verify and further clarify the standards and measures utilised by the mill and farm, and to ensure that there is no child labour, there has been responsible land sourcing and that labour rights are upheld, interviews were conducted in French, utilising interview tools specifically formulated to inquire about the research themes. These tools were developed by Landesa Rural Development Institute. In addition, The Coca-Cola Company Workplace Accountability SGP Agriculture and Farm Assessment Protocol were used.

On-site Documentation Review

In addition to interviews, documentation was reviewed on site to determine evidence of compliance and triangulate between observations and worker interviews to determine compliance with legal requirements and complement or verify claims and observations.

Documents required from Mill Owners

- Mill (and farm, if appropriate) land ownership or lease documents (titles, deeds, certificates, tax assessments, lease contracts, permits, and other).
- Any documents related to the process of acquiring land parcels, including evidence:
  - Related to government compulsory acquisition of some or all of the mill land on behalf of the mill owner.
  - Related to consequent concessions for the compulsorily acquired land to the mill owner.
  - Related to negotiations for purchase and sale or lease of some or all of the mill land.
  - Of whether a social impact or other assessment (environmental, resettlement, other) was conducted prior to land acquisition.
  - Demonstrating that the mill land purchaser/lessor engaged in a consultation and/or consent process when negotiating the mill or farm land acquisition.
  - Reflecting any past or current disputes or grievances related to the land on which the mill is located, including whether and how disputes or grievances were resolved.
  - Indicating any plans to acquire additional or alternative land for mill facility operations.

Documents required from Government Officials

- Samples of any documentation of rights (ownership, lease, concession, or other) related to the sugar mill land and/or cane farmland.

- Samples of any documentation of rights (ownership, lease, concession, or other) related to land that is adjacent to the sugar mill land and/or sugarcane farmland.
- Any documents relating to environmental or social assessment and/or permitting related to the mill or cane farmland.
- Any documents related to the possibility that some or all of the mill or cane farmland may have been made available for the mill or farm by the government through compulsory acquisition processes.
- Any documents related to disputes or grievances related to the mill or farmland.

Documents required from Small, Medium and Large Farm Owners

- Farmland ownership or lease documents (titles, certificates, tax assessments, lease contracts, and other).
- Any documents related to the process of acquiring land parcels, including written evidence:
  - Related to The National Institute of Colonization and Agrarian Reform (INCRA) award and allocation of the farmland.
  - Related to negotiations for purchase and sale or lease of some or all of the farmland.
  - Demonstrating that the land purchaser/lessor engaged in a consultation and/or consent process when negotiating the farmland acquisition.
  - Reflecting any past or current disputes or grievances related to the land on which the farm is located, including whether and how disputes or grievances were acknowledging and resolved.
  - If the land was an INCRA allocation, whether there are INCRA documents.
  - Indicating any plans to acquire additional farmland.
  - Showing that the previous farmland users (both male and female) were fairly compensated for the land on which the farm is now located.
  - Or that the previous farmland users lost their land to INCRA being abandoned.
- Any documents related to the process of acquiring land parcels, including written evidence:
  - Related to government compulsory acquisition of some or all of the farmland.
  - Related to government concessions of land to the farm.
  - Related to negotiations for purchase and sale or lease of some or all of the farmland.
  - Of whether a social impact or other assessment (environmental, resettlement, other) was conducted prior to land acquisition.
  - Demonstrating that the land purchaser/lessor engaged in a consultation and/or consent process when negotiating the farmland acquisition.
  - Reflecting any past or current disputes or grievances related to the land on which the farm is located, including whether and how disputes or grievances were acknowledging and resolved.
  - Indicating any plans to acquire additional farmland.
  - Showing that the previous farmland users (both male and female) were fairly compensated for the land on which the farm is now located.

Interview Schedule

In Congo, interviews were conducted with:

- 30 workers from SARIS farms
- 30 workers from SARIS mill
- 4 members of SARIS management
- 2 representatives from the SARIS Foundation
- 3 trade unionists
- 3 SARIS workers of whom two are 'Chiefs of Land' and one is a 'Customary Chief'
- 1 government official: the Deputy Prefect of Kayes.

It was found that many of the stakeholder organisations were not operating in the sugar value chain, in Congo, or even in Central Africa, because sugar is mostly traded domestically and regionally. The scale of trade does not invite many external forces to influence operations, as it does in other high-volume exporting countries. Attention to supply chain issues often occurs when exports are geared to Europe and the United States. The scale of production and the scale of the problem in many other regions overshadow the Central African situation. Nevertheless, the following stakeholders were contacted and valuable insight was gained:

Non-Government and Non-Profit Organisations

- Oxfam: Advocacy and Research via phone interview
- Child Rights International Network
- Terre de Hommes
- Antislavery via phone interview
- Save the Children via phone interview
- Ethical Sugar
- Solidaridad Sugarcane Network
- Oakland Institute

Private Companies

- SPSA (Société de prestation de services agricoles)
- Chimie Afrique Congo

Unions

- Agricongo via in person interview
- FOPAC - Federation des Organisations des Producteurs Agricoles du Congo (Sud-Kivu) via in person interview
- FETRASSEIC (Congolese Teachers Union) via telephone interview

Other

- SOMDIAA Ethical Trade representative via phone interview
- SOMDIAA African Trade representative via phone interview
- Foundation SARIS Congo via in person interview
- Cabinet Conseil Ozone via in person interview
- Delegation Departementale Cadastre via in person interview
- Sous Prefecture De Kayes - Moungeni Jean Claude via in person interview
- Directeur départemental ONEMO via in person interview
- Mahoungou Francois Chief of Kiosi Village via in person interview
- Milandou Marcel Chief of Land Kibaka via in person interview
- Bassoukina Guy Omer Chief of Land Moutela via in person interview

OVERVIEW OF THE REPUBLIC OF CONGO'S SUGAR INDUSTRY

The Republic of Congo's agricultural sector has developed around the consumption demands of the population, and is mostly at the subsistence level. Only 7,500 tonnes of refined sugar were exported by the Republic of Congo in 2011. This is still more than the Democratic Republic of Congo, which only exported 3500 tonnes of raw centrifugal sugarcane in 2011.[9] The most important cash crops are sugarcane and tobacco, whilst the cultivation of palm kernels, cocoa, and coffee is increasing.

The sugar sector in the Congo is synonymous with SARIS Congo (Agricultural Company of the Industrial Refining of Sugar). As a former governmental organisation, SARIS Congo applies the Economic and Monetary Community of Central Africa (CEMAC)[10] acts concerning the common external tariff (CET) and the generalized preferential tariff (GPT) and the application of external tariffs – as adopted in 1993.[11] SARIS was privatised in the early 2000s and is now a subsidiary of SOMDIAA (Société d'Organisation de Management et de Dévelopement des Industries Alimentaires et Agricoles), a large French holding company that specialises in agro-food processing across Central and West Africa and the Indian Ocean region.

SARIS Congo is currently the only sugar producer and marketer of sugar in the country.[12] It is also the only producer and supplier of sugar to Coca-Cola bottling partners (along with other customers[13]), in the Congo Republic. It comprises of sugar production, processing and refinement. The operations are located in the South West of the country, between Pointe-Noire and Brazzaville, in the valley of Niari.[14]

SARIS Congo comprises of:

- 48,910-acre sugar franchise, which includes a 29,651-acre sugarcane field.
- A sugar mill located 15km from Nkayi
- A refinery established in 1992 on the site Moutéla
- A production capacity of 70,000 tonnes of sugar per year and 5,000 tonnes of sugarcane per day

The main operations of SARIS Congo involve the production, processing, packing and marketing of sugar. This includes the cutting of cane, transporting from the farm to the process plant, washing and crushing the cane, process of crystallisation and then finally packaging and storing the sugar product.[15] The Moutela plant currently has the crushing capacity of 5,000 tonnes of sugarcane per day. Throughout the harvest period (June to November) this amounts to production of about 70,000 tonnes of sugar. This sugar meets domestic demand (around one third of production) with the remainder two thirds supplying sub-regional markets of CEMAC, the EU and the United States.

SARIS Congo Operational Overview:[16]

- 29,651-acre of cane grown in the fields (100% of the demand from the factory).
- Manual cutting cane in the fields by cutters directly employed by SARIS.
- Stockpiling the cut cane from the fields.
- Loading cane by machinery and trucks owned by SARIS.
- Transporting the cane to the SARIS factory.
- Unloading the cane at the factory and feeding it into the processing chain.
- Cane transported to the plant to date: 559,970,720 tonnes

[9] FOA Statistics: http://faostat.fao.org/desktopdefault.aspx?pageid=342&lang=en&country=250.
[10] Agoa: Congo, Republic of Congo (Brazzaville) Bilateral Investment Treaty, August 1993.
[11] WTO Trade Policy Review: The Congo.
[12] WTO report.
[13] SOMDIAA customer supply chain: February 2016.
[14] SOMDIAA company profile.
[15] TCCC Workplace Assessment Report Supplier Guiding Principles, SARIS Congo, 2010.
[16] SARIS Congo.

SARIS Congo has invested in technological upgrades in its manufacturing operations, improving automation, increased production, reducing plant losses and is the only mechanised cultivation in the Congo.[17] There are a total of 3,075 workers employed by SARIS Congo.[18]

The SARIS Congo Foundation

In November 2009, SOMDIAA created a network of local associations, named Foundations dedicated to managing and developing joint and social actions in favour of the populations living near its agro-industrial perimeters.

The foundations offer the surrounding populations support in their income generating activities provided that they organise themselves into groups of individuals or into a wider scale, such as a village committee. The support of the foundations is oriented towards management, organisation, and capacity reinforcement of local groups. It tends to implement sustainable development projects with a positive impact in keeping with community principles that generate jobs and income for village populations. The SOMDIAA foundations are directly involved in agriculture, gardening, transformation, health, sanitation, access to water, education and culture, depending on the needs directly expressed by the communities.

The SARIS Congo Foundation, L'ADAS, invests in socio-economic development initiatives in the Niari Valley. The aims of the foundation are to reduce inequality, support vulnerable groups and promote income generating activities in the communities.

Activities include:

- Contribution to the establishment of health facilities and improved access to water and sanitation facilities to assist in the fight against HIV/AIDs and malaria.
- Promotion of gender equality and women's rights. These programmes are focused on improving economic opportunities for woman in order to generate more per capita income thereby supporting families and preventing child labour.
- Financing and support of community development projects to ensure financial autonomy and food security of communities.
- The granting of donations and aids of any kind to persons or groups of persons in difficulty.
- The planning, organisation and implementation of training in business skills, heath and culture.

The Foundation plays a key role in combating child labour by improving livelihoods in the area. By improving livelihoods of communities and workers through equipping groups with business skills, the foundation is helping to increase incomes, which in turn decreases the necessity of children being forced into labour in order to provide further household income.

[17] SOMDIAA Company profile.
[18] TCCC Workplace Assessment Report Supplier Guiding Principles, SARIS Congo, 2010.

CHILD LABOUR, FORCED LABOUR AND LAND RIGHTS IN CONGO

Child Labour and Education Policy in Congo

Children who are not otherwise enrolled in school or formal education are vulnerable to enter the work force prematurely. The Congolese government allocated 6.2% of GDP to education in 2010. The mean years of schooling in the country is 6.1, indicating that most Congolese do not complete primary school education. The primary school dropout rate in the country is 29.7%. In terms of gross enrolment ratios (GERs)[19], Congo has a pre-primary GER of 14%, a primary GER of 10.9%, a secondary GER of 54%, and a tertiary GER of 10%.[20]

Whilst the majority of children of primary education age initially enroll in school, on average, only half of these children will enroll in secondary school. This effect is partly driven by the fact that the Congolese Constitution stipulates the provision of free, compulsory education up to the age of 16 (beyond which families must fund education internally). It is likely to also reflect a number of different social pressures where a large number of secondary school age children are dropping out to contribute to household needs. This means that a significant number of children are entering the workforce before the legal minimum working age of 16 – as stipulated by The Congolese Law on the protection of the Child.[21]

In addition to education, the Congolese government launched the National Action Plan to Fight Against Trafficking in Persons, which aims to improve enforcement activities related to preventing child trafficking. The Government also began implementing a social safety net programme to improve access to health and education services for poor families, and assumed a greater financial responsibility for a school-based feeding programme that targeted 215,000 children.

In 2012, it was estimated that 27.9% of children between the ages of 5 and 14 (or 186,137 children) were engaged in child labour.[22] The sectorial distribution of this work includes: services, such as domestic work, working in bakeries and market vending; industry, such as charcoal production and work in stone quarries; agriculture, such as the production of various crops, catching and smoking fish and raising livestock; and human trafficking in various sectors, such as commercial sexual exploitation, farming and forced domestic work.[23]

Many children are trafficked to the Congo Republic from West and Central African countries (including Benin, Togo, Mali, Guinee, Cameroon, Senegal and the Democratic Republic of Congo)[24], whilst some are also trafficked internally from rural areas to the cities of Brazzaville and Pointe-Noire with the expectation of receiving education and care.[25]

In 2014, the Republic of the Congo was noted by the US Department of labour as having made a moderate advancement in efforts to eliminate the worst forms of child labour.

The Republic of Congo has ratified the following International Labour Organisation (ILO) conventions: ILO C. 138, Minimum Age, ILO C. 182, Worst Forms of Child Labor, United Nations Convention of the Rights of a Child (UN CRC), UN CRC Optional Protocol on Armed Conflict, UN CRC Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography and Palermo Protocol on Trafficking in Persons.

The application of the ratified ILO conventions was verified through the following Congolese legislation:

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[19] The Gross enrolment ratio is the total enrolment in a level of education (pre-primary, primary, secondary and tertiary), regardless of age, expressed as a percentage of the population of official education age for each level. GER can exceed 100% due to the inclusion of over-aged and under-aged students because of early or late school entrance and grade repetition. (The World Bank WDI, 2014)
[20] UNDP Country Profiles: Congo.
[21] UNICEF, 2013.
[22] United States Department of Labor, 2014.
[23] United States Department of Labor, 2014.
[24] US Embassy Brazzaville: Country Reports on Human Rights Practices for 2014, Republic of the Congo.
[25] United States Department of Labor, 2014.

Table 1 Laws and Regulations Related to Child Labour

Standard	Yes/No	Age	Related Congolese Legislation
Minimum Age for Work	Yes	16	Article 116 of the Labour Code
Minimum Age for Hazardous Work	Yes	16	Order 2224 of 1953; Article 68 of the Child Protection Code
Prohibition of Hazardous Occupations and/or Activities for Children	Yes		Article 68 of the Child Protection Code; Order 2224 of 1953
Prohibition of Forced Labour	Yes		Article 4 of the Labour Code; Article 68 of the Child Protection Code
Prohibition of Child Trafficking	Yes		Article 60 of the Child Protection Code
Prohibition of Commercial Sexual Exploitation of Children	Yes		Article 334 of the Penal Code; Articles 65-68 of the Child Protection Code
Prohibition of Using Children in Illicit Activities	Yes		Articles 68-70 of the Child Protection Code
Compulsory Education Age	Yes	16	Article 23 of the Constitution of 2002
Free Public Education	Yes		Article 23 of the Constitution of 2002

Legal Framework for Forced Labour in Congo

In 1999, Congo ratified the ILO C105 - Abolition of Forced Labour Convention, 1957 (No. 105). This convention has been integrated into the Congolese legislation through Article 26 of the Congolese Constitution which states that "No one may be enslaved or perform forced labour, except in the case of a court-ordered custodial sentence".[26]

The ILO document 'ILO indicators of Forced Labour'[27] assists in identifying measureable and defined indicators of forced labour. Forced labour was defined as a situation in which people are coerced to work through the use of violence or intimidation, or by subtler means such as accumulated debt, retention of identity papers or threats of denunciation to immigration authorities, as well as being denied freedom to join unions.

While forced labour in the Democratic Republic of Congo is prominent in the mining sector and sex trafficking sectors[28], forced labour in the Republic of Congo is rare.[29] The Constitution of the Republic of Congo permits workers to form unions and to strike, subject to conditions established by law.

The Labour Code allows for collective bargaining, however, collective bargaining is not widespread due to the social and economic disruption and extreme hardship that occurred during much of the 1990s. There are regular work strikes over non-payment against both public and private institutions, but these have largely taken place without violent incident. The Labour Code establishes a standard work period of seven hours per day and 35 hours per week.[30]

Despite sound labour laws, the 2015 Trafficking in Persons Report, published by the U.S. Department of State, lists Congo on the Tier 2 watch list, because the Congolese government did not fully comply with the minimum standards. The report explains:

> The government did not enact draft anti-trafficking legislation finalized in the previous reporting year, and knowledge of the country's existing anti-trafficking laws was uneven across the government. While the government investigated four suspected traffickers, it did not demonstrate vigorous efforts to prosecute and convict traffickers, failing to initiate prosecutions of alleged traffickers in 2014 or convict any traffickers from cases which remained pending from up to four years ago. Allegations of complicity re-emerged during the reporting period, and the government has yet to take action to hold the alleged perpetrators accountable. The lack of an

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[26] Constitution of the Republic of Congo Section 3.3.2 Article 26.
[27] ILO. http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/ wcms_203832.pdf.
[28] http://www.freetheslaves.net/where-we-work/congo/.
[29] World Bank. 2011 Republic of Congo Employment and Growth Study: From jobless to inclusive growth, Report No. 61999-CG.
[30] http://photos.state.gov/libraries/congo/231771/PDFs/Investment%20Climate%20Statement_ ROC%202012.pdf.

inter-ministerial coordinating body continued to hinder countrywide progress to address internal trafficking and sex trafficking from the DRC and other countries.[31]

The report does not however provide any evidence of increased or decreased incidences of forced labour within specific sectors, such as agriculture or mining.

Land Rights in Congo

The agricultural sector in the Republic of the Congo is governed by several laws and regulations in the absence of an agricultural or rural code[1]. Article 1 of the Law No 6-2003 of 18 January 2003 establishing the Investment Chart stipulates: "Any physical person or legal entity, irrespective of nationality, is free to undertake, on the territory of the Republic of the Congo, an agricultural activity, in compliance with the laws and regulations of the Republic".

The agricultural sector is mainly governed by Law No 10-2004 of March 26, 2004 setting the general principles applicable to land and State domain; Law No 25-2008 of September 22, 2008 on the agricultural and land regime; and Law No 22-2005 of December 28, 2005 creating a State public administrative service known as the Agriculture Support Fund, as amended by Law No 30-2012 of October 11, 2012. The Agriculture Support Fund is, amongst other things, tasked with funding agricultural production, commercialization activities and conservation activities while ensuring the proper implementation of these activities.[32]

Most of Congo's land is owned by the state and managed either directly or through long-term lease concession contracts to resource extraction companies.

Although privatisation reforms since the 1960s have attempted to withdraw direct government involvement in agriculture, the Congolese National Development Plan 2012-2016 acknowledges that land ownership and land rights continue to be a challenge for developing the agricultural sector:

> "389. **The land question**. Promoting investment and modernizing agriculture will also require addressing another essential constraint on production factors – land. Traditional farming is based on communal ownership of the land, organized according to cultural traditions in the country's various departments. To institute modern and larger scale agriculture, the land regime will have to be adapted to the market economy. In this regard, the current regime has great weaknesses, in particular the difficulties in asserting and securing land title and developing a real land market accessible both to citizens and to foreign investors and farmers. Foreign involvement can not only contribute know-how, raise needed financial resources and inject innovations, but can also open export markets for Congolese products".[33]

Article 17 of The Constitution of the Republic of Congo provides that any private person may own land if they have a land title. In the absence of a title, the presumption of public domain applies because under Congolese law, ownership of land is conditional on the acquisition of a written land title.[34] Due to challenges in acquiring written land titles in Congo, it has been advised that a National Plan for the Allocation of Land be developed.

The Republic of Congo is a member of two multilateral REDD+ mechanisms: The World Bank's Forest Carbon Partnership Facility (FCPF) and the United Nations Collaborative Programme on Reducing Emissions from Deforestation and forest Degradation in developing countries (UN-REDD) a partnership between the Food and Agriculture Organisation of the United Nations (FAO), the United Nations Development Programme (UNDP) and the United Nations Environment Programme (UNEP). Through these mechanisms, a National Plan for the Allocation of Land has been suggested to solve the problem of land tenure and facilitate the official recognition of customary access rights.

Customary Access Rights are provided in Article 31 of Law No. 10-2004 of 26 March 2004, laying down the general principles applicable to federal land, and the plan proclaims the recognition of customary

[31] US Department of State (2015) Trafficking in Persons Report.
[32] Emery Mukendi Wafwana and associates. 2013. Agricultural Legislation in the Republic of Congo. http://www.lexology.com/library/detail.aspx?g=caef5b02-289d-46e8-ab28-3ed3373b75e2
[33] Republic of Congo: National Development Plan, DSCERP 2012-2016.
[34] http://theredddesk.org/countries/republic-of-congo.

land rights for people occupying the land for 30 years. Unfortunately, this recognition is subjected to timely and costly fiscal and technical conditions. These conditions can rarely be met by local communities or members of indigenous people without capacity building or external support.[35]

SARIS Congo has a lease for 48,910 acres of land from the Congolese state, and is in the process of buying the land title deeds. At the time of the research, SARIS only utilised 29,651 acres of its land and therefore will expand into land it already leases over the next 10 years.

In 2004, owing to the increase in farmland obtained in the framework of the ten-year reflationary agricultural policy, sugar production increased by 8.2%, up from 59,400 tonnes to 64,300 tonnes.[36]

The US investment Climate Report for 2012 estimates that less than 3% of Congolese available farmland is currently used for agriculture. In addition to land leased to SARIS Congo, the government signed an agreement in 2011 with a cooperative of South African farmers for a 99-year lease of 80,000 hectares of arable land.[37]

[35] http://theredddesk.org/countries/republic-of-congo.

[36] World Bank (2011) Republic of Congo Employment and Growth Study: Form jobless to inclusive growth, Report No. 61999-CG.

[37] http://photos.state.gov/libraries/congo/231771/PDFs/Investment%20Climate%20Statement_ ROC%202012.pdf.

FINDINGS

Child Labour Findings

SARIS' application of the Congolese laws and ILO conventions was verified through documentation review, observation of practices and interviews with SARIS management and stakeholders. The following was noted:

SARIS mill and farm documentation specifically refers to the ILO standards for child labour. The SARIS Congo Ethical Code document on Professional Ethics specifically prohibits child labour, and employing children less than 18 years old is forbidden. SARIS also ensures that its suppliers and partners subscribe to the same requirements.

This mirrors Article 2 and 3 of the ILO Convention C138 - Minimum Age Convention, 1973 (No. 138) ratified by Congo in 1999. The minimum working in age in Congo is 16, however the minimum working age for a child in hazardous conditions is 18, as set out by Article 6 of the Labour Code; Article 50 of the Child Protection Code (33, 59) and Article 10 of Ministerial Order No. 12 (60).[38]

Both the sugar farm and mill have a zero tolerance policy to child labour. Although the legal working age of a child in Congo is 16, the farm and mill utilise the national standard of 18 years old. The youngest worker found on site as verified through documentation review, visual observation and cross-reference against identity documents was 18 years old on both the mill and the farms.

Employees are taken from local villages as per an agreement made (pre-1980) with the Chiefs of Land to ensure the company would hire locally. In order to be employed an ID book is required to be shown. The mill and farm have strict codes of conduct and regulation, which were provided to the fieldworker. The codes of conduct include a strict child policy document. Copies of all employees' ID documents are kept on file. The implementation of these policies were reviewed and found to be effective.

60 randomly selected farm and mill workers were specifically asked about child labour practices and whether children had been working near or on the farm and mill, as well as their own ages. All respondents stated that it would be impossible for a child to work on the farm for following reasons:

- An ID booklet must be produced and verified in order to be hired, and it is not possible to be hired without ID proving you are over 18.
- The transport, which picks up the workers from the village and takes them to the farm/mill does not allow children onto the coaches.
- Once at the farm/mill there are security checks at the gate, and the security guards would not allow in children.
- Once through the gates, workers report to a supervisor to be allocated their daily tasks, and supervisors would not allocate tasks to children.

Workers also stated that children are prohibited from coming to the plantations or mill. Workers claimed that they know that they are not allowed to bring children to the fields/mill and had been trained on the health and safety requirements, which require that children are not allowed to be on the property. A spokesman from a union said that he wasn't aware of any child labour and the strict practices on hiring meant that this seemed unlikely.

Regional and international stakeholders were unable to provide specific insights into the sugar sector in Congo and could not confirm nor deny reports of child labour in the supply chain. Stakeholders noted general trends around child labour in the Congo as is consistent with desktop research, however no reference was made to the prevalence of child labour in the sugar sector generally and within the supply chain in scope specifically.

Local and national stakeholders interviewed provided feedback consistent with the field research. The National Employment and Labour Office (Office National de l'Emploi et de la Main d'Oeuvre) confirmed

[38] https://www.dol.gov/ilab/reports/child-labor/findings/2013TDA/congorepublic.pdf.

that no incident or report of child labour has been noted within the SARIS operations. Furthermore, the office confirmed that periodic on site spot checks are carried out by representatives of the department.

Forced Labour Findings

The ILO document 'ILO indicators of Forced Labour'[39] assists in defining measureable and defined indicators of forced labour. The documentation reviewed at SARIS Congo, specifically the 'SARIS Congo Ethical Code document on Professional Ethics' and the 'SARIS Congo Rules' covers 9 of the 11 principles: abuse of vulnerability, deception, physical and sexual violence, intimidation and threats, withholding of wages, debt bondage, abusive working and living conditions, retention of documents and excessive overtime. The other 2 principles, namely: restriction of movement and isolation are observed in practice but which are not explicitly documented in SARIS policies.

The 'SARIS Congo Ethical Code document on Professional Ethics' specifically refers to the elimination of all forms of forced labour. The implementation of this policy was verified through worker interviews, SARIS management interviews, community and stakeholder interviews as well as field observation and documentation review. In particular, documentation related to recruitment fees, deductions, loans, employment contracts, payslips and personnel files.

The research concluded that SARIS is obliged to hire a certain number of staff from the three villages, which are on the SARIS land; this is done through a quota system based on the population size of the village. Workers are employed seasonally through SARIS after producing identity documents for verification and passing health checks. SARIS Congo does not hire foreign workers and as such cannot hold anyone by force by keeping original travel documents or passports.

All farm workers interviewed stated that forced labour was not present in that no identification documents had been kept by SARIS (only copies) and no payments were made at any time in order to be hired by SARIS. Community, local, regional and national stakeholders did not cite any instances of forced labour in both the sugar milling and farming sugar supply chains.

The National Employment and labour office (Office National de l'Emploi et de la Main d'Oeuvre) confirmed that the department has never received a case or complaint of forced labour in any form in SARIS operations. The department also confirmed that periodic assessments of SARIS operations are carried out to ensure that no recruitment fees are paid by the workers, that SARIS workers are free to terminate their contracts, that contracts are in line with Congolese legal requirements and that no original worker documentation is retained by SARIS.

Although international, national and firm level standards and policies are necessary measures to prohibit child and forced labour, multiple stakeholders acknowledged that there are high costs and logistical challenges of monitoring and inspecting multiple sites in tremendously hard-to-reach locations. They stated that supplying quality social support programmes, such as new or improved schools and proper access to quality healthcare could do more to prohibit child and forced labour. Stakeholders acknowledged that social development projects, led by the milling and farming company, SOMDIAA, through the SARIS Foundation, were found to be effective in delivering long-term prevention mechanisms.

Land Rights Findings

The Oakland Institute highlighted that there were major policy disconnects between West African governments and the communities affected by certification policies, land titles and leasing. Additionally, firms purchasing land regularly made numerous promises about developing infrastructure, but often this did not materialise. This problem has been exacerbated by government officials keen to push the firm's agenda at the cost of the community. A lack of legal knowledge and access to legal support by the farmer or land-owner makes it tremendously difficult for them to be adequately equipped or supported to deal with these issues. This appears to be the case in the Republic of Congo. The historical evolution of SARIS, with regard to the Congolese state, is linked to current land claims by 'Chiefs of Land' in the

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[39] ILO, ---ed_norm/---declaration/documents/publication/wcms_203832.pdf.

region. This is evident in correspondence between the relevant Chiefs, SARIS and the state. These specific Chiefs are not recognised by the state. The state only recognises registered 'Traditional Chiefs'.

Three stakeholders were interviewed who state that they hold an ancestral land claim to the SARIS land. This land claim predates any SARIS involvement with the land and dates back to when the land was originally leased to the Vilgrain family. In 1947, the Vilgrain family bought a concession in Congo and created the first cane sugar production plant (SIAN), a flourmill and a peanut oil processing plant. Soon after, various flourmills and sugar production plants were established in Gabon, Cameroun and Burkina Faso. In 1970, the Vilgrain family established SOMDIAA (the holding company of SARIS)[40].

Since February 25, 1991, SARIS Congo officially owns the land of its concession. The land deed covers 41,719 ha which was inherited from ex-SIAN (18,469 ha) and ex-SOSUNIARI (23,250 ha). Currently, SARIS uses only 13 800 ha of land for sugarcane plantations, however, there is one village occupying land owned by SARIS. In February 2016, representatives from government attended a meeting at SARIS Congo with both SARIS and the communities. Neither of the stakeholders would like for the villages to be displaced. The government representative has promised to compensate SARIS for the land that it will not be able to use. The terms of the compensation are still to be finalised, but the villages will remain where they stand.

Interviews were conducted in the Moutela Mpila village with various stakeholders around the purchase of the land. In terms of the history of the land, the stakeholders stated that Mr Vilgrain approached the chief, Chief Nzambi Pandzou, three times to purchase the land. On the third time the chief agreed to lease a small amount of the land to Vilgrain. The land was limited by railway tracks, and the stakeholders stated that Mr Vilgrain returned to ask for more land because the land was insufficient. One stakeholder stated that Mr Vilgrain offered a 1km squared portion of the crops to the chief however the chief didn't have a market for the cane so it was decided that that portion would be sold by the company and the money would be given to the chief. It was stated that money was given to the chief, although the amount is unknown.

The stakeholders stated that at a later stage Vilgrain asked the chief if, as a favour, he could have the land titles because he would not be able to access the European market otherwise. They stated that the chief agreed, without knowing the consequences of this decision. There is not any signed document between Jean Vilgrain and the Chief Nzambi Mpandzou. The stakeholders further added that when Chief Pandzou died, the company stopped bringing them the money from the sale of the sugar.

The dispute discussed by the Chiefs of Land with the research team is a dispute with the state rather than SARIS. The Chiefs of Land asserted that the state handed over their ancestral land to the Vilgrains in the 1950's. The land claims were investigated, however the Chiefs did not have their original land leases and SARIS did.

SARIS has established biannual meetings between SARIS and the Chiefs of Land to discuss land, labour and other community issues. Documents provided by both SARIS and the Chiefs pertaining to the meetings and meeting agenda items from the past 18 months were reviewed. It was noted that although the Chiefs of Land raised the issue of land ownership and ancestral claims with the research team, this issue has not been raised at any of the biannual meetings held between the Chiefs of Land and SARIS in the 18 months preceding the research. The issues raised by the Chiefs of Land included employment of local village residents, rehabilitation of rural roads, utilising SARIS equipment to till villages field and questions about sub-contracting, as some of the villages have expressed interest in getting contracts for activities such as transportation of personal and reforestation through eucalyptus. A SARIS representative stated that there was a suggestion that the communities could be subcontracted to grow corn that SARIS would then buy from the farmers. When asked about this, stakeholders in the communities stated that they are not able to do it now because they don't have people with the capability to manage such projects and structures.

Furthermore, the stakeholders from the Moutela Mpila village argue that SOMDIAA is not respecting their commitments (made by SIAN, SOSUNIARI and SUCO) around prioritising the hiring of youth from the villages around the land their own and supplying the villages with adequate and consistent drinking

[40] 2012 SOMDIAA Dossier de presse: http://www.somdiaa.com/wp-content/uploads/2012/08/dossier-presse_Somdiaa0212-EN.pdf

water. When asked what they planned to do regarding the land rights dispute, stakeholders from the villages stated that they don't have power against a company like SARIS. They stated that the government refuses to help saying that the land was nationalised in any case.

The Chiefs also stated that a plot of land was taken from them in 2014. However, the SARIS management and government official confirmed that the land had been handed over to SARIS by the Congolese state in compensation for other SARIS owned land which had been used by the state to build a main road. Again, SARIS states that land rights issues are negotiated with the state and any issues of the Chiefs should be taken up with the state. However, SARIS has taken steps to engage the Chiefs of Land in line with 'International Finance Corporations (IFC) Performance Standards on Environmental and Social Sustainability', 'Performance Standard 5 Land Acquisition and Involuntary Resettlement [41] and Private Sector Responsibilities Under Government-Managed Resettlement (Sections 30, 31 and 32).[42] These guidelines outline ethical trade conduct for the private sector.

SARIS has taken steps to engage the Chiefs of Land through the bi-annual meetings, and has engaged the Congolese state via the office of the Deputy Prefect in order to understand the legitimacy and limitations of the claim and reach consensus on the matter.

An interview with a select number of women from small to medium sized farms stated that there were no land disputes on their farms. They own the land and farm the land, and there haven't been any attempts by SARIS to buy the land. Except for the land claim on the land currently owned and utilised for sugarcane by SARIS, they know no other examples of land claims.

In terms of women's involvement in land issues and work, in an interview with three women, they stated that women are not involved in any of the land negotiations. Land negotiations are handled by men for their families – land is not owned individually, but rather belongs to the families – and women are not seen as a part of this, as spouses aren't included as part of their family.

In terms of women's involvement in business and farming organisations, the stakeholders in the villages Moutela Mpila and Louari stated that if they were to set up such associations (for example to grow corn), women would be involved, but they would be given responsibilities that match "their capability". Furthermore, they added that it doesn't seem likely that women would be included much as men would want to conduct this themselves.

There is growing consensus that private sector stakeholders, in the context of weak governance structures, will need to take responsibility in ensuring that land is acquired through consent of government and communities. A representative of Oxfam stated that legal title is not enough in these contexts – the private sector needs to also acquire consent from affected communities

A key recommendation relating to land rights was the need for the private sector to reconsider how they set up their producer chain. A general criticism pointed out that setting up large plantations and replacing smallholder farmers, thus turning farmers into farmworkers, often does not result in improved livelihoods. Firms utilising out-grower schemes and improving the capacity of cooperatives, have allowed farmers to continue to occupy and work their land, and be able to take advantage of collective bargaining.

[41] IFC 2012:
http://www.ifc.org/wps/wcm/connect/115482804a0255db96fbffd1a5d13d27/PS_English_2012_Full-Document.pdf?MOD=AJPERES

[42] See Appendix

CONCLUSION

In conclusion, the study found that there were no violations of child or forced labour in any documentation, or observed by field research and interviews with farm and mill management, workers and stakeholders. Like all operations under SOMDIAA, SARIS Congo applies a minimum working age requirement of 18 years old and documentation proof of this is required. Local and national stakeholders interviewed provided feedback consistent with the field research.

The study did find that there were historical ancestral land claims on land, which is currently utilised by SARIS farming and milling operations, however these claims are made against the state. Government stakeholders that were interviewed confirmed that the Chiefs of Land have no legal case against the state. The Chiefs of Land do not have the necessary supporting documentation and their legitimacy is not recognised by the state. There is growing consensus however that private sector stakeholders, in the context of weak governance structures, will need to take responsibility in ensuring that land is acquired through consent of government and communities. SARIS has taken steps to engage the Chiefs of Land and the Congolese government in order to understand the legitimacy and limitations of the claim and to reach consensus on the issue.

Appendix: ADDITIONAL INFORMATION

Definitions:

CHILD LABOUR

The term ‘child labour’ is often defined as work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development.

It refers to work that:

- is mentally, physically, socially or morally dangerous and harmful to children; and
- interferes with their schooling by:
  - depriving them of the opportunity to attend school;
  - obliging them to leave school prematurely; or
  - requiring them to attempt to combine school attendance with excessively long and heavy work.

FORCED LABOUR

Forced labour refers to situations in which persons are coerced to work through the use of violence or intimidation, or by more subtle means such as accumulated debt, retention of identity papers or threats of denunciation to immigration authorities.

LAND RIGHTS

Land rights refer to a broad and complex set of rights related to land and water and associated aspects such as housing. These include:

- Indigenous land rights;
- Women’s rights;
- Access to housing, food and water;
- Environmental rights; and
- Land sovereignty.

There is no singular global rights framework which is specifically focused on land rights as land rights are cross cutting and interdependent.

Republic of Congo Overview

Political Economy Context

The 1960 political independence of the Congo was pre-empted by the introduction of the Loi Cadre framework law in 1956 to end dual-voting rules. In wide rejection of this law, a number of riots in Brazzaville in 1959 led by a number of emerging Congolese political parties rendered various segments of the state ungovernable. After the 1958 referendum for the new French Constitution was approved, the decision was made to grant political autonomy to French overseas territories. Middle Congo was renamed the Congo Republic, with formal independence being granted in 1960.[43]

The political turbulence that followed was characterised by a number of civil wars and political coups, underpinned by a Marxist-Leninist ideological framework associated with the Soviet Union.[44] Following the collapse of the Soviet Union in December 1991, and the global recognition and push of the democratic political approach, the Congo completed a transition to a multi-party democracy in 1992.[45]

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[43] US Department of State: Congo-Brazzaville.

[44] US Department of State: Congo-Brazzaville.

[45] US Department of State: Congo-Brazzaville.

Up to this point the economy was largely structured around the state, which was the country's major employer with 80,000 employees, whose salaries equated to 20% of total GDP.[46] This prompted a number of global players, such as the World Bank and other international financial institutions to pressure Congo to reform its civil service, and privatise various state-owned functions to stimulate market-led growth.[47] In 1994, a 50% currency devaluation reduced the payroll of the civil service by half, with the number of state-employed falling by 10% by mid-1994.[48]

What followed was a challenging economic transition, with various enabling macroeconomic policies laid to promote long-term economic sustainability. In its economic liberalisation efforts, Congo took a number of measures, including reforming the tax, investment, labour, timber, and hydrocarbon codes.[49] Correspondingly, Congo undertook to privatise a number of its state-owned functions. This included the privatisation of key parastatals, such as banks, telecommunications, and transportation monopolies[50], to encourage private sector investment and inward FDI.

Economy

The Congo Republic recorded GDP of $14.14bn in 2014, which had a year-on-year growth of 6.5% - compared to 3.4% in 2013 and 3.8% in 2012. In 2014, GDP per capita was $3,137. This growth was driven by continued state-led investment into the mining, non-extractive and non-oil sectors[51] as part of economic diversification policies, which was boosted by FDI net inflows of $2.04bn in 2013. China financed the majority of major infrastructure projects in Congo from 2003-2013, with Chinses public investments in the country predicted to grow at an annual rate of 4.8% from 2014-2016.[52]

Economic growth of 6.5% exceeds that posted by comparable economies (averaging 5%), but is still well below the target set by the National Development Plan of 8.5%.[53] The reason for this is the underperformance of the Congo's extractive sector, including the oil sector that represents 60% of GDP. Despite remaining one of the main oil-producing countries in Sub-Saharan Africa, a number of accidents involving offshore production has seen the sector contract by 8.2% in the past three years.[54]

Thus the infrastructure-led economic diversification component of the National Development Plan has played a crucial role in building resilience into the economy. The non-extractive sectors are expected to grow by 7.2% in 2015 and 7.9% in 2016, driven by the projected growth of services (8.4%) and agriculture and manufacturing (7.7%) over this period.[55] In 2014 alone, the public investment budget amounted to 28.8% of GDP, with significant allocations made into enabling sectors, such as the electricity and transport sectors, the construction and repair of roads and airports, hydroelectric dams and electrical distribution infrastructure, since 2006.[56] It is forecasted that these investments have the potential to boost annual GDP growth by 1.5 percentage points.

Apart from oil and sugar, Congo has failed to infiltrate significant Global Value Chains (GVCs). Its involvement is largely confined to the lower value chain segments, with the export of unrefined primary goods. Finished goods – predominantly refined oil-based products – comprise only 5% of total exports, thereby limiting the internal value add into exporting sectors.[57] Despite a distinct comparative advantage in forestry, only 3% of timber production is associated with high value added components of the value chain. Congo's failure to successfully integrate into GVCs is attributed to a number of internal human and financial capital constraints. The National Development Plan has therefore emphasised the need to intervene in 5 five key channels by:

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[46] US Department of State: Congo-Brazzaville.
[47] US Department of State: Congo-Brazzaville.
[48] US Department of State: Congo-Brazzaville.
[49] US Department of State: Congo-Brazzaville.
[50] US Department of State: Congo-Brazzaville.
[51] US Department of State: Congo-Brazzaville.
[52] The World Bank (2014), Economic Update for the Republic of Congo.
[53] The World Bank (2014), Economic Update for the Republic of Congo.
[54] The World Bank (2014), Economic Update for the Republic of Congo.
[55] The World Bank (2014), Economic Update for the Republic of Congo.
[56] The World Bank (2014), Economic Update for the Republic of Congo.
[57] African Economic Outlook (2014), Congo Republic.

1. Increasing infrastructure investment and skills acquisition;
2. Improving the business climate;
3. Improving access to credit for SME's;
4. Setting up special economic zones (SEZs); and
5. Strengthening regional integration.

Socioeconomic Context

Despite economic growth, the lack of parallel structural transformation has ensured growth has been neither inclusive nor significantly impactful on levels of poverty, human development and inequality. In 2014, 35% of the population lived in rural areas – with a rural poverty gap[58] of 31.9% and an urban poverty gap of 9.2%.[59] The country had a mean life expectancy of 59 in 2013, and a national poverty headcount ratio[60] of 46.5% in 2011 (down from 50.7% in 2005).

In terms of human development, the country positions 140th out of 187 in the UNDP Human Development Index (HDI) global rankings, with a revealed HDI of 0.564 in 2013, up from 0.561 in 2012. Congo's HDI has stagnated in the 0.5-0.6 bracket since 1980. In comparison, Gabon – another Central African country – had a similar level of human development to Congo in 1980, with an HDI of 0.54. Contrastingly, however, the country's HDI had increased to 0.674 in 2013.[61] Despite stagnation, Congo's HDI is still above the average HDI of Sub-Saharan African countries of 0.502.

The Congo Republic had an overall Gini index of 40.2 in 2011, with 46.1% of the country's income shared between the upper-20% of the income distribution and 5.7% shared between the lower 20%.[62] Whilst this is not uncommon amongst resource rich developing economies, widening income inequality is a concern. For all the progress the country has made in infrastructure construction and rehabilitation following a 10-15-year boom in the oil economy, social development and inclusive growth has not improved at the same rate.[63] As the country appears to be entering a decline in oil revenues, it is crucial that economic diversification incorporates poor and marginalised groups.

Overview of SOMDIAA

The core operations of the company are the production and marketing of sugar and flour as well as other commodities such as cotton, eggs, day-old chicks, and animal feed. The company has its headquarters located in Paris, France, and all operational aspects (crop and poultry farming, processing, and marketing and sales) occur at source through its subsidiaries in Cameroon, the Congo, Ivory Coast, the Central Africa Republic, Gabon, Chad, Togo, and Reunion Island.[64] The company supplies local agri-industry related manufacturers and processors in its geographical area of operation. The company is currently chaired by Alexandre Vilgrain, son of Jean-Louis Vilgrain, who succeeded his father in 2000. In 2014, the SOMDIAA group generated approximately €422 million in total sales and employs around 18 000 permanent staff across its operations.[65]

The group origins of the company lie in the lease of a 12 000 ha concession in the Congo in 1947 by Jean-Louis Vilgrain. This resulted in the establishment of the first candy cane and peanut oil mill in the Congo. From the 1970s, the company experienced a period of intensive growth – operations and sugar mills were established in Cameroon, Gabon, Ivory Coast, Chad, and Burkina Faso through partnerships with African states and the company diversified into other product areas such as cotton. In 1991, the first private investment of SOMDIAA occurred with the purchase of the SIAN sugar factory which today is the subsidiary SARIS CONGO. Since 2011, Castel Group holds a majority shareholding of the SOMDIAA Group.

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58 The rural and urban poverty gaps at national poverty lines are the rural and urban population's mean shortfall from the poverty lines (counting the non-poor as having zero shortfall) as a percentage of the poverty lines. This measure reflects the depth of poverty as well as its incidence. (The World Bank WDI, 2014)

59 The World Bank Databank: World Development Indicators

60 The national poverty headcount ratio is the percentage of the population living below the national poverty lines. National estimates are based on population-weighted subgroup estimates from household surveys.(The World Bank WDI, 2014)

61 UNDP Human Development Indicators.

62 The World Bank WDI

63 The World Bank (2014), Economic Update for the Republic of Congo

64 SOMDIAA Company Profile

65 SOMDIAA website, http://www.somdiaa.com/en/the-group, access 6.11.2015

The diagram below illustrates the organisational structure of the company.[66]

Although some of its production facilities in Congo were destroyed during the armed conflicts, SARIS Congo resumed sugar production in 1999, with some 65,000 tonnes of sugar produced in 2005, sold on the domestic market (20,000 tonnes) and the sub-regional market (25,000 tonnes), as well as on the markets of the EU (13,000 tonnes) and the United States (7,258 tonnes).[67]

The SOMDIAA Foundations:

The SOMDIAA foundations are a network of 8 different entities. They are located in Cameroon, Chad, Gabon, Ivory Coast, Republic of Congo, Republic of Central Africa and Togo.

A Policy Committee, shared by every Foundation, is in charge of their setting up on each site, defining their general policy and developing management and governance tools and coordinating their actions. It ensures of both the implementation and monitoring of projects through its Corporate Social Responsibility Manager.

The Project Selection Committee examines and selects projects put forward by the Foundation’s team according to established selection criteria. The committee is composed of subsidiaries’ volunteer workers willing to contribute to the social process, with men and women being equally represented. The committee’s main goal is to manage the daily operations of the Foundation as well as its projects.

Besides those managing and decision-making bodies, the Foundations comply with the good governance practices by organising general meetings and applying modern, seamless and regular reporting methods.

Field Officers are employed by the foundations. The operational team is composed of two rural development specialists, one being national and the second being a volunteer for international

[66] SOMDIAA website, http://www.somdiaa.com/en/the-group, access 6.11.2015

[67] WTO report

solidarity. Together, they cover the area providing advice and listening to the projects emphasised by the beneficiaries.

They organise a large pattern of professional trainings, design projects and recruit various donors to allow local groups' projects to become a reality.

OBJECTIVES:

The Foundations have no lucrative vocation, they are apolitical and public. They tend to better the wellbeing, the welfare and the food security of the population.
Its objectives, through targeted funding, aim to carry out social, responsible and sanitary actions intended to:

- Mitigate local inequalities;
- Fight against the insecure living conditions of vulnerable populations; and
- Promote income generating activities

MEANS OF ACTION:

To meet with these objectives, foundations carry out the following missions:

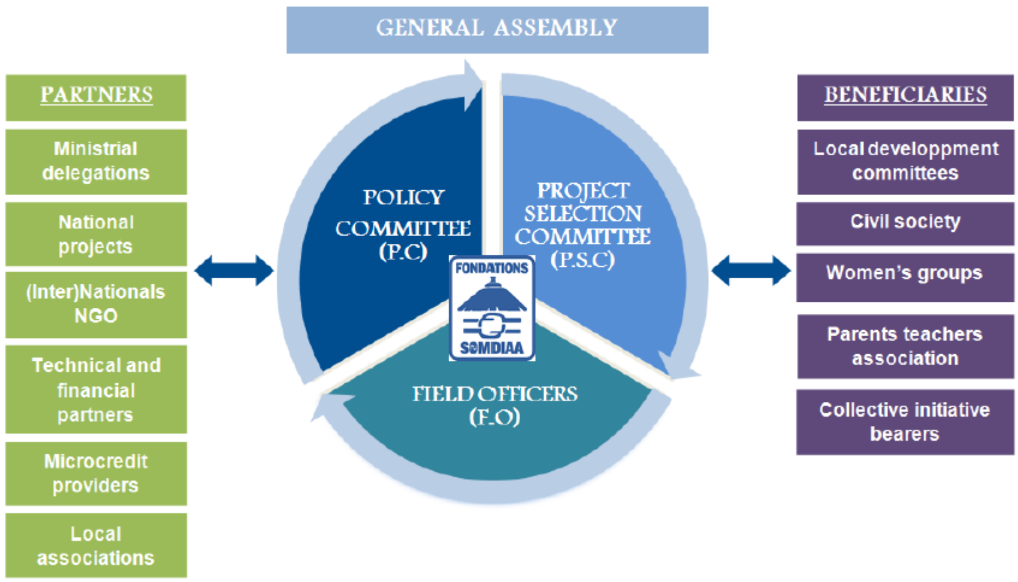
- Select, accompany, follow and fund structuring development projects for the populations, aiming to ensure its beneficiaries a financial autonomy and better food security;
- Plan, organise and set up training sessions in various fields such as management, health, culture along with professional trainings;
- Contribute to the establishment of health structures; and
- Prevent social marginalisation and promote women's self-sufficiency

PARTNERSHIPS:

Foundations will work with any organisation, institution or foundation dedicated to rural and social development whose objectives meet with its vision for development.

The Foundations also intend to promote beneficiaries to donors, assuring the latter of the monitoring and evaluation of projects.

ORGANIZATIONAL CHART



Free Prior and Informed Consent (FPIC)

FPIC is an indigenous peoples' right established in international conventions, notably the ILO Convention 169 on Indigenous and Tribal Peoples (1989), as well as in soft law, notably the UN Declaration on the Rights of Indigenous Peoples (2007), and in some cases, national law. The purpose of FCIP is to ensure that communities are adequately informed, properly consulted, and given the opportunity to fully participate in negotiations with companies of the government before they consent to the lease or purchase of their land, as well as to the implementation of a project. The key elements of FPIC were outlined in a report of the 2005 UN Permanent Forum on Indigenous Issues (UNPFII) International Workshop on Methodologies regarding FPIC and Indigenous Peoples. These are:

- people are 'not coerced, pressured or intimidated in their choices of development'
- 'their consent is sought and freely given prior to authorisation of development activities'
- 'they have full information about the scope and impacts of the proposed development activities on their lands, resources and well-being', and
- 'their choice to give or withhold consent over developments affecting them is respected and upheld'.[68]

Detailed List of Relevant Literature

This list of reports was reviewed as part of the literature review:

- The United Nations Human Development Index 2015
- The United Nations World Development Report 2014
- The World Bank Economic Update for the Republic of Congo 2015
- The United Nations Declaration for the Rights of Indigenous People 2008
- IIED Reports on Free, Informed and Prior Consent 2013
- IFC Performance Standards on Environmental and Social Sustainability 2012
- Articles from the Institute or Human Rights and Business
- The Constitution of the Republic of Congo (2005) title II, XI, XVII
- The United States Department of Labour 2015 report on the Republic of Congo
- The United States Department of State (2015) Trafficking in Persons Report
- United States Dept. of Labour: List of Goods Produced by Child Labour or Forced Labour (2014)
- Labour code of the Republic of Congo (1975) Law No 45-75
- The ILO convention on Forced Labour, 1930 (No.29)
- ILO Convention No. 182 on the worst forms of child labour, 1999
- ILO Convention No. 138 on the minimum age for admission to employment and work
- OEDC: Congo African Economic Outlook 2015
- Food and Agriculture Organization: Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT)
- African Union: Guiding Principles on Large-Scale Land (AU Guiding Principles)
- New Alliance: The Analytical Framework for Land-Based Investments in African Agriculture

[68] IIED. 2013. FPIC and the Extractive Industries