

Legal Compliance in the Forestry Sector

Case study: Cameroon

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Abbreviations

AFD	French Development Agency (Agence Francaise de Developpement)
AFLEG	African Forest Law Enforcement and Governance
ATO	African Timber Organisation
CIDA	Canadian International Development Agency
CITES	Convention on the International Trade in Endangered Species of Flora and Fauna
DBH	Diameter in Breast Height
DFID	Department for International Development of the UK Government
FAO	Food and Agriculture Organisation of the United Nations
FMP	Forest Management Plan
FMU	Forest Management Unit
FSC	Forest Stewardship Council
GDP	Gross Domestic Product
GTZ	German Technical Cooperation
IMF	International Monetary Fund
iNGO	International NGO
IO	Independent Observer
ITTO	International Tropical Timber Organisation
IUCN	The World Conservation Union
MED	Minimum Exploitable Diameter
MINEF	Ministry of the Environment and Forests in Cameroon
NGO	Non-Governmental Organisation
ODI	Overseas Development Institute
PFA	Permanent Forest Areas
PSFE	Projet Sectoriel Forêts – Environnement (FESP – Forest and Environment Sector Programme)
RIL	Reduced Impact Logging
SFM	Sustainable Forest Management
SGS	Société Générale de Surveillance
SIGIF	Information System for the Management of Forestry Parameters
SNV	Netherlands Development Organisation
TI	Transparency International
UCC	Central Control Unit (Unite Centrale de Contrôle)
UK	United Kingdom
UN	United Nations
UNDP	United Nations Development Programme
USD	United States Dollars
WRI	World Resources Institute

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1. Introduction

The present study is aimed at offering input to the FAO/ITTO study “Capacity Building for Law Compliance in the Forest Sector”. It addresses directly the first objective of this project, that of producing “**guidelines for improving law compliance in the forest sector**”, and also its third stated objective, to “**create a sound framework for facilitating FAO and ITTO’s normative advice to countries**”.

The objective of this case study is to identify the main categories of illegal acts prevailing in the forestry sector in Cameroon, and the corrective actions planned and adopted, including institutional and legal reforms, and their effectiveness in dealing with illegal acts and improving overall compliance with legal requirements.

The analysis is based on a brief diagnosis of the Cameroonian forestry sector, including its main social, environmental, economic, institutional, policy and legal features, the way the forest resources are managed, the structure of ownership and government control. Additionally, this analysis includes the legal framework, and it looks at policies and laws related to the forestry sector, and also at the way the government monitors and enforces them.

2. The forestry sector in Cameroon

2.1 The forest resource

In 2000, forests covered 23.8 million Ha or 51.3% of land area in Cameroon. Forest plantations, with only 80,000 Ha of plantations play a marginal role on the forestry sector. The annual rate of change in the forest cover between 1990 and 2000 was -0.9 , resulting in an annual net loss of 222,000 Ha during the decade. The total volume of wood in forests is estimated at 3,211 m³ or 135 m³/Ha (FAO, 2003), and the projected timber production for 2004 is around 2 million m³.

Cameroon's forests belong entirely to the tropical forest type, with the tropical moist forest being the most important forest ecosystem. There are three main sub-types related to this ecosystem: plain evergreen forests, plain semi-deciduous forests and mountain forests.

The main commercial species are *ayous* (*Triplochiton scleroxylon*), *sapelli* (*Etandrophragma cylindricum*) and *azobe* (*Lophira alata*). Together with *frake* (*Terminalia superba*) and *iroko* (*Milicia/Chlorophora excelsa*, *Milicia/Chlorophora regia*) they represent 75% of Cameroon's timber production.

The dense forests are concentrated in southern Cameroon and along the coast, while mangroves can be found along the coast of the Guinea Gulf and light acacia forests in the north.

The current network of protected areas covers about 6% of the country's forests. In terms of biodiversity, it is estimated that between 8,000 and 12,000 species are represented in Cameroon's forests, including more than 300 species of mammals and 850 species of birds (MINEF, 2004).

2.2 The main forest products and related trade

The forest products industry in Cameroon counts about 100 operational units. Most of these units are situated close to the largest urban centers, Douala and Yaounde, and close to the forest resources.

With a roundwood production of close to 3 million m³, and roundwood exports of 575,000 m³ in 2000, Cameroon is one of the largest tropical logs producing and exporting countries. Other wood-based export articles are sawnwood, with an export production of 540,000 m³ in 2000, while the export production of wood-based panels reached in the same year 75,000 m³ (FAO, 2003).

A log export ban was introduced in 1999, but was subsequently lifted for about 12 major "promotion" species, in particular the most important commercial species, *ayous* (*Triplochiton scleroxylon*), and *azobe* (*Lophira alata*). However, it did, to a certain degree enhance its rationale: investments in local processing of roundwood. It is estimated that 90% of the forest products exports from Cameroon are processed products.

Wood is the main source of energy in Cameroon. The estimated wood-fuel consumption in 2000 was 9,958 m³ or 77% of the total roundwood consumption (FAO, 2003, a). The main non-wood products are wild fruit, nuts, bushmeat, rattan and medicinal plants.

The forest sector provides between 45,000 and 70,000 jobs and accounts for more than 10% of Cameroon GDP and 12% of the country's exports.

2.3 Forest ownership, management and government control

Forests in Cameroon are almost entirely in state ownership and the Government controls forest management activities. The forest area is classified in permanent forest area (PFA), and non- permanent forest area. The PFA has an extension of 8.9 million Ha, that includes 2.6 million Ha protected areas, 300,000 Ha under community management, and 6 million Ha classified as Forest Management Units (FMU). Each forest management unit must have a management plan within the first 3 years of operation (under a "Provisional Convention"), and the felling cycle is set at 30 years.

Through the Ministry of the Environment and Forests (MINEF), the Government issues forest concessions and annual cutting permits to the industry and use rights to forest communities. So far (Sept 2004), the

Government issued concessions covering 73 FMUs, (for the remaining 26 FMUs concessions planned in state forests are expected to be granted in two stages during 2004 and 2006), about 50 annual cutting permits, and 55 community forests have become operational in Cameroon. (MINEF, 2004).

Forest concessions can span over one or more FMUs, but must not exceed 200,000 ha. Concessionaires are expected to conduct forest inventories and elaborate forest management plans within three years from the allocation of the resource. However, after the first concessions were allocated in 1997, due to delays in the elaboration of the forest management plans and because of short-comings in their examination by MINEF prior to approval, by 2002 only 16 FMPs had been submitted and only two had been approved, and these two were prepared with international assistance. (World Bank/WWF Alliance, 2002).

On non-permanent forestland, one-year permits – which can be renewed twice - are issued for the sale of standing timber (ventes de coupe), covering each up to 2,500 Ha.

Sustainable forest management in the high forest zone is a difficult task that demands capital and high technical competence. Coupled with weak governance structure and law enforcement, this creates a daunting task for sustainable forest management.

The Government has a limited capacity to monitor forestry activities and ensure compliance by forest managers with current legislation. However, since 2002, a trend can be observed towards a higher determination to enforce controls on logging.

2.4 The social and environmental importance of Cameroon's forests

Cameroon's forests play a socially important role with regards to the livelihood of forest dependant people. In addition to the traditional use of non-wood forest products, such as fruit, bush meat and medicinal plants, the emerging community forestry sector opens additional opportunities for forest dependant communities to get involved in forest management and forest products processing. It is estimated that communities could earn 20 times as much from the sale of sawnwood than from the sale of standing trees to loggers (Brown, 2002).

The lack of appropriate forest management and use is keeping rural communities in extreme poverty. Newer policy and regulatory developments created the potential for forest-based communities to get more actively involved in the use of the forests, and generate forest-based revenue.

However, due to the high capital investment needed the development of a strong community forestry sector will depend on several factors such as land tenure safety and the availability of capital investment and capacity building to forest-dependant communities.

Forests play an important livelihoods role because they are the source of bush meat. Hunting is an issue that the Government seems not to have under its control. Bush meat is the source of food for many inhabitants of rural areas and the source of income for many hunters. Its commercialisation is linked with log transport, as many trucks transporting logs to processing mills also transport bush meat to urban areas. It is estimated that 78,000 metric tons of bush meat is harvested annually in Cameroon. (Wilkie and Carpenter, 1998, quoted in World Bank/WWF Alliance, 2002).

On the environmental side, Cameroon is a highly biodiverse country, and most of the biodiversity is linked with forest ecosystems.

2.5 The economic impact of forests

From an economic perspective, Cameroon's forests play an important role at local, regional and national level. At local level, forests play an increasingly important role through the development of a community forestry sector, facilitated by the legal framework and until recently promoted by international donor agencies, such as DFID (UK).

At national level, Government revenue from direct taxes levied from the forestry sector, summed up to 33 million USD in 2000/2001, with the main taxes being the Felling Tax, the Annual Royalty for a Concession, the Sawmill Entry Tax (referring to logs entering processing units), income from resale of confiscated timber (resulting mainly from illegal logging), penalties, surcharge on log exports, tax on export of processed products, and log export duty (World Bank/WWF Alliance, 2002). Total penalties collected between 2001 and 2004 amount to about CFA 916,000,000, with losses as a result of out-of-court settlements of CFA 549,000,000. In addition there are CFA 3,342,000,000 in outstanding penalties not yet collected.

It is estimated that the Cameroon Government is losing between 5 and 10 million USD/year in revenue from the felling tax alone due to illegal activities. (World Bank/WWF Alliance, 2002)

Forests are important in Cameroon as a potential source of revenue for many rural communities. Through community forestry the incomes of rural communities could increase many times as a result of their involvement in forest management of the allocated resources.

In terms of exports, forest products account for 27% of Cameroon's export earnings (WorldBank/WWF Alliance, 2002). The main export products are logs, sawn wood, veneer, and plywood, and the main destinies for Cameroon forest products export are China and the European Union (Italy, Spain, France, the Netherlands, Portugal, Germany, Greece, Belgium and the United Kingdom).

3. The policy and legal framework

3.1 The main stakeholder groups

An analysis of the main stakeholder groups in Cameroon must consider both the local and the national level, as two distinct, and partially overlapping groups.

At national level, the most important stakeholder groups are the Government, as the owner of the forest resource base; the private sector, represented through three Professional Associations of Forest Extraction Companies, (representing international, national, and national young entrepreneurs' interests, respectively: Groupement de la Filière de Bois Camerounaise, Syndicat des Exploitants Forestiers du Cameroun and le Syndicat des Jeunes Exploitants forestiers du Cameroun); the local communities that are represented in the National Assembly; and the civil society, including NGOs and universities. An additional stakeholder group that has been very active in shaping the policy and legal framework during the last decade is the international donor community, acting through organisations such as the World Bank, the European Union, FAO, UNDP, IMF; iNGOs such as IUCN, WWF and Global Witness, and national overseas development agencies such as DFID, GTZ, AFD, CIDA/ACDI and SNV.

At the local level the most important stakeholder groups are the administrations at district and sub-district level, while the business sector is represented through individual processing companies, concessionaires and loggers. Local communities are also active at this level through Local administrations and village chiefs. The civil society is not well organised at the local level, for example, NGOs do not play an important role at this level. The international community is present also at local level through individual donor-driven projects and their management teams.

3.2 The forest policy

The development and enforcement of forest policy is one of the main tasks of the Ministry of the Environment and Forests, MINEF. Three divisions within MINEF are related to the management of the forest resources: one covers forest management and inventory, another one is responsible for wood industry and the third one for wildlife. A separate office within MINEF, the Central Control Unit assisted by an independent observer (Global Witness) is responsible for improving transparency and dealing with the compliance of the forest industry with the law and respective regulations in general, and illegal logging and corruption, and it reports directly to the minister.

Forest management planning and inventory in concessions is the responsibility of Sous-Direction d'Inventaires et Aménagement Forestier (SDIAFF; the Sub-Directorate of Forest Inventories and Management) .

In December 2004, the institutional framework governing the forestry sector has changed, and the Ministry for Forests and Fauna was created to

elaborate, implement and evaluate Cameroon's policy on forests and fauna. This ministry will take over the responsibility for the forestry sector from MINEF during 2005.

During 2002 an institutional review was conducted aiming at defining a better institutional setting for the management of the forestry sector. This review, titled "Revue Institutionnelle du Secteur Forestier, funded by the World Bank, was carried out by Institutions et Développement (I&D). It identified five main groups of functions that relate to the management of the forestry sector:

- Policy formulation and implementation
- Regulation (legislation)
- Planning and resource allocation
- Monitoring and control
- Programme and project development and management

The findings of this review are being incorporated in the efforts of the Government aimed at reshaping forest policy and its implementation, and the associated institutional framework.

According to MINEF, the main forestry policy objectives in Cameroon are to:

- Define clearly the forest areas to be used for multiple purposes, production areas and also completely protected areas
- Guarantee a genuine protection of ecosystems that are representative for Cameroon's biodiversity
- Guarantee the elaboration and implementation of forest management plans that ensure at the same sustainable forest management and sustained supply of forest industries and local markets
- Involve people living in or close to forests in the management of the forest resources and their conservation
- Promote the industrialization and the development of local professional capacity
- Simplify taxation and increase the contribution of the forestry sector to the GNP, ensuring transparency and strengthening good governance
- Follow up on the implementation of international commitments of the country with regards to management and conservation (ITTO, AFLEG, ATO, IUCN, etc. (MINEF, 2004)

In order to achieve its policy objectives, with the support of external partners, the Cameroon Government is developing a Sector Programme for Forests and Environment (PSFE). This programme has three main objectives:

- The development of a coherent framework for all activities that contribute to achieving the objectives of the country's forestry and wildlife policy
- Strengthening the capacity of national institutions to implement forest policy
- Support the private sector and its efforts aimed at implementing sustainable forest management, taking into account ecological, economic and social aspects.

The 1994 Forest Law allowed the development of community forestry in Cameroon. The initiative that led to this reform came from external partners, such as the World Bank, in spite of the fact that the forestry sector in Cameroon lacked a tradition in community ownership and community-based management of the forest resources. This was based on the assumption that the weakness of land tenure is one of the main barriers to improved forest management. Hence a moderate land-reform, involving local communities as users of the forest resource would allow them to develop a sense of ownership that would lead to an increased interest in participating in forest management activities and ensuring the sustainable use of the forest resources.

When it comes to community forestry, the Forest Law from 1994 could only be implemented in 1998, after the publication of a manual of community forestry procedures developed through a consultative process (ODI, 2002). This process continued within the framework of a DFID-funded project, which generated a set of manuals and related training, as well as a review of the Manual of Procedures.

Local communities were given the right to manage up to 5,000 Ha of forests on a 25 year rotation, according to a simple forest management plan. To date, (September 2004), the Government approved 55 community forests. It is estimated that the average community forest yields 5-10m³/Ha/year, which results in a total of up to 35,000 m³ of roundwood. While acknowledging that this figure is derived from the average yield of industrialized timber extraction, and considering that communities should aim to promote a diversified use of the forest resources, including not only timber, but also NTFPs, agroforestry, etc., it opens opportunities for communities, even if the initial investment in a forest management plan, estimated at 4-5,000 USD is a high initial investment cost for communities. (Fomete, 2002)

The emerging community forestry sector as a new institutional arrangement is one way of decentralizing forest management and establishing a tenurial right over the resource that takes into account the livelihood of communities living in or close to forests, in a country where the central Government has only limited capacity to manage the forest sector and enforce legislation.

The progress in introducing community forestry was slow, but community forestry is becoming well established in Cameroon, and demand is growing.

However, the lack of technical and management services is an important constraint on the pace of change when it comes to the uptake of community forestry. International donor agencies have attempted to overcome this obstacle by developing and conducting projects aimed at increasing the capacity of the civil society to participate in forest management (Brown, 2002).

In its relationships with other stakeholder groups involved in the management of forest resources, the Government has only a limited capacity to enforce legislation, and this constitutes an important obstacle to achieving sustainable management of the forest resources.

An example of the difficulties the Government is facing in enforcing legislation is the payment of the fines for forest law infractions. While fines are documented, there is little evidence that they are actually being paid, the main reason being that the system for paying fines allows for negotiation between the Government and the alleged offender. If the parties cannot reach an agreement they go to court. Generally the system is not transparent and the details of the fine processing process are difficult to find. (World Bank/WWF Alliance, 2002). As described later in this study, work on improving the payment of fines, through confidence-building measures to be more transparent about publication of fines levied and collected, is starting to show positive results.

3.3 The regulatory framework

The main laws that govern the forestry sector in Cameroon are the Forest Law from January 1994, the Presidential Decree 94/436/PM on the application of the Forest Regime (August 1994), associated with the Forest Law from 1994, and the Frame Law on Environmental protection from 1996. Additionally, in 2002, the creation of the *Système Informatique de Gestion d'Information Forestière* (SIGIF; Digitalized Forest Management Information System) plays a supportive role with regards to the implementation of existing legislation, and is considered to be part of the regulatory system.

The Forest Law from 1994 is the result of a politically high-risk strategy of radically overhauling the legislative framework as a means of increasing the efficiency in the forestry sector and promoting community participation in forest management (ODI, 2002).

An additional law that has an important impact on the forestry sector is the Finance Law, which determines on an annual basis the exact tax rates for different taxes that refer to forestry activities (Felling Tax, Annual Royalty for Forest Area, etc.)

The Forest Law from 1994 regulates the relationship between the state and all other stakeholder groups such as concessionaires, private forest owners, communes, forest communities, and industries involved in forest management, harvesting, processing and commercialisation of forest products.

The Law classifies the national forest estate in permanent and non-permanent forests as follows:

Permanent forests:

- *State forests*¹
 - Fauna protection areas
 - National Parks
 - Fauna reserves
 - Hunting interest zones
 - State-owned game ranches
 - State-owned zoos
 - Fauna sanctuaries
 - Buffer zones
 - Forest reserves
 - Integral ecologic reserves
 - Production Forests
 - Protection Forests
 - Recreation forests
 - Forests for education and research
 - Flora sanctuaries
 - Botanical gardens
 - Reforestation areas
- *Communal forests*

Non-permanent forests:

- *National forests*
- *Community forests*
- *Private forests*

The Forest Law refers also to flora and fauna protection, requires environmental impacts assessments for development projects that are likely to affect forest ecosystems, and includes also sanctions for non-compliance with the law. It also regulates silvicultural activities and harvesting of forest products.

With regards to wood products, the Forest Law requires that during a five year transitory period 70% of the production be processed locally, after which log exports should be prohibited. This requirement is currently not implemented as such, given that the log export ban imposed in 1998 was lifted for some 'promotional' species.

The ability of the Government to issue complimentary regulations that allow an adequate implementation of the Forest Law is limited. This resulted for example in the law being ineffective for community forestry until 1998, when a

¹ In this classification, forest categories that require a forest management plan are written in Italics

set of procedures were publicized allowing the approval by MINEF of the first community forests. Similarly, the Forest Law requires that production forests have a forest management plan (FMP) in place after a 3-years period of a 'provisional convention', but the development and approval of FMPs for forest concessions is known to have suffered delays because of the lack of appropriate detailed regulations and human resources at the level of MINEF, the approving body.

Despite financial support from the international donor community the Government has not satisfactorily developed its resources to enforce the Forest Law, which results in a high frequency of illegal acts in the forestry sector, as discussed in detail in Part 4 of the present report.

The work of the Independent Observer has demonstrated that with little if any extra material resources, but with lots of pressure in the form of aid conditionalities, loss of public image, damage to export markets and consumer trust, and (for industry, including the parts of industry which enjoy beneficial ownership from political elites) fines for infractions and litigation actually pursued, there can be a discernable increase in compliance to the rule of law. (Global Witness, 2002, 2003a).

4. Main illegal acts in the forestry sector

Through various measures, such as the use of independent forest monitors and observers, improving capacity of Government agencies to deal with illegal acts, increased transparency on the Government side in dealing with fines issued to forest managers, especially concessionaires, and due to an increased public awareness about forest resources, law enforcement in Cameroon's forestry sector has been improving during the last few years, but many illegal acts are still very common.

A comprehensive analysis of illegal acts requires a clear definition of what illegal acts are in the context of the forestry sector in Cameroon. This goes beyond existing legislation in the forestry sector, which regulates many aspects of forestry activities and involves legislation in other sectors of the economy, that relates also to forestry. Additionally, such an analysis should be part of a coherent framework, including a definition of legality, or a standard for legality in forestry at international level.

In the absence of an international standard for legal compliance in the forestry sector, and of a clear and internationally accepted definition of legality, the present study is not aiming at identifying all possible law infringements that relate to the forestry sector in Cameroon. Its objective is limited at identifying the most common illegal acts prevailing in Cameroon's forestry sector, and analysing their probable causes and contributing factors. The study focuses also on the main conditions that either induce and/or forces illegal activities.

Most of the illegal acts that are being observed in Cameroon are common to many African countries. As part of the proceedings of a workshop held in Douala in March 2003 within the framework of the African Forest Law Enforcement and

Governance Process, a series of illegal acts common to the forestry sector of many African countries was identified.

The most common illegal acts in the forestry sector in African countries are:

- Harvesting outside concession boundaries
- Harvesting without title, including harvesting in protected areas
- Disrespect of management plans with regards to both geographic scope and technical aspects
- Re-cutting on a concession (harvesting more timber than permitted)
- Harvesting of CITES-protected species
- Harvesting below allowed Minimum Exploitable Diameter (MED)
- Working without RIL
- Unlawful transportation of wood
- Non-compliance with regulations on production records / Falsification of documents
- Non-compliance with obligations stipulated in the 'Production Terms and Conditions' ()
- False declaration of timber volumes (WRI, MINEF, 2003)

Referring specifically to Cameroon, illegality starts from the unlawful allocation of concessions and other permits. Despite an auction process for concessions being in place, and independently monitored by a reputable local law/accountancy firm (ODI, 2004), timber resources continue to be allocated in breach of the forest laws. Most recently this happened during the 2004 allocation of Sales of Standing Volumes (Ventes de Coupe), in November 2004. (Global Witness, pers. comm., 2004)

Asked to name the three most important illegal acts in Cameroon, a WWF officer in the country mentioned **harvesting outside concession limits, fraudulent exploitation activities and falsification of cut volumes** (Lusongo, 2004).

A second answer to the same question indicates that "the most common illegal activity is **felling of trees without title, followed by extraction of timber outside of concession boundaries and the fraudulent/irregular use of documents**" (Global Witness, pers. comm., 2004)

4.1 Illegal harvesting and other associated illegal activities

Illegal harvesting is one of the most widely spread illegal acts in the forestry sector in Cameroon. It is a complex phenomenon that takes place under a

variety of circumstances and has several underlying causes. It is estimated that up to 50% of Cameroon's roundwood production is illegal (European Commission, 2004).

Illegal harvesting in Cameroon refers to different types of fraudulent activities, such as:

- Concessionaires harvesting outside the concession area,
- Harvesting within concession areas but above the approved timber volume
- Harvesting of trees that have not reached the MED required for harvesting
- Harvesting of tree species protected under CITES
- Harvesting of tree species for which there is no harvesting permit
- Abuse of existing timber removal permits for covering up illegal logging

Several NGOs, such as the Cameroon-based 'Centre pour l'Environnement et Développement' (CED), and Greenpeace have documented cases of illegal logging in Cameroon during the last three years, naming individual companies that have been found to perform illegal activities.

Information gathered by Global Witness, the independent observer contracted by the Cameroon Government to monitor and report on the implementation of legislation in the forestry sector, documents in over 100 reports, all validated by MINEF and published on their website, illegal harvesting activities during the last three years.

In a report produced by Global Witness, and validated by MINEF, which is based on an analysis of data for the fiscal year of 2002/2003, concerning 58 active concessions that correspond to 76 forestry exploitation titles, as presented in Cameroon's SIGIF, Global Witness reached the conclusion that more than 73.000 m³ of timber - or 30% - has been harvested in excess of the authorized volumes. This includes timber that has been harvested belonging to tree species for which there was no valid cutting permit. (Global Witness, 2004)

The timber exceeding authorized volumes was from species with high economic potential, to the detriment of species with a lower economic potential that are expected to be promoted. Additionally, there are indications that the numbers reported to SIGIF do not reflect the whole extent of harvesting activities.

But illegal harvesting does not involve only forest concessions. It is estimated that approximately 200,000 m³ of timber, representing a significant proportion of domestic consumption, is supplied by illegal logging undertaken by both

the formal sector and through small scale logging by individuals. (World Bank, 2002).

Source: Greenpeace, 2003

Box 1 - Ventes de coupe

“Ventes de coupe” (VC) are titles to log an area of 2,500 hectares in the non-permanent forest estate over a three year period. These logging operations are allocated at auction to the highest bidder, and are often exploited in a highly destructive manner as no management plan is legally required. VC logging titles are widely abused in Cameroon, and the titles are often used to organise illegal logging operations in a much more extensive forest area than is allowed by the legal title. One World Bank financed report revealed that up to 90% of ventes de coupe in Cameroon’s East Province are operated illegally.⁴

The underlying causes of illegal harvesting are lack of proper enforcement of existing forestry legislation by MINEF, resulting from a poor implementation capacity of the public forest administration, lack of transparency in dealing with forest crime, the possibility to negotiate fines with the Government, and lack of accountability within the ranks of public servants, leading to corruption.

Because in order to perform illegal harvesting there must be an access to the forest resource, and the resulting products (logs) need to be placed on the market, additional illegal acts emerge as collateral to illegal logging. These include illegal road building, fraudulent marking of logs, log laundering, commercial hunting of bushmeat, and falsification of transportation documents.

4.2 Wood laundering

During the last few years, auctions organised by the Government for the sale of confiscated wood were used as a pretext for illegal logging and for the laundering of illegally harvested wood. Several such cases have been documented, in which auctions have been misused and authorities colluded with loggers to cover-up illegal harvesting operations. Recently, MINEF issued ‘timber recovery permits’ without any auction involved, as prescribed by the law; and this in spite of the fact that these permits were abolished by the Minister for the Environment and Forests in 1999 because of wide-spread abuse of these authorizations.

The underlying causes of this type of illegal activity is the corruption of some authority officials and the lack of a proper and safe auction system for confiscated wood (Greenpeace, 2004).

4.3 Tax evasion

Tax evasion represents another common illegal activity in the forestry sector in Cameroon. It is intimately linked to illegal harvesting, and generates a significant loss of revenue for the Government. It is estimated that in terms of the Felling Tax alone, the Government loses annually between 5 and 10 million USD, depending on the estimate used for the total log production.

The underlying cause of tax evasions is the lack of appropriate means to enforce fiscal legislation related to the forestry sector, and also corruption resulting in lack of appropriate punishment for tax evasions.

4.4 Hunting

Hunting represents an important activity from the perspective of the Cameroonian forestry sector. While hunting provides the means of subsistence for many people living in and close to forests, commercial hunting is estimated to be high and to a large extent illegal, involving also the logging industry, which facilitates the bush meat transport to urban centers.

Similarly to other Central African countries, the bush meat trade in Cameroon, involves virtually any forest animal, endangered or not, whether it be gorilla, chimpanzee, monkey, pangolin, duiker, antelope, forest cat, crocodile, flying fox, eagle, monitor lizard, elephant, turtle, hippo, snake, or civet.

The Government seems to lack capacity, and also the willingness to regulate hunting, which means that fraudulently acting hunters are almost certain to avoid any punishment.

4.5 Corruption

Corruption represents per se an illegal behaviour, and at the same time it is one of the main contributing factors for other illegal acts in the forestry sector. According to Contreras (2002), corruption is one of the prominent illegal acts in the forestry sector. There are many interpretations and definitions of what constitutes corruption. The position of the UN Convention against Corruption adopted by the UN General Assembly in October 2003 and signed in December 2003 is reflected in Box 2.

Box 2. Definition of corruption according to the UN Convention against Corruption

Source: UN Office on Drugs and Crime

• Does the Convention define corruption?

The Convention has taken the approach that a comprehensive definition of corruption was neither necessary nor feasible. Corruption is a fluid concept, signifying different things to different people. More importantly, it is an evolving concept. The Convention is designed to function in a global environment and is geared towards the future. In light of those objectives, and in view of the multifaceted nature of the phenomenon and the consequent difficulty of constructing a legal definition, the Convention adopted a descriptive approach, covering various forms of corruption that exist now, but also enabling States to deal with other forms that may emerge.

Legal compliance in the forestry sector depends to a large extent on good governance. In most cases where illegal activities constitute a problem for the forest sector, governance in general, and particularly governance in the forestry sector is poor.

According to Transparency International (TI), Cameroon is one of the countries where corruption is one of the dominant features in governance. In the Corruption Perception Index for 2003, released by TI, Cameroon is ranked 126 out of 133 surveyed countries, with a Corruption Perception Index of 1.8 (on a scale from 1 to 10, where 10 represents no corruption or “highly clean” conditions and 0 is the poorest score, representing “highly corrupt” conditions) (Transparency International, 2004).

Surveys conducted in Cameroon on behalf of Transparency International indicate that 70.8% of the interviewed Cameroonians consider that corruption has a very significant impact on the business environment in their country.

According to TI surveys conducted at global level, corruption affects more the livelihood of poor individuals than the livelihood of better-off individuals. Two out of five respondents on a low income consider that corruption has a very significant effect on their personal and family life, while in the case of respondents on a high income the same answer came from one out of four respondents (Transparency International, 2004).

In a critique of community forestry in Cameroon, Karsenty (1999) describes a loss of Government legitimacy in the eyes of local communities as a result of corruption, which further leads to people taking matters into their own hands rather than following the rule of law.

4.6 Illegal acts in Cameroon’s forestry: causes and contributing forces

A framework analysis of illegal acts in the forestry sector and its contributing causes must consider the fact that a forest sector plagued by illegal acts is the result of interactions between different factors, and that none of these factors is likely to be sufficient to generate conditions that could be favourable to the propagation of illegal acts.

On a general level, the main underlying factors that facilitate illegal actions in the forest sector are (Contreras, 2002):

- A faulty legal system
- Insufficient knowledge and poor knowledge management
- Excessive discretionary powers in the public and private sectors
- Poor implementation capacity of the public forest administration and enforcement agencies and
- Lack of transparency

Corruption might be considered as an additional underlying cause, although it constitutes *per se* an illegal act. (See 4.3)

Considering the framework analysis of underlying causes of illegal acts developed by Contreras (2002), the situation in Cameroon could be described as follows.

4.6.1 Failures of the law

The Forest Law from 1994 was not followed promptly by subsidiary legislation aimed at regulating the details of activities considered at a general level through the law itself. As an example, while the law allowed for the development of community forestry, the associated implementation guidelines were published after four years, in 1998. The low capacity of the Government to issue promptly follow-up legislation is an obstacle to the full implementation of legislation in the forestry sector.

Additionally, the Forest Law from 1994 is a very comprehensive document, dealing with many issues. In addition to forestry, it deals also with a wide variety of issues, such as hunting, hunting weapons, fishing, aquaculture, and sanitary inspection and control in fishery.

The penalties for activities that contravene the Forest Law are not imposed by MINEF seriously but – following the provisions of the 2003 Financial Law – negotiated, often to a very low level, with the consequence that they do not provide a sufficiently strong disincentive for illegal activities, compared with the potential benefits of such illegal activities.

There is a conflict between the Forest Law of 1994 and the Financial Law of 2003, in that both are dealing with perpetrators of the forest law and regulations: the provisions of the Financial Law of 2003 applied to illegal activities by MINEF neglect the provisions of the Forest Law concerning illegal activities, which stipulate the involvement of the judiciary system (both, the penal and the administrative court). The purpose seems to be to generate revenues through the fining of illegal activities, rather than to enforce the law in order to efficiently combat illegality in the forest sector.

4.6.2 Insufficient knowledge and inadequate knowledge management

There is evidence that official statistics do not capture the attributes of the forest resources and the true levels of production, which results in a significant proportion of log production, between 50 and 65%, to remain unmonitored. Similarly, the information about log transport throughout the country is scarce. In its conclusions from the SIGIF analysis, the Independent Observer lists a number of weaknesses in data collection and inventory skills, and recommends litigation where there is clear evidence of illegality. (Global Witness Cameroon, 2004)

There are few statistics on bush meat production and trade. It is estimated that the value of the bush meat production can be even greater than the value of timber production. However, this aspect is not considered in management planning or in the control and monitoring of forest production. (World Bank/WWF Alliance, 2002).

4.6.3 Poor implementation capacity of the public forest administration and enforcement agencies

Regulation in the forestry sector in Cameroon is ineffective. This is perhaps the most important single contributing factor of illegal activities. The Government has only limited capacity to supervise, monitor and control the implementation of regulations in the forestry sector. The allocation of forestry concessions has taken much more time to implement than originally estimated, and has not been finalised as of September 2004. Additionally there is evidence that within MINEF, different departments are not working together as a whole in order to fulfil their law enforcement function (Global Witness, 2003, a).

Similarly, the Government has a limited capacity to collect taxes from the forestry sector. The critical taxes, upon which the Government is increasingly reliant as a means for raising revenue for forestry sector investment are the Annual Royalty for Forest area, for which the collection is satisfactory (a commercial bank must provide a guarantee of payment), and the Felling Tax, for which the collection rate is poor, mainly because difficulties in tax collection and under declaration of harvesting levels (World Bank/WWF Alliance, 2002).

4.6.4 Lack of transparency

Lack of transparency is related to another set of factors that contribute to the occurrence of illegal acts in the forestry sector, which is excessive discretionary power in the public sector and monopoly power in the private sector (Contreras, 2002). Lack of transparency leads inevitably to low accountability.

In Cameroon's forestry sector, these factors, especially the lack of transparency is related to the allocation of forest concessions and the processing and recovery of fines. While an independent observer of concessions allocations produced good results between 1999 and 2002, problems still remain with regards to allocations outside concessions, such as Ventes de Coupe and Timber Recovery Permits.

From time to time, the Government publishes a list of breaches of the forest law. This activity used to occur only sporadically, without its timing being a clear and transparent act (Global Witness, 2003, a). However more recently, MINEF has been obliged to publish this information every six months, under a conditionality relating to debt relief (see <http://www.minef.cm/>). Further analysis by the Independent Observer is planned in order to pinpoint systemic problems within the ministry or other relevant government agents (Global Witness, pers. comm.). This is a clear indicator that transparency does not require significant material resources, and need not be damaging to the government. On the contrary, it can build public trust by showing a genuine attempt to combat illegality.

4.6.5 Other contributing factors

From the perspective of underlying causes of illegal activities in the forestry sector the situation in Cameroon reveals similarities with many other African countries. Some of the main drivers and contributing factors are:

- Inadequate laws
- Poor land-use planning
- Inadequate taxation
- Breach of trust and corruption
- Incompetence
- Insider dealing
- Eco-business
- Dogmatism
- Personalization
- Representativeness
- Demand for agricultural land
- Illegal felling
- Commercial hunting (WRI, MINEF, 2003)

Many of these factors, have been described under 4.5 as direct causes of illegal acts in the Cameroon forestry sector, others like insider dealing, eco-business, personalization and dogmatism could be considered contributing factors that are in one way or another related to the main causes of illegal acts.

5. Corrective measures planned or adopted

During the last few years, with the support of international aid agencies, the Cameroon Government has developed and implemented a series of measures aimed at increasing transparency, detecting and penalizing illegal acts, and monitoring closely timber production and related flows through the chain of custody.

5.1 The institutional setting

Some of the measures adopted to tackle illegal acts in the Cameroon forestry sector are related to how Government institutions process information and make decisions with regards to the implementation of specific legislation.

In this regard, the Cameroon Government implemented some important changes relating to forest law enforcement, such as the creation of the Unité Centrale de Contrôle (UCC, Central Control Unit), reporting directly to the minister and assisted by an external assistance provider, whose services were established through a contractual agreement between the Government of Cameroon and the SGS Group.

The activities of the Central Control Unit, enhanced by the collaboration with the SGS Group, are complemented and reinforced by the achievements of the Log Export Verification Programme described below. This service is contracted to the

SGS Group, and aimed at demonstrating that log exports from Cameroon are legally sourced and produced.

The intention was for a contracted verification body (SGS Group) to assist MINEF to establish and operate a separate Government Unit responsible for controlling log flows from the forest up to ports and processing mills throughout the production chain.

Activities that were planned within the framework of this log tracking project include the identification of logs and stumps with bar-coded tags, the monitoring of log production and transport through spot checks at key points, the development and piloting of a computerized system and auditing program to control log supplies to processing mills, estimate the amount of felling and supply taxes due by industry and monitor processing quotas, periodic reporting, and also training to logging companies and transfer of technology. Box 3 presents a detailed description of project activities foreseen as part of the collaboration between the Cameroon Government and SGS on log tracking.

MINEF is in charge of field-work with the support of SGS, with the option of granting SGS a more active and independent role in field work in the future.

As part of the 'log tracking' project, SGS is assisting MINEF to establish and operate a separate government unit responsible for controlling log flows from forest sources (log ponds initially, then from stumps) up to ports and processing mills throughout the production chain.

The project includes the following activities:

- identify all logs/stumps with bar-coded tags allocated to legitimate logging companies according to agreed cut volumes;
- monitor log production and movements as declared by the logging companies (barcode No. used on regulatory declarations; crosschecking with utilization of the tags) and verified from spot checks including Government control on log yards and roadside and SGS's inspections at ports; manage central database;
- carry out further field checks independently*;
- pilot a computerized system and continuous auditing program to control log supplies to processing mills;
- estimate the amount of felling and supply taxes due by industry and monitor processing quotas;
- issue monthly/quarterly reports and statistics;
- provide training to logging companies and PSRF* units and organize the 'transfer of technology'.

The project is complementing/reinforcing the log export monitoring program run by SGS on behalf of MINEFI since 1994, and could be seen as the second step in a modular approach to demonstrating that log exports from Cameroon are legally sourced and produced.

(*) Field investigation is the responsibility of the joint MINEF/MINEFI PSRF ('Programme de Sécurisation des Recettes Forestières') units operating at checkpoints and mills and of the CCU (Central Control Unit) of MINEF (supplemented by the Independent Observer) in the forest. Note: field checks independently carried out or witnessed by SGS are given limited operating means initially and could be enhanced in future.

An additional initiative with implications for law compliance in the forestry sector is the collaboration between the Ministry of Finance of Cameroon and SGS on a Log Export Verification Project. This project aims at verifying all log exports from the ports of Cameroon. Volume and species declarations made by exporters are checked against a sample of independent inspections. Based upon the taxable value determined by SGS, the tax payable is adjusted as necessary and the logs can be shipped. SGS has controlled and monitored between 0.1 - 2 million m³ of logs exported each year from Cameroon since 1994.

SGS provides a comprehensive service package to the Government of Cameroon, thereby increasing its log export revenues and repatriated foreign currency by an estimated 30%. Services include the following activities:

- Project management
- Liaison with government and exporters
- Development of inspection procedures
- Design of information systems

- Inspection of logs and reconciliation with export declarations
- Training SGS inspectors and Customs officers in species identification and quantity inspection of logs
- Information on international log markets
- Reporting to government
- System auditing

5.2 The Independent Observer

The history of the Independent Observer as institutional arrangement aimed at improving law compliance in the forestry sector in Cameroon goes back to 1999, when an independent observer was appointed to work with the Cameroon Inter-Ministrial Committee for the allocation of forest concessions. This initiative was a conditionality for structural adjustment and it involved two local legal and accountancy companies, hired to increase the rigor and objectivity in the screening of incoming tenders for forest concessions.

Later on, in 2001, in recognition of the fact that illegal activities posed a serious problem to Cameroon, upon the initiative of the Cameroon Government, the project of “Independent Observation in support of Law Enforcement” was launched. Within the framework of this project, two (mainly donor-funded) contracts were awarded to Global Witness for the monitoring of law enforcement in forest operations, and Global Forest Watch for developing satellite image based maps and detailed descriptions of all concessions in Cameroon. The objective of both contracts was to provide authoritative information with regards to how the industry complied with the law and regulations governing the forestry sector, and the respect of forest management plans. (ODI, 2004)

Global Witness, an international NGO, was appointed as Independent Observer (IO) in 2001. In November 2002 and October 2003, Global Witness published summary reports including its findings, and presenting a detailed list of recommendations to the Cameroon Government since December 2001.

The Independent Observer (IO) works closely with different units of the Cameroon Ministry for the Environment and Forestry (MINEF). It prepares and carries out missions and follow-up actions. A Reading Committee reviews all field reports of the IO documenting its findings of forest activities. In order to increase the transparency of the process, aimed at promoting law enforcement in the forestry sector, the reports produced by the Independent Observer are placed on the Global Witness’ website, while the reports to be produced by law enforcement services at MINEF should serve the administrative and judicial procedures initiated.

Recommendations of the Independent Observer relate to the planning and implementation of field missions. Civil society gets access to information given by the IO who secures transparency with regards to cases in process. The development and implementation of a “Case Tracking System” will provide an efficient monitoring system for the Cameroonian government related to observed illegal activities. A “Legal Guide for the Control of Forest Activities in Cameroon” was published and distributed in 2003 and it is widely used by the forest administration throughout Cameroon.

5.3 Other initiatives aimed at dealing with illegal activities

5.3.1 Certification

While forest management certification is not a tool designed specifically to address legal compliance in the forestry sector, through the implementation of certification initiatives and the development of certification standards, there are opportunities to address legal compliance as part of certification standards.

A working group aimed at developing certification standards exists in Cameroon since 1998. However, progress towards the accreditation of this working group by FSC was slow, and the draft standards produced in 1999 have not yet obtain recognition at international level.

To date, there are no FSC certificates for forest management or chain of custody in Cameroon.

5.3.2 Criteria and Indicators for SFM

The Cameroon Government participated in regional initiatives for the development of Criteria and Indicators for SFM, in the framework of ITTO/ATO. However, the impact of these initiatives on legal compliance is extremely weak, mainly due to the limitations of Criteria and Indicators for SFM when it comes to legal compliance.

5.3.3 Transparency in reporting about illegal compliance

In addition to attempts to improve the institutional setting, in conjunction to the use of independent observers, the Government improved reporting to stakeholders about illegal acts, and published several times lists with companies that have been committing illegal acts and which have been fined.

However, additional measures are necessary in order to ensure a timely response of the Government to illegal acts, more transparency in reporting, and the proper implementation of existing procedures by Government officials.

6. Effectiveness of adopted measures

While illegal acts continue to represent a major problem for the forestry sector in Cameroon, the Government took several actions during the last five years to tackle illegal acts.

The transition towards a concessions system succeeded to a certain extent in limiting the liability of the state with regards to illegal acts in the forestry sector and it allowed the Government to hold the corporate sector responsible for the occurrence of illegal acts. However, this does not mean that the concessions system managed to improve significantly legal compliance in the forestry sector. Given the economic power of concession operators, especially of the larger operators, the limited capacity of the Government to enforce regulations, and the collusion between concession operations and government officials at different levels, eradicating illegal

acts through the development of the concessions system alone seems to be a goal that is hard to achieve.

Institutional changes so far have not been able to improve significantly legal compliance, although some progress was made through the creation of a separate unit within MINEF to deal with law enforcement. The fact that this unit is assisted by an independent observer adds to its credibility.

The use of independent observers for the implementation of legal requirements in the forestry sector and along the chain of custody has managed to improve transparency, in spite of the problems reported by the independent observers, such as lack of full implementation by Government of existing procedures, lack of full access to relevant documentation by the IO, slowness in solving known cases of illegal activities, coordination of different areas within MINEF, etc. The independent observers reported constantly that they faced difficulties in accessing information that is necessary for fulfilling their mission and contractual agreements, in preparing and implementing field missions, and in reporting about their findings.

The emergence of community forestry also helped internalise some of the costs of past forest management practices offering more attention to local populations and their legal and/or customary rights deriving from the use of forest resources. However, a clear future impact of community forestry on the quality of forest management and on the incidence of illegal acts relies upon the future development of this sector, which is highly dependant on the right understanding of the concept of a Community Forest by the concerned populations, initial investments in 'Simple management plans' and processing capacity at the level of individual community operations, and also on the sense of ownership communities will manage to develop with regards to the forest resource.

While the initiatives taken so far, such as legal and institutional reform, independent observers, improved transparency, increased rigor towards law infringements, transition towards a concessions regime, and the development of community forestry have managed to raise awareness about illegal activities in the forestry sector, improve legal compliance to a certain extent, it seems that their effectiveness could benefit from a more coherent approach to legal compliance, that involves a coordinated effort in all areas that can contribute to a better implementation of current legal requirements.

An international mechanism that could help improve legal compliance at the level of the forest sector in individual nations is the development of a set of generic international standards for legal compliance, linked to more general standards for sustainable forest management, followed by open and participatory processes aimed at adapting these standard to local conditions, their implementation by all major stakeholder groups involved in the forestry sector, and the independent, third party verification of compliance with these standards by professional bodies.

The lessons learnt and the activities undertaken in Cameroon in tackling illegal acts in the forestry sector can be applied in other countries where legal compliance must be improved. However, depending on the local conditions in other countries, the experience of Cameroon in addressing legal compliance can be used to improve the institutional settings and mechanisms in order to achieve better results. This

experience shows that once the problem is identified, a coherent approach is needed to design the set of specific measures aimed at improving gradually legal compliance in the forestry sector.

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