

Making the Forest Sector
Transparent

Annual Transparency Report 2010

Country Specific Report: **Cameroon**



Prepared by the Centre pour l'Environnement et
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Global Witness is a UK-based non-governmental organisation which investigates and campaigns to prevent natural resource-related conflict and corruption and associated environmental and human rights abuses. Through the *Making the Forest Sector Transparent* programme, Global Witness supports civil society organisations and campaigners in a group of forest-rich countries in Africa and Latin America to promote good governance and expose illegal and corrupt practices in the forest sector.

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Cover photo: Dwellings of Bakasforest people in Cameroon. Photo: CED

The Centre pour l'Environnement et le Développement (CED) advocates for a non-violent transformation approach to conflicts relating to access and usage of space and resources. The organisations' mission is to contribute to the protection of the rights, interests, culture and aspirations of local communities and natives of the forests of Central Africa, through the promotion of environmental justice and the sustainable management of natural resources in the region. CED was established in 1994 in reaction to a significant increase in industrial logging and the expansion of illegal forestry activity.



Making the Forest Sector Transparent is supporting CED and others in pressing for greater participation in policy formulation, in particular concerning the Voluntary Partnership Agreement (VPA) with the European Union and Reducing Emissions from Deforestation and Forest Degradation (REDD), and for transparency regarding: the allocation of forest titles/permits; production, processing and exportation; management plans; environmental impacts; service charters; forest royalties; legality assurance systems; and sanctions, litigation and out-of-court settlements.

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Introduction

This Country-Specific Report 2010 for Cameroon is a component of the annual report cards collected for the *Making the Forest Sector Transparent* project, which in 2010 included the following partners: Sustainable Developed Institute (Liberia); Centre for Indigenous Knowledge and Organisational Development (Ghana); Centre pour l'Environnement et le Développement (Cameroon); Derecho Ambiente y Recursos Naturales (Perú) and Grupo FARO (Ecuador). The project is being coordinated by Global Witness (UK). Further partners are expected to join the project in 2011. The full report and results of the 2010 report cards in all five countries can be found at www.foresttransparency.info, including the Cameroon specific section at www.foresttransparency.info/cameroon/. The first report cards were collected in 2009, and they will be refined in coming years as a tool for monitoring transparency in forest governance.

This report was prepared by the Centre pour l'Environnement et le Développement in Cameroon. It outlines the methodology applied to collect data, and then presents an analysis of the main findings and sets out conclusions and recommendations with the aim of increasing transparency in the Cameroonian forest sector. The research and assessment were carried out up to December 2010 and the text was finalised in August 2011.

Methodology

The main approach applied in Cameroon was field assessments conducted by local NGOs of the availability and accessibility of information relating to the indicators. The data collection was organised around a 78 question survey form combining open and closed questions. Four regions of the country were covered in 2010 (the South, the East, the Centre and the South-west), whereas only two were

included in 2009 (the South and the East). The additional regions were chosen to reflect the variety of forested areas in Cameroon. Local NGOs played a greater part in 2010, whereas in 2009 consultants were more involved. The NGOs underwent training on the methodology, and consultants only assisted with guidance on the translation of questions.

The field data was collected over three months through either workshops or interviews. The NGOs in the Centre and South regions (Djoum, Campo, Ma'an, Kribi and Yaoundé) interviewed about 50 respondents including mayors, village chiefs, forest agents, youth, women, indigenous people and representatives of forest user groups. At least three interviewees answered each question so that the reliability of their responses could be checked. In the East and South-west regions, three workshops were held in Yokadouma and Kumba with on average 40 participants in each from different backgrounds including vulnerable groups, forest administrations, NGO representatives and local elites. Each question was debated and answered during the meetings.

A data synthesis process followed whereby each of the four NGOs produced a comprehensive completed questionnaire based on their fieldwork, which were then combined to generate one overall dataset for Cameroon. Most answers were consistent across the regions, and any variations were investigated. Desk research on internet was carried out to complement and further cross-check answers to questions. This analysis aimed at highlighting key findings that impact on transparency in the forest sector in Cameroon. In a separate exercise, a gap analysis of the availability of information on the sector and the requirements of the VPA was carried out, which found that much of the information is not yet public and accessible. Regular assessments are planned as part of civil society's contribution to monitoring the implementation of the VPA.

Analysis

Legal framework and transparency

The right to information is clearly recognised by international conventions ratified by Cameroon, as well as in the Constitution and in the Freedom of Social Communication Law 1990 (which ensures freedom of access to all administrative documents, except if they have been expressly classified as confidential). Despite this, the fieldwork in both years found that communities struggled to obtain information from public authorities due to the lack of legal processes setting out the ways that their rights should be implemented. Various barriers were noted, including:

- Uncertainty as to the status of whether some documents are confidential or not. If in doubt, officers can be reluctant to distribute them
- Archiving failures, which have rendered some documents inaccessible, even when officers are willing to make them available
- Lack of mechanisms aimed at centralising and distributing non-confidential information, including to grassroots communities

The most notable change within the legal framework in 2010 was initialling of a VPA with the EU for the enforcement of forest regulations, governance, and timber and timber-related product trade. The VPA sets out the regulatory requirements for independent oversight in terms of legality, auditing and traceability of all shipments from the production site to their delivery on marketplaces in Cameroon or in Europe. It has the potential to consolidate on-going reforms and build the capacities of the various Cameroonian stakeholders involved in forest management. In the VPA, the Government of Cameroon commits to promoting transparency and information sharing in the forest sector, including in the legislation and regulations relating to the sector, data regarding logging rights allocation and contracts, production, processing and export statistics, sector revenues, and audit and oversight processes. The first Forest Law Enforcement, Governance and Trade (FLEGT) authorisations under the VPA are expected in 2012.

Access to the Decision-Making Process

The 1994 Forest Law and its implementing decrees do not make specific provision for consultation and local consent on forest management, but the 1996 Framework Law on Environmental Management specifies that local stakeholders must be consulted. Although this indicates that stakeholders and communities at various levels should be involved in processes such as forest classification, preparation of concession and protected area development plans, preparation and validation of environmental impact assessments, the opportunities for civil society participation has tended to be marginal and often seen as window-dressing to validate government decisions.

There have been recent improvements. As part of commitments made during the Conference of the Ecosystems of the Dense Rainforests of Central Africa (CEFDHAC), and in accordance with the Forest and Environment Sector Programme (FESP), the Government institutionalised a National Forest Forum which took place for the first time in March 2010 with around a thousand participants debating various issues on forest governance and management (two previous meetings were held under the framework of FESP but were not specific national forums). The institutionalisation of the Forum through steering committees is hoped to promote consistency in its future planning.

There are no forest forums at a local level. However, there are “embryonic” versions which enable non-state stakeholders to access the decision-making process locally. These include local platforms (at district or “arrondissement” level, for example in Djoum, Bipindi, Mbang), which involve all forest managements stakeholders (local authorities, town halls, logging companies, NGOs and community representatives), or model forests (in Campo-Ma’an and in Lomié). Although they are useful for information sharing among the considered regions, they remain restricted in terms of the geographic areas covered and have limited local impact in practice because of operating difficulties.

Finally, the Joint Management Committee of Forest Royalties is a local multi-stakeholder consultation framework, which is in principle dedicated to the use of decentralised forest royalties for local development funding purposes. However, the effectiveness of this framework remains questionable.

Overall, in terms of access to decision-making processes, the Ministry of Forests and Wildlife (MINFOF – Ministère des Forêts et de la Faune) has set up mechanisms in order to involve various stakeholders in the key processes it has implemented over the last few years such as the VPA and the review of forest law. MINFOF has instigated these mechanisms either on its own initiative, or as the result of an urgent request from various civil society stakeholders. The involvement of stakeholders who are external to the ministry and forest-management related processes is increasing – this means that MINFOF is among the leading Cameroonian public services in this respect. Yet, major challenges still need to be tackled in order to ensure full and complete involvement of neighbouring communities, including through the recognition of the FPIC principle, as well of other key stakeholders.

Tenure and land use

One of the key challenges is the major discrepancies between written laws and customs for vital matters such as the ownership or usage regimes in relation to forests, which leads to many conflicts and misunderstandings between communities and other stakeholders in the forest area.

Cameroon's forests come under two tenure categories. Firstly, there are forests which belong to a stakeholder (state forests, communal forests belonging to municipalities, and forests belonging to private individuals), and secondly, those that are public property, on which no land title has been established (most of the land that is part of the non-permanent forest domain). In general, the forest resource tenure regime is the same as the land tenure regime, with two notable exceptions: (i) forested land belonging to private individuals, where the trees are the property of the state if the

landowner cannot establish that he or she planted them; and (ii) community forests whereby, though they do not own the land, communities enjoy the ownership of the resources. The state owns resources found in non-permanent forests. This distribution is dictated by law; however it is not in line with customary rights, under which communities own all of the forests and resources within their territory. The discrepancies between law and customs regarding matters of ownership and usage have led to misunderstandings, and even on-going conflicts.

The zoning map shows how forest areas have been allocated into forests within the permanent domain, which includes lands in Forest Management Units (FMUs) where long-term logging concessions are allocated and lands in protected reserves, and the non-permanent forest domain where other forest uses are permitted and logging rights are granted on smaller areas through systems such as the sale of standing volume, timber recovery permits (TRPs) and timber recovery authorisations (TRAs). Areas of permanent forest can be downgraded to non-permanent provided that an equivalent non-permanent forest, in terms of size and biodiversity within the same ecological area, is established as a permanent. However, no forest cadastre lists both all types of ownership and all forests for which logging rights have been granted. TRPs and TRAs do not feature on current mapping documents, although they are the main drivers for illegal logging in Cameroon.

Whilst forest planning has become more common within forest concessions, and some of those concessions are starting to become certified, illegal logging continues particularly within “small titles”. In 2009 it was anticipated that small area permits would be opened to auction, but this did not take place in 2010. Small titles are often used as justification for the establishment of large agricultural facilities, road building, or other development projects that lead to forest destruction. However, small titles are very often grounded on ‘fake’ development projects, which never happen once the timber has been logged. The prospect of the VPA implementation between Cameroon and the EU will hopefully contribute to cleaning up those methods of access to timber resources which enable illegal logging.

Extra-Sectoral Threats to the Forest

The forest is increasingly faced with threats from other sectors, in particular in relation to the granting of mining and land concessions. The mining sector has experienced major developments in Cameroon since the implementation of the Mining Code in 2001. Over 80 permits have been signed so far for prospecting, exploration or mining operations. After a relative downturn due to the financial crisis, investments have gradually picked up again, and operations on diamond deposits in the Mobilong region and cobalt-nickel deposits in the Nkamouna region are expected to start. Mining permits are granted regardless of the zoning map and overlap with many permanent forest areas, which undermines efforts for sustainable forest management. Overlapping rights can be granted by different state agencies for the use of the same areas, but issues of compulsory purchase and compensation have yet to be properly considered and may result in considerable cost to the state.

There are several discrepancies between the mining code and forest law. The zoning map indicates some mining areas but does not cover all of the potential mining. Article 4 of the Mining Code states that “except where otherwise provided by law, all land, including water lying over the land, shall be available for the granting of mining titles.” Furthermore, Article 62 opens the possibility of oil, gas or mineral prospecting and operating activities in protected areas, even when they are subject to an international agreement. Forest law bans the total clearing of permanent forest areas, but mining companies generally need to clear areas for their operations and can cause major damage to forests as a result.

Mining permits in forest areas might lead to the payment of compensation to logging companies with valid concession rights if they need to make fundamental changes in their operations. Community rights to use of forest areas may also be suspended temporarily or permanently by the MINFOF under the framework of compulsory purchase in the public interest, whereby the affected communities can be entitled to compensation. However, user rights are

restricted and are not reviewed systematically as part of the FMU and protected area development plans, nor do mining concessions assess the user rights of affected communities.

There is a major risk that the development of mining operations will therefore have consequences on the objectives and quality of forest management. For example, in the ecologically rich forests in South East of Cameroon, protected areas and logging concessions are being challenged by overlapping mining permits. The Douala-Edéa protected reserve has already been declassified because of oil discoveries, and the Waza National Park might experience the same fate in a near future. It is urgent that the Government of Cameroon establishes a framework for natural resources planning. In 2010 the authorities established a working group with various relevant public services, private stakeholders from the forest and mining sectors, civil society and parliamentarians, in order to review how forests and extractive resources could be managed in a more harmonious way.

Companies' Taxation and Social Obligations

There were two key developments in 2010 that impacted on the fiscal regime for redistributing forestry taxes. Firstly, the financial crisis contributed to the poor performance of export-oriented timber markets in 2009, and as a result the government granted a 50% drop in annual surface tax (AST) to the private sector to protect logging companies from the risk of bankruptcy. Although the sector is experiencing a recovery, this temporary measure has remained in place and therefore also continued to limit the amounts collected by communes and community beneficiaries. Secondly, in the joint order N° 0520 in July 2010, the government ministries MINADT, MINFI and MINFOF amended the management of the share in AST collected by communes and communities living close to the forest so that it is currently distributed as follows: 50% for the State, 20% for communes on which the forest concession is found, 10% for neighbouring communities, and 20% for FEICOM (a government agency entrusted with developing rural areas through locally funded infrastructure initiatives). The previous distribution was 50% for the State, 40%

for local municipalities and 10% to affected communities. The joint order set up management committees which are accountable to the town council and the communities. In order to end previously abusive practices such as the embezzlement of AST funds and inadequate information for beneficiaries, it also established a scale for the distribution of expenses so that 80% to 90% of AST goes to investments and 10 to 20% to operating costs. The implementation of this scale should be effective as of fiscal year 2011.

With regard to the social obligations of logging companies, their terms of reference remained confidential in 2010 so that one cannot check if companies are acting in accordance with the agreements made with the communities and civil society. Furthermore, the lack of information on companies' expected investments limits the chances of including them within a more general local development plan framework, which would be consistent with other work planned by the local authorities.

In summary, the key challenge in the redistribution of AST and the terms of reference of social obligations of companies remains the availability of information to beneficiaries to allow them to track investments. As it stands, the amounts due and collected, and the investments planned and carried out, are not transparent.

New Developments

Greater transparency is needed in the way that new forest uses are being developed, such as:

- Tourism development is one of the government's priorities. The granting of rights to investors in this sector will affect existing uses, including in the non-permanent forest sector, in areas that are close to sites with a very high tourism value. At the moment, there is no mechanism that can be used to ensure those living in the area are kept informed on the opening of the granting process for such rights.
- Towards the end of 2010, the government initiated a bond issue to support the funding of major infrastructure projects such as the deep-water harbour in Kribi and dams in Lom Pangar

and Memvele. Although environmental impact assessments give communities the opportunity to access information, it is very difficult to use them because they are incomplete in relation to the community rights and too technical.

- The implementation of the REDD process will impact on forest management models due to the need to protect areas and shift resource uses. All stakeholders, including local groups, will need to be involved in the state's plans for REDD. Therefore it is essential that there is transparency and participation in the development of policy as well as subsequent management processes, agreements made with companies, and distribution of benefits.

Conclusions

There were some improvements in terms of forest transparency in 2010. The setting up of a forest forum, despite some initial difficulties, was a positive step towards establishing dialogue between stakeholders from the public and private sectors and civil society. The establishment of a Working Group dedicated to the coordinating links between the logging and the mining sectors is another positive development. Even though no solution to overlapping concessions and zones has been identified yet, it launches a debate on the scope and the extent of the threat posed to forests by mining activities. Another issue that needs to be resolved is the exploitation of 'small' titles for timber. Access to information remains a challenge either because it is unavailable or because it is not accessible to local stakeholders. There are also existing problems in terms of allocating rights and permits for other forest uses, notably carbon sequestration and other environmental services, whose relevance was not perceived by those in charge of forest management when the 1994 forest law was being drafted. The challenge is now to manage these issues adequately as part of the on-going forest law review. This will provide the opportunity to think about a way to improve the legal framework of natural resource management and to start the necessary harmonisation between various sector-based legal documents.

The development of the mining sector without consulting other authorities in charge of planning

and management of natural resources poses a serious threat to forests and the communities who live there. Governance-related challenges are numerous and urgent: the future of Cameroon's forests will be at stake within the next few years, with developments becoming irreversible after a critical threshold of final mining concessions has been reached, threatening the permanent forest domain. The changing values of forests and threats to them raises questions as to the ability of public authorities in charge of these processes to ensure effective participation by all stakeholders at all levels, and consider the rights and interests of forest-dependent communities.

Recommendations

Recommendations are set out to the Government of Cameroon, to the Ministry of Forests and Wildlife, to the Parliament, to civil society and to the international community.

To the Government of Cameroon

- Set out the ways in which information and documents held by public services can be made available.
- Finalise the land development blueprint by involving all public services in charge of land and resource management related sectors (forests, environment, mining, land issues, agriculture). The blueprint should reconcile the concerns of all these sectors and provide ways of involving non-State stakeholders in decision making.
- Review the mining law in order to make it consistent with forest law, the environment framework law and the recognition and protection of communities' rights.
- Make cumulative impact assessments compulsory in areas with a wide variety of resource use interests, including where successive operations occur in the same area.

To MINFOF

- Implement a strategy for dissemination of information in collaboration with other stakeholders in the forestry sector.
- In the forest law currently under review, include provisions that ensure full compliance with VPA commitments to transparency, and are therefore likely to improve transparency in the forest sector.
- Eliminate "small titles" that act as one of the main drivers of illegal operations in the forest sector in Cameroon. In case of compliant small titles, provide a transparent and competitive process, involving public services responsible for the activity which called for these operations.

To the Parliament

- Carry out a parliamentary observation mission on transparency in the forest sector, and on ways of optimising the sector's contribution to the national economy, in the short, medium and long terms.

To Civil Society

- Establish a mechanism to ensure civil society representation in forest-related policy processes. Some few steps have been made in the frame of the Forest Forum, but these efforts need to be improved.
- Design a mechanism to ensure the representation of communities within forest-management processes.
- Contribute to the setting-up of a mechanism for the dissemination of information concerning forest-management, including preparation of more accessible versions of technical data and legal documents.

To the International Community and Donors

- Establish a centralised mechanism for the dissemination of information which they hold on the forest sector or which may impact the management of the forest sector.