

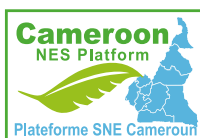
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Proposed amendments to the draft Forestry Law

Formulated by the Forests
and Community Platform

October 2021



This document is a contribution by a group of civil society organisations on the current draft forestry law. It aims at making proposals on the ten major themes related to managing forests.

At this moment when the reform enters in its decisive phase, it seemed necessary to draw the attention of authorities on the necessity of taking these concerns into account.



01

Some International Commitments taken by the State Are Not Considered in the Draft Law

Problem

The draft forestry law in circulation does not take into account some of the international commitments binding Cameroon to protect and distinguish indigenous peoples as part of the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD), the Voluntary Partnership Agreement, the Sub-Regional Agreement on Forest Monitoring in Central Africa (binding), and the 2021 Subregional Guidelines on the Participation of Indigenous Peoples and Local Communities and NGOs to the Sustainable Forest Management in Central Africa (non-binding). The CEDR and the COMIFAC Subregional Guidelines make a clear distinction between indigenous peoples and local communities. The APV and the Subregional Agreement on Forest Management provide indications on forests harnessing management.

Suggestion

- It is necessary to make a clear distinction, in all the provisions of the draft forestry law, between indigenous peoples and local communities, as provided by the two aforementioned international instruments.
- The precaution principle, as a cardinal element in forests management
- Sustainability, as the aim of managing forests, from a triptych perspective, notably social, ecological and economic. The social dimension and, to a certain extent, the economic and ecological ones are not reflected in the current texts
- The acknowledgement and protection of land rights of local indigenous communities, including the collective ownership of land and forest resources
- CLIP integration in forests management processes
- The organisation of data production and collection to be published as part of Annex VII of APV

02

The Social Dimension Has Not Really Been Taken into Account (Modalities for Other Stakeholders Participation)

Problem

The inclusive management of forest resources is set as a principle in the document on draft forestry law, but the definition proposed does not suit the inclusive principle, in the sense that it is up to the forests manager to implement it, and strictly defines the ins and outs. To conclude, we see that several provisions of this text tend to dilute the execution of this right to participate, firstly by subordinating participation to the will of a lone partner, namely the government, secondly by not setting a clear framework for the application of the right all stakeholders, including the civil society, local and indigenous communities, to participate.

Suggestion

In a bid to address problems related to the civil society, local communities and indigenous peoples' participation difficulties, beyond the inclusive principle set in the draft project, the text will have to further, by better stating modalities for the participation of all stakeholders and by acknowledging some instruments and initiatives that are good for a better participation, notably participative cartography, independent observation, etc.

03

Forest Dispute and Fight Against Illegal Harnessing

Problem

Illegal forest harnessing continues, gets complex and amplified, as showed by many studies released in recent years, and the specific reports of NGOs active in the field of forest harnessing observation. Communities' rights are violated, and the State loses money, as the timber illegally harnessed does not give way to the collection of all duties. Forest development cannot be respected, due to anarchical deforestation. This boils down to doubting about the source, which penalises all actors of the chain, as well as Cameroon's reputation.

Reason

The dispute is largely controlled over by the administration in charge of forests, and the judge is just a minor actor in the repressive process. This sometimes brings about a sentiment of impunity of offenders, many folders not filed to justice, or done too late, or without much rigour in their preparation, leading to rejections for procedural error. The analysis of the sum of infringements confirms this strong sentiment of impunity, if we consider the number of cases pending, some dated ten years. The law in force, as well as the text in preparation, prioritise resorting to transactions between the offender and the administration, without the framework necessary to a good and objective procedure. The administration, being unable to inflict custody-related punishments as provided by the law, leaves the quasi-exclusive responsibility over the forest dispute, which paves the way to impunity or less dissuasive punishments. The current repressive mechanism, which is also restated in the text in preparation, particularly favours offenders.

04

The Organisation of Decentralisation in Managing Forest Resources

Problem

The draft law introduces a new category of forests, with the creation of regional forests, without however clearly indicating the articulation on the field with local forests and all the other forests concerned. We neither see elements organising forest management decentralisation in the laws.

Suggestion

Apart from acknowledging the ownership of some forests by local actors through the creation of regional, local and community forests, one should focus on the respect of the Code of Regional and Local Authorities, which contains provisions on the jurisdiction of regions in the management of protected areas, natural sites and other protected surface areas. These provisions are likely to create confusion with jurisdictions on the management of protected surface areas. No matter the significance of these provisions of the Code of Regional and Local Authorities, the draft forestry law does not respect them.

The Issue of Forest Carbon, Environmental Services and Genetic Resources

Problem

The emerging themes such as concerns relating to the reduction of emissions resulting from deforestation and degradation, notably the issue of carbon sequestration by forests, Payment for Environmental Services (PES) and especially the protection/valuation of traditional knowledge associated with genetic resources are not thoroughly discussed, for some of them, in the said draft law. The rare instances where the first two are analysed deal with the duties that the State might receive once environmental services are valued in forests, but no allusion is made either to the notion of environmental service or the way the said duties will be managed, or the modalities of sharing and redistribution among shareholders. The PES are incentive instruments consisting in granting remuneration in consideration of the adoption of practices favourable to preserving environment, they are an integral part of the new paradigms which affect forests or non-forest spaces management, and whose consideration would help in better valuing potentials and diversify the revenue sources generated by forests.

Suggestion: It is imperative that these themes are better considered in the legal framework in development in order to frame their implementation and therefore manage them in a way that they will benefit the national community. The path of concessions for conservation could therefore be explored to implement such concepts, and should be kept as planning principle, in a bid to value forest carbon and other environmental services.

06

Forestry Law: A Law for Southern Cameroon or for all the Forests of the Country?

Problem

In the draft law in circulation, there is no specific legal provision for the genuine promotion of forest farming, despite Cameroon has committed to restore over 12 million hectares of deforested and degraded lands by 2030, as part of the Bonn Challenge initiative. Moreover, the country has a National Reforestation Plan which has not yet been implemented.

As in the Law of January 1994, there is no provision on forest management in the northern regions of Cameroon. Indeed, one has the impression that forest management aims at exploiting timber on a large scale, an issue that affects neither savannah and Sahelian areas, nor forests in mountainous zones, raffia palm groves, etc.

Suggestion

Therefore, it is necessary to elaborate specific legal provisions in the draft law, which encourage and incite citizens, Regional and Local Authorities (regions, councils), economic actors, and associations to invest in forest farming and reforestation.

One should also urgently envisage setting-up a framework for forests that may be exploited for purposes other than large-scale timber harvesting. We could also envisage a forestry law in view of setting out the main principles of forest management throughout the country, with at least two decrees related to it, one specifying the management procedures for southern forests, and the other for mountain and dryland forests.

This formula will enable the inclusion of modalities of dry forests management as well as specific rules for the management of these areas in the new texts resulting from the reform. For instance: Is the classification of forests into non-permanent and permanent forest fields (with production forests, felling modalities, nature of rights, allocation of duties, requirements of approval, supervision, punishments (those existing are adapted to the forests of southern Cameroon)) valid in the northern regions of Cameroon? Otherwise, what are the laws governing the management of these forests outside protected areas?

07

Coherence of the forestry Law with Sectoral Laws and Policies (Land, Environment, Mining, Justice and Planning)

Problem

One of the challenges of land and resource management deals with ensuring coherence among various sectors (land tenure, extractive sector, forests, environment, land planning). All these sectors are based on land, and show many risks of competition from one to another. For example, the draft law has a provision on the incorporation of land from the permanent forestry field into the State's private domain, in a way that does not correspond to the procedures provided for in the texts applied with regards to land tenure.

This coherence is also needed in the following fields:

- Allocation of duties, which must remain in line with the goal of sustainability;
- Land planning and the land allocation plan, which should be moved forward rapidly in order to improve consultation among the various user administrations;
- Decentralisation and forest regimes: Law No. 2019/024 of 24 December 2019 on the General Code of Regional and Local Authorities sets out that the management of protected areas is the responsibility of the regions, whereas the Law of 1994 and the draft law maintain them under the responsibility of the Ministry in charge of Forests and Wildlife.

Suggestion

Do not prescribe a derogatory procedure to the texts governing land tenure, on issues as sensitive as the final appropriation of lands by the State. It would be important for the various Ministries to collaborate in order to ensure coherence between the various draft laws or those applied (forests, mining, environment, agriculture, land tenure, land planning). This approach will boil down to an optimal articulation between draft laws and those still applied (rural code and the new land law, mining law, framework law on land planning, etc.).

It is an urgency that, while elaborating the forestry law, the various public administrations are associated, in a bid to ensure coherence with other sectoral laws.

08

The Validity of Forest Planning: Does the 30-Year Rotation Work?

Problem

Apart from issues concerning failure to take into account new paradigms in forest planning such as forest carbon stocks, which henceforth have an impact on the forest sector management, it emerges from the draft forestry law that the initiative to carry out State forests management belongs to the state. However, in practice, we have observed in past years that the government has fully disengaged itself from the functional implementation of planning, with the liquidation of ONADEF, its secular arm in this area, and the setting-up of a new structure with missions that are not related to forest planning. There is a kind of contradiction here, as the law brings a previously abandoned scheme back.

Furthermore, many questions remain about the effectiveness of this management in light of the problems identified while assessing the implementation of planning, both with regards to the pertinence of the legal framework, the capacity of current management settings to ensure the sustainability of resources, and the intrinsic quality of the said planning.

It is important for the State to play a key role in the its forest management, but it should appear at the level of elaborating norms and monitoring/supervising their application, especially concerning conceded areas. In this respect, the State should give private actors the responsibility of drawing up a planning for the areas granted to them and play the role of regulator. In its regulatory role, the State should set development settings capable of ensuring resource renewal.

Suggestion

- The scope of forest planning should be broadened beyond timber to include carbon, environmental services and the use and rights of local communities and indigenous peoples. This broadening should be translated by changes in planning norms, which should include clear goals and specific rules for addressing these new issues.
- Draft laws should contain the main lessons learned from implementation and planning over the last two decades. One of the lessons learned deals with the disconnection between scientific knowledge and the content of planning rules: It is imperative that forest planning rules are based on scientific knowledge, and that the precautionary principle, contained in the framework law on environmental management, is applied in the absence of scientific certainty.

09

Benefit Sharing

Problem

The legal provisions in force and those in elaboration on the sharing of forestry and related revenues (royalties) do not take into account the principle of the necessary equitable redistribution of all benefits to stakeholders, as set out in numerous international instruments, particularly in favour of indigenous and local populations. This lack of equity in revenue sharing therefore violates the basic and socio-economic rights of vulnerable social groups.

10

Forests Conversion

Problem

The issue of forest land conversion is reflected in the draft law under discussion through the prism of classification and declassification processes. Some of the provisions of the law being drafted aim at encouraging the declassification of portions of forests in the permanent domain by circumventing the obligation to first classify another portion of forest equivalent to that to be declassified. Such provisions pave the way to undermining the commitment that Cameroon has deliberately chosen, namely to maintain 30% of its territory under the permanent forest estate.

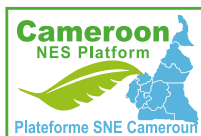
Suggestion: The declassification of any portion of forest should be preceded by an environmental impact assessment with the obligation of classifying at least an equivalent area in the same ecological zone.

As for non-permanent forests conversion, it would be advisable to ensure that the documents required for the conduct of projects justifying the conversion are provided before the decision leading to the conversion of the said forest is taken.

Forests conversion, either permanent or non-permanent, should result in granting compensation to communities for compromised use rights, and in appropriate environmental compensation.

Timber conversion should also be rigorously regulated, to avoid timber harvesting being the real reason for forest conversion.

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