

# Forest Law Enforcement and Governance: Rights and Poverty Alleviation in the Congo Basin

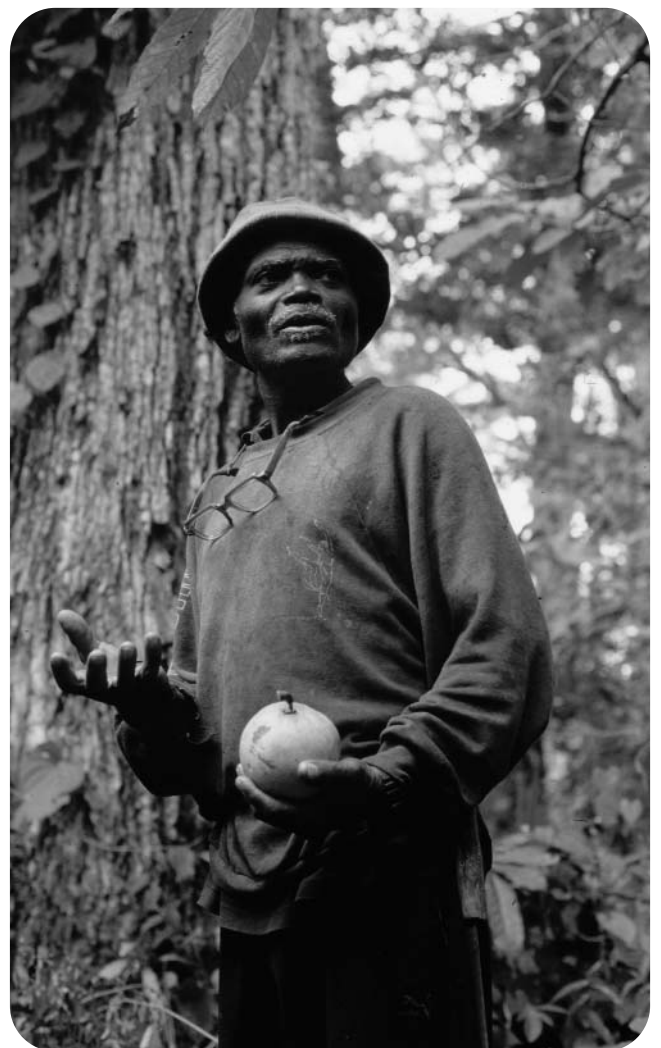
Discussion paper, October 2003

## Summary

This paper considers the opportunities for international bodies to tackle poverty alleviation in Central Africa through programmes concerning forest law enforcement and governance. Taking Cameroon as a case study and considering lessons that might be applicable throughout Central Africa, the paper explores the impacts of previous major international interventions in the forest sector, as they relate to forest law and governance, and their impacts on communities and poverty.

The general conclusion is that international efforts to enforce existing forest laws in Africa will not necessarily serve to reduce poverty - and indeed may be counterproductive - because the laws themselves, or the way in which they are usually implemented, are often fundamentally 'anti-poor'. Almost without exception, little or no provision is made within forest law for community access to benefits. Logging concession regimes by which 'production forests' in Central Africa are allocated to commercial forest enterprises have been demonstrated to actually impoverish rural communities. In the few instances where laws permit direct community benefit from forest management, most forest communities have little or no information about their rights under that law and are thus unable to exercise them.

The paper suggests that, in the context of the Central African region, the international community will need to strongly promote fundamental revision of forestry laws such that they provide for secure community access to forest resources, if it aims to promote achievement of the international development targets.



*Trees such as moabi provide a valuable and sustainable economic resource for forest villagers, but this resource is being destroyed by the timber industry, 'legal' or 'illegal'.*

## 1. Purpose of, and background to, this paper

This paper has been prompted by the development of the African Forest Law Enforcement and Governance (AFLEG) process. The interest of the international community in African forest governance is very timely and offers an opportunity to address a key challenge within the forest sector, that of how forest law can be used to reduce poverty. The alleviation of poverty has been the purported aim of many international interventions in forestry in Africa. The AFLEG process potentially opens a space in which the success of previous initiatives in achieving this broad aim can be reviewed.

This paper therefore aims to stimulate debate on the linkages between international efforts to promote better forest sector governance in Africa and their impact on forest community rights, the distribution of benefits from the forest sector, and poverty alleviation. The paper briefly reviews some previous analyses of such linkages, considers major international or bilateral interventions in this area, using the specific example of Cameroon.

## 2. A review of previous key analyses and experiences

Some of the main experiences and lessons from previous international interventions in the forest sector in Cameroon are summarised below:

\* An important 'model' of a major intervention by the international community specifically aiming to 'regularise' forest sector governance was that of the World Bank's promotion of a new forestry law in Cameroon in 1994. The new law aimed at increasing transparency in logging concession ('UFA') allocation and State capture of forest revenues. Importantly, it also created formal legal provision for the designation of 'community forests'. However, with the benefit of hindsight, several analyses (including that undertaken by the World Bank's own Operations Evaluation Department) have suggested that this particular intervention was based on an inadequate understanding of the social-economic forces at play within the forest sector (Essama-Nssah and Gockowski, 2000). In particular, it failed to recognise the importance of deeply entrenched and conflicting vested economic interest, and failed to reflect 'the interests of ordinary people', all of which hampered the policy's implementation (Ekoko, 1997).

\* The introduction of the 1994 Forestry Law in Cameroon served to 'clarify' the legal and financial relationship between private forestry concessionaires and forest communities, who considered themselves to have previously held 'common property'

rights to the forest. This relationship had, in practice, previously been largely determined through direct negotiation between the communities and forestry companies. According to one interpretation, the law effectively served to change the nature of this relationship to one in which the forestry companies and government officials merely 'informed' communities of impending exploitation of local forests, thus removing "*the last vestiges of local community involvement in the granting of logging concessions*" (Nguiffo, 1998). Perhaps an indication of the extent and depth of community dissatisfaction with the more 'regulated' relations with forestry companies which resulted from the 1994 law is that conflicts between communities and logging companies have continued to be widespread and persistent, occasionally escalating to civil protest and disobedience, destruction of company property and violent clashes.

\* A further and significant consequence in the change of concession allocation procedures appears to be that holdings of forest land have become more concentrated; only three companies (all foreign-owned) now control nearly 40% of Cameroon's forest concession area (Collomb and Bikie, 2000). Experience in other countries suggests that such concentration or monopolisation of landholdings can, in the medium-long term, lead to distortion of government policy, increase private capture of forest revenues rather than maximisation of public benefits, and undermine long term 'sustainability' of forest management (see, for example, Dargavel, nd; Pearce, 1976).

\* During the late 1990s, international agencies, especially the World Bank, were particularly insistent that the Cameroonian government should reform the procedures for concession allocation and forestry revenue collection. This undoubtedly served to increase transparency in what had previously been an entirely opaque system. However, the success of 'regularisation' of the concession system as a means of increasing State revenues from the forestry sector, has, at best, been ambiguous. It is reported that the Cameroonian government's 1997 round of concession allocations was "*far more transparent*" than previous allocation rounds, but was still "*fraught with irregularities*" (Collomb and Bikie, 2000). Whilst the 2000 round of allocations was reported to have generated government revenues, on a per hectare basis, "*three times that from the 1997 round of allocations*", the process still raised "*several unanswered questions about Cameroonian concession allocation policy*" (Collomb and Bikie, 2000). There is also evidence that the newly 'transparent' (and more costly) acquisition of concessions has been at least partly circumvented by the allocation of a much larger number of short-term 'vente de coupes', which are generally perceived as being

even less environmentally sustainable or socially beneficial than large UFA concessions.

\* One analysis suggests that improvements in the collection and redistribution of forestry revenues in Cameroon resulted in a more than doubling of the revenues payable to forest communities between 1996/97 and 1998/99 (CIRAD, 2000). However, the revenue accrued by local communities (usually payable by forestry companies at a rate of 1,000-2,000 FCFA, or £1 - £2, per cubic metre of timber felled) still accounted for less than 5% of total forestry sector revenues, the remainder being accrued by the State.

\* The same analysis found that, in total, Cameroon's forest communities gain as much through the collection of local 'taxes' on illegally felled timber as from legal forestry operations. 'Taxes' on illegally felled timber accounted for fully 45% of total forestry revenues accrued by forest communities (CIRAD, 2000).

\* Independent monitoring of concession operators in Cameroon indicates that, despite substantial international intervention and financial support for the forestry administration (such as World Bank sector credits, and various bilateral technical assistance programmes), illegal practices remain extremely widespread (see, for example, Global Witness, 2002). Despite the sizeable potential gains to the national economy of curbing illegalities, the Government of Cameroon has apparently been reluctant to take decisive action against some of the worst offenders.

\* Preliminary analyses have suggested that the net financial benefit to communities of establishing and managing community forests can be several hundred percent higher (per cubic metre of timber) than would be gained by allowing commercial forestry operators to exploit the same forests (legally) and pay the communities the 'normal' rate of 1,000-2,000 FCFA per cubic metre of timber in local 'taxes' (Fomete and Vermaat, undated) .

\* Weaknesses and lack of clarity in the legal provision for community forests, as well as lack of support, expertise and commitment within the Cameroonian Ministry of Forests, allowed for easy abuse of the 1994 Forestry Law. One key problem has been that local or national elites or industrial interests have been able to obtain rights to timber within areas designated for community forests. DFID's Community Forest Development Programme attempted to address these problems (and has undoubtedly constrained abuses of the system), but this has evidently been a difficult and lengthy process (DFID, 2001). The geographical space available for community forests is anyway severely limited within Cameroon's operational forest zoning plan (the 'Plan de Zonage') . Moreover, the Government of Cameroon's political commitment even to such limited 'redistribution' of forest rights and benefits appears to remain, at best, very weak.

### 3. Discussion

The review above, albeit related to a single country, raises doubts about the effectiveness of 'forest governance strengthening' as a means of making a significant contribution to achievement in Africa of international development targets where such 'strengthening' is principally concerned with the 'regularising' of industrial forestry operations. Efforts to increase 'control and enforcement' mechanisms, even where these are based on the findings of international independent observers, may not serve to address underlying inequities in the distribution of forest benefits: such inequities may result as much from the existence and structure of the 'forest concession' system as they do from (illegal) non-compliance with it. Instead of contributing to the alleviation of forest community poverty, strengthening of the concession system may indeed serve to cause further concentration of land holdings and the politico-economic influence of (foreign) commercial timber operators.

Recent research supported by DFID in Indonesia has indicated that, in practice, even the 'independently certified' attainment by forestry companies of what are considered to be the highest standards of forest management (including, supposedly, full compliance with the relevant national laws) does not necessarily ensure that forestry operations are consistent either with local 'traditional' laws or with international laws and norms (Colchester, Sirait, Wijardjo, 2003). In the case of Indonesia, indigenous peoples, local communities and their national representatives believe that efforts to 'regularise' forestry concessionaires and reward them for compliance can serve to reinforce what they consider to be a fundamentally illegitimate forest tenure system which has deprived them of rights and benefits (WALHI et al, 2001). There are strong grounds for believing that similar concerns could be raised across much of the Congo Basin, and possibly more widely in Africa wherever large-scale industrial logging in natural forests is undertaken.

A further consideration is that much 'law' that has served to regulate relations between forest communities and their environment over centuries or millennia (and, broadly speaking, has ensured that this relationship is 'sustainable') is **unwritten**. In many forest communities, information about the history, rights, regulations and agreements concerning usage of resources is still principally transmitted by word of mouth and/or ritual, and is embedded in cultural practices. The geographical space within which specific traditional or customary 'laws' apply is often only defined through unwritten and unmapped, but common, recognition of specific geographic or cultural features. Modern, formal, forestry laws often serve explicitly to supplant such traditional laws (though often, in practice, a complex combination of the two tends to be observed). It is not at all clear how inter-governmental processes such as AFLEG can take account of unwritten customary laws, even though these are potentially the

laws that offer most in terms of ensuring equitable benefits from forest resources.

An approach to 'law enforcement and governance' in Africa (especially, perhaps, in the Congo Basin), which seeks to make an optimal contribution to the international development targets for poverty alleviation, should therefore consider not only the law as it may or may not already exist on the statute books, but should also consider whether the legal framework which this represents is likely to bring developmental benefits to forest communities in the medium-long term. Thus, simple reinforcement of the legal framework for the management of large-scale industrial forestry concessions will not necessarily resolve conflicts wherein communities perceive the concession system itself to be illegitimate and a usurpation of their rights and access to resources. Nor will it necessarily serve to significantly increase forest community income.

#### 4. Conclusions

In order to use 'forest law enforcement and governance' as a tool for achieving the international development targets in Africa, international interventions need to:

- \* Be based on a thorough understanding of the local context and systems of forest governance.
  - \* Address the forest sector legal frameworks themselves, such that direct community benefits from forest resources are maximised. Where mechanisms already exist for redistribution of State forestry revenues to forest communities, international support should be given to ensure that such mechanisms function effectively.
  - \* Provide support for initiatives that serve to broaden forest community access to information about their legal rights, and support the use of such rights as a means of maximising community revenues and development benefits.
- 

#### References

- CIRAD-Foret, 2000.** Audit Economique et Financier du Secteur Forestier au Cameroun, Ministere de l'Economie et des Finances, Government of Cameroon, Yaounde
- Colchester, Sirait and Wijardjo, 2003.** Obstacles and Possibilities: Implementation of FSC's Principles 2 & 3 in Indonesia, WALHI and AMAN, Jakarta.
- Collomb J G and Bikie, H. 2000.** 1999-2000 Allocation of Logging Permits in Cameroon; Fine Tuning Central Africa's First Auction System, Global Forest Watch, Yaounde.
- Dargavel, J, nd.** Changing Capital Structure, the State, and Tasmanian Forestry.
- DFID, 2001.** OPR Summary Report, Community Forest Development Project, 21 June 2001, London.
- Ekoko, F. 1997.** The Political Economy of the 1994 Cameroon Forestry Law, CIFOR, Bogor.
- Essama-Nssah B. and Gockowski, J, 2000.** Forest Sector Development in a Difficult Political Economy; An Evaluation of Cameroon's Forest Development and the World Bank, World Bank Operations Evaluation Department, January 2000, Washington DC.
- Fomete T and Vermaat, J. undated.** Community Forestry and Poverty Alleviation in Cameroon, DFID Community Forest Development Project.
- Global Witness, 2002.** Forest Law Enforcement in Cameroon; 1st Summary Report of the Independent Observer, May-November 2001, November 2002, London.
- Nguiffo, S. 1998.** In Defence of the Commons; Forest Battles in Southern Cameroon, in Goldman, M (Ed.) 'Privatising Nature: Political Struggles for the Global Commons', Pluto Press, 1998.
- Pearce, P, 1976.** Timber Rights and Forest Policy in British Columbia, report of the Royal Commission of Forest Resources in British Columbia, cited in Marchak, P, 1983 Green Gold: The Forest Industry in British Columbia, University of British Columbia, Victoria.
- WALHI et al, 2001.** Letter from WALHI, addressed to FSC, LEI, SmartWood, Latin, SGS, TNC and GTZ, 15th January 2001, Jakarta.