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The Challenges of implementing VPA in Cameroon

Policy brief



Centre pour
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This policy brief identifies practices that appear as challenges to the implementation of the Voluntary Partnership Agreement between the European Union and Cameroon, and calls on both parties to an urgent reflection to find adequate solutions to these challenges.

The authors have prepared it to enrich the debate and current work for the implementation of the Agreement

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**Momo (CREATIVE
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INTRODUCTION

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VPA, a trade agreement with aims to strengthen sustainable forest management

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Although a trade agreement, VPA's implicit purpose is the protection of the forest of Cameroon. By engaging in effect not to authorize within its territory only wood respecting the legality of the country of production, the European Union (EU) attempts to participate in the sustainable management of forests through responsible trade policy. This is about the affirmation of the central role of the European market in timber trade, which gives these countries a primary responsibility in the fight against uncontrolled deforestation for commercial purposes.

By agreeing to engage in a bilateral relationship whose purpose is to guarantee the legality of timber and operated in its territory for the European market, Cameroon says to its citizens and to European consumers that it intends to drastically improve the quality of its forest governance with the assistance of its main development partner, the EU. In deciding to go further, in particular by extending the obligation of due respect of legality to all wood products in Cameroon, for the domestic market and for all export destinations

– And not just for the wood destined for the European market, Cameroon marks its willingness to submit to even higher standards than those originally sought by the EU.

The implementation of the VPA in Cameroon however will face a number of difficulties that should be analyzed and resolved before the implementation of the validation system of legality. The entry into force of the European Union Wood Regulation makes such a reflection even more urgent, given some points raised in this policy note.

Credit photo: Mr.



A view of a HEVECAM plantation (South Cameroon)



THE CURRENT CHALLENGES RELATED TO THE RESPECT OF LEGALITY

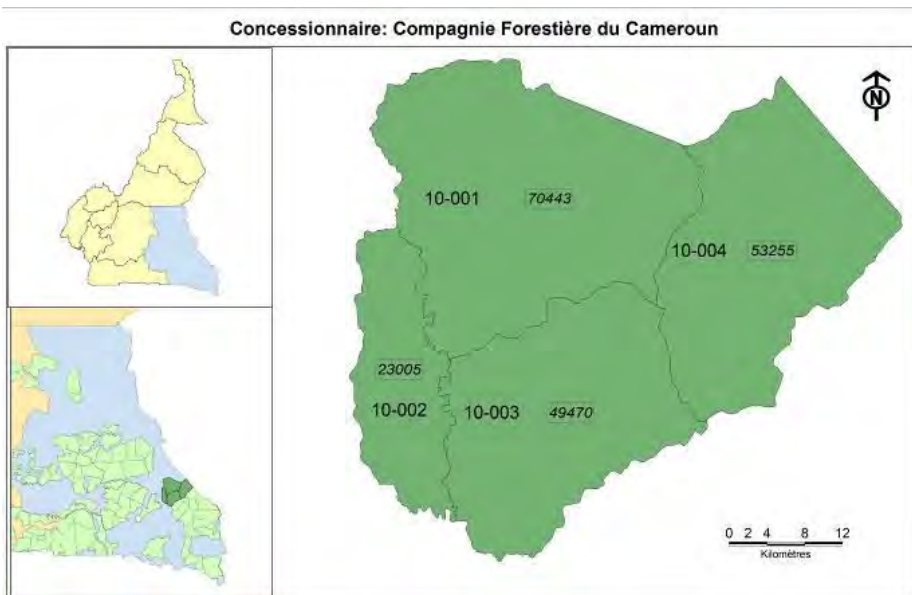


The guarantee for the respect of legality of Cameroonian wood is the key of the VPA vault system. Some situations call for questions on the position that will be taken by the Cameroonian competent authorities and by those of the European Union. Some of them are raised here as an illustration.

1. Concessions tainted by an original illegality

Can be classified in this category, the FMU (Forest Management Unit) granted by mutual agreement in 1996, after the entry into force of the 1994 Law which required a public invitation to tender as the exclusive mode of allocating forest concessions. Two of these FMU were transferred without a new call to auction, while four others are still operated by the company initially awarded. These belong to the definitive agreement No. 1025. Can wood that is out of the concession have the seal of legality, if the process that led to the grant did not comply with the law in force at the time?

The map below shows the concession consisting of four FMU granted by mutual agreement in 1996.



FMU granted by mutual agreement after the 1994 Law

Source: *Interactive Forestry Atlas of Cameroon, Version 3.0*

Can be added to this list the FMU granted to bidders who did not have the best score, on the basis of their financial and technical offer.

In such cases, the tender process has been complied with, but the highest bidder is not the company that finally won the day. One may question the legality of this practice and its implications for the implementation of the VPA, and wood Regulation of the European Union.

2. Concessions under provisional contract for over three years

The 1994 Law provides in Article 50 that the beneficiaries of concessions shall sign with the State, a provisional contract, the duration of which shall not exceed three years. After this period, a final contract shall be signed between the two parties. The conclusion of the final contract is subject to conditions to be fulfilled by both parties: the company shall prepare and submit for approval to the Ministry of Forestry, a long term management plan, a five-year management plan and an annual operations and specifications, and the Government shall complete the classification procedure.

Depending on whether we refers to the official list of valid titles in Cameroon, published by MINFOF (Ministry of Forestry and Wildlife) in 2011, or at the database published by the Forest Environment Sector Programme (<http://data.cameroun-foret.com1>), we can count between **17** and **86** concessions having to date, final contracts while **97** concessions have already more than three years of existence. Otherwise, between **11** and **80** UFA are exploited in situation of illegality from this point of view. This large difference between the data from official sources indicate an urgent need for harmonization in order to help companies protect themselves against suspicions of illegality relating to the status of their contract with the State. This observation does not affect responsibilities in the occurrence of the illegal situation.

3. The situation of licence-holders “Controlling” over 200 000 ha

The table below shows the companies belonging to groups or association controlling more than 200,000 ha, the maximum area permitted by law³.

¹ Consulted on 23 April 2013

² <http://data.cameroun-foret.com/forest/forest-management-units>

³ The data in the table from the following sources; WRI and MINFOF Interactive Forestry Atlas of Cameroon, version 3, 2012; MINFOF, Valid tiles 2011; www.data.cameroun-foret.com

FMU No.	Licence-holder	Partner	Date of grant	Surface area
THANRY				
10-001	CFC		1996	63 728
10-002	CFC		1996	28 086
10-003	CFC		1996	67 217
10-004	CFC		1996	56 649
10-007	SEBC		1997	113 507
10-011	SAB		1997	60 838
10-015	CIBC		1997	155 421
				545 446
ROUGIER				
10-054	SFID		1997	68 292
09-003	LOREMA	SFID	2000	110 103
09-004a		SFID	2000	20 838
09-005a	LOREMA	SFID	2000	10 330
09-005b	SOCIB	SFID	2000	44 698
10-038	CAMBOIS		2000	145 585
10-056	SFID		2001	70 093
09-007/08	ETS MPACKO	SFID	2005	79 422
09-006	SFFANGA		1998	75 892
				625 253
SEFAC				
10-012	SEFAC		1997	62 597
10-009	SEBAC		1997	88 796

FMU No.	Licence-holder	Partner	Date of grant	Surface area
10.008	SEFAC		2001	60 053
10.010	SEFAC		2001	61 760
10.064	WOOD SECTOR		2001	114 379
				387 585
ALPI				
10-051	GRUMCAM		1997	85 812
10-026	ALPICAM		2000	128 449
10-063	ALPICAM 2005		2000	68 933
10-053	GRUMCAM		2005	82 308
10-013	HABITAT 2000		2006	50 752
1475	FC MOULOUDOU	CRM		42 612
				458 866
WIJMA				
09-024	WIJMA		2000	76 002
09-021	WIJMA		1997	36 965
11-005	WIJMA-CAFECO		2006	80 800
09-022	GAU SERVICES		2005	78 461
09-019	CUF		2000	38 247
09-020	CUF		2005	44 866
09-023	CUF		1997	56 192
09-026/27	CUF		2006	64 461
				475 994
PASQUET				
10-041	PALLISCO		1997	64 961

FMU No.	Licence-holder	Partner	Date of grant	Surface area
10-039	ASSENE NKOU	PALLISCO	2000	47 585
10.030	PALLISCO		2001	79 757
10.042	SODENTRANCAM	PALLISCO	2001	44 249
10.044	ASSENE NKOU	PALLISCO	2001	66 861
				289 130
	DECOLVENAERE			
10-021	CFE/SFIL		1997	71 533
10.052	SOTREF		2 001	69 008
10-025	SFIL		2 005	47 823
1478	FC YOKADOUMA	CRY		22 206
				210 570

4. Concessions exposed to non-compliance with management plans due to third parties

The granting of mining permits and land concessions encroach progressively on forest concessions. We have this far noted up to 48 mining permits overlapping forest concessions. In these FMUs, search and mining operations will be in clearing the forest, using methods (clearcutting) and places that do not always respect the forest management plan as approved by the Ministry of Forestry. Although these possible violations are not the result of forest dealers, they will not remain less illegal and will cause

adjustments more or less deep in the planning of forestry exploitation in these concessions. Three questions at least can be asked here:

- What is the status of wood from clearcuts made by the mining concessions in UFAs under management? Will it be considered as legal timber (legalized by auction)?

- What is the status of wood from conventional logging operations by the forest dealer with part of the UFA being clearcutting? In other words, can legally harvested timber be considered legal if the concession from which it comes is unlawful, even if these illegal actions take place without the consent and sometimes against the will of the forest dealer?

- If we consider again the management plan of FMUs concerned, two questions arise:

- Who will pay the costs of any adjustment (including any shortfalls due to the inability to sell the wood as the adjustment has not been finalized and approved), meanwhile it is known that the mining code provides that mining permits are deemed royalty free, and no compensation can be claimed from the mining dealer?

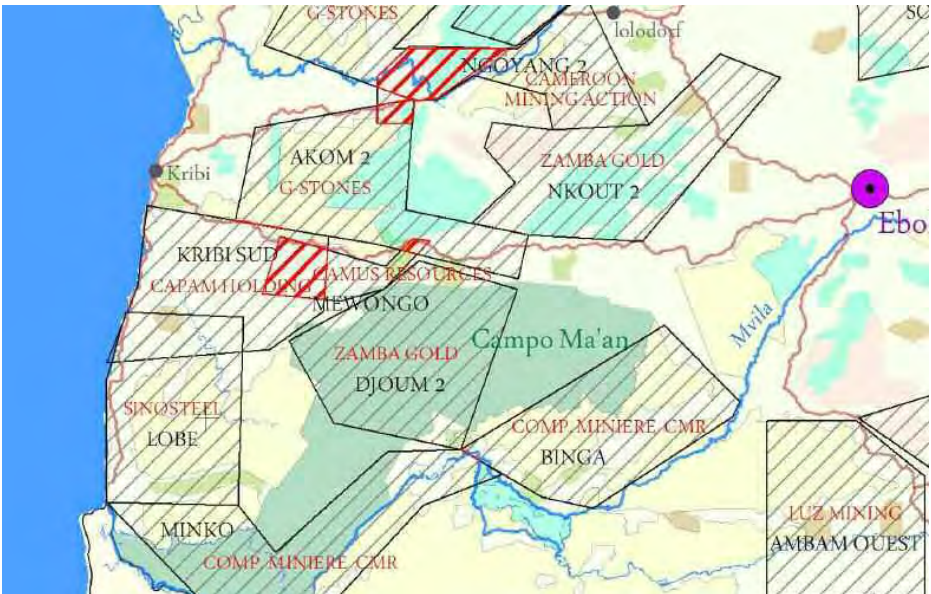
- In the event that any adjustments would not be possible, because the intervention of the mining concession in the FMU would no longer allow it to be financially viable, what are the options of the Government and the forestry licence-holder?

5. The situation of wood from unopened areas to logging under the titles in force

- *Permits overlapping non-exploitable areas according to forest law*

This is the case of protected areas, for example, in which one finds mining permits, which could be transformed in the near future into operating permit entitling a clearing of portions of forests located in a protected area.

Map of overlap between three mining permits and the Campo-Ma'an National Park



Pressures on the Campo-Ma'an mining park

The process of exploration and exploitation will lead to clearings in the national park of Campo Ma'an, the law provides that it is closed to any logging activity. Do species felled in the context of mining operations give rise to auctions? If yes, will this wood be considered legal?

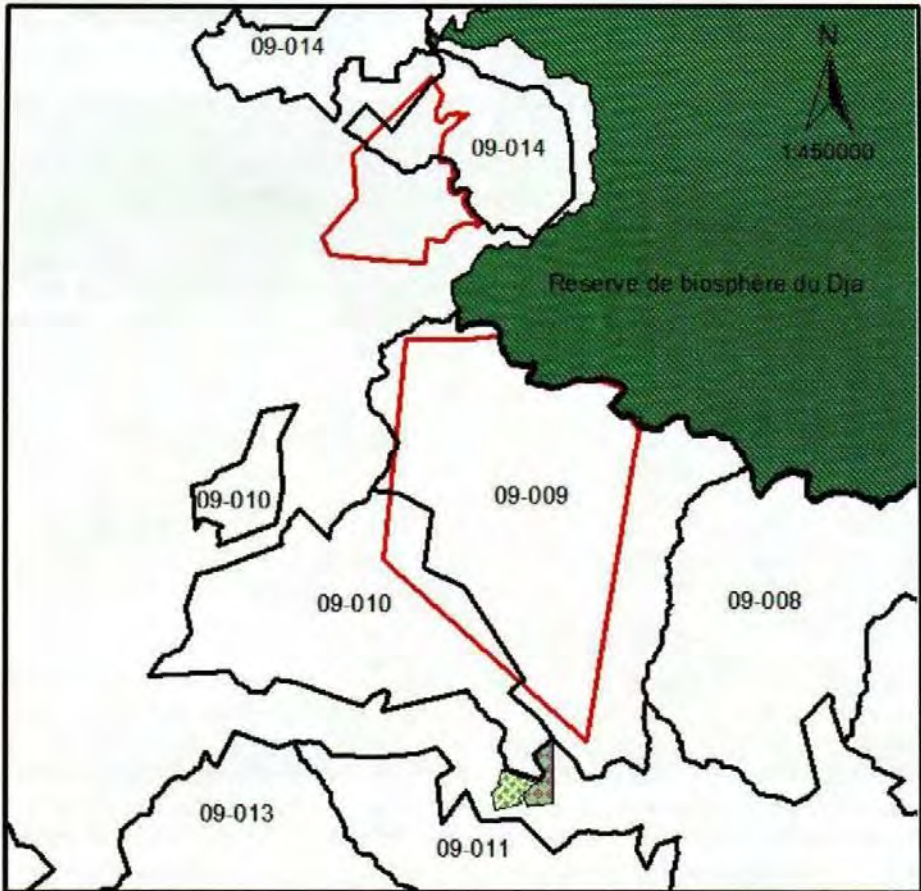
- *Clearings in forest concessions, granted or not, for conversion of forests to monocultures.*

Duplication of permits and rights will lead to clearing of all or part of forest concessions granted or not. Already, at least three examples of this phenomenon can be noted:

Example 1: Provisional land concession granted by the Government of Cameroon to the company **Biopalm** overlaps a portion of the UFA 00-003 attributed to the forestry company MMG in the ocean division. The company MMG was one of the first to have a management plan in Cameroon.

Example 2: The company Sud-Hevea, whose concession overlaps three UFAs, with one of being downgraded (09-014), while the other two are assigned (09 009 and 09010). One can argue the legality of the downgrading of the UFA 09-014, and in particular, the compliance with the conditions of downgrading (more concretely, has there been a "classification of a forest of the same class of an equivalent area in the same ecological zone, as required by Article 28 (2) of the Law of 1994)?

Below, the location of the plantation of Sud-Hevea, which overlaps the UFAs 09-014, 09-009 and 09-010 :



Localisation of the plantation of Sud-Hevea, which overlaps the UFAs 09-014, 09-009 and 09-010

Example 3: The land concession claimed by the company **SGSOC**. It overlaps UFA 11-007, two sales of logs, at least two community forests. These spaces

should be cleared completely. The situation in the case of **SGSOC** is more ambiguous, the company does not have a lease on the land, and cannot produce a single document entitling it to conduct its activities in this area...

The legality of its presence on the site can be seriously challenged, it is difficult to understand the justification for the authorization of clearing issued on 9 November 2012 by the Ministry of Forestry and Wildlife. This act has indeed given permission to ask irreversible acts on forest areas on which the applicant still does not, more than five months later, have legal presence. It is interesting from this point of view, to note that the report of the Independent Monitor confirming the illegality of both the presence of the company in the area and operations of forest clearing, and confirming the fine of almost 25 million² levied on **SGSOC**, was published just days before the issuance of the permit to cut down trees on the site of **SGSO** operations.

In a public statement, the company denies these facts, and declares:

“Herakles Farms never received a fine, penalty or order to stop work. We had followed the proper procedure with MINFOF and notified them within the appropriate window prior to clearing land”.

Under these conditions, why has it been subject to a denunciation of the Regional Delegation of MINFOF, then of a monitoring mission of the National Control Brigade and the Independent Monitor? Why was a report establishing the offenses it committed drafted and approved by the Reading Committee of the Ministry and by the Minister?

² Main fine and damages. See report No. 40 of the Independent Observer in Cameroon, June 2012. See site http://www.oicameroun.org/index.php?option=com_docman&task=cat_view&gid=50&Itemid=33&limitstart=10

In the three cases mentioned above, the question that arises is the following: **What will happen to the wood from the conversion of forests to monoculture within the context of VPA?**

Moreover, these cases appear to inaugurate a practice that will continue, with increasing demand for arable land, especially in the forest zone. We could identify, between concessions recently granted and requests expressed in arable land, a surface area requested/granted which stands between 2 and 3 million hectares. This area requires that the Government, including the Ministry of Forestry, and its partner the European Union, agree urgently on a policy to deal with this phenomenon whose magnitude is likely to profoundly alter the forest cover in Cameroon, and to put on the market in the short term, significant volumes of timber.



Challenges ahead in terms of the respect of legality



Today, most of the wood for export comes from shares allocated for logging. It is not excluded that in the near future most of the exported wood from Cameroon should result of clearcuts in forest or land concessions, whose method of allocating obeys no planning. By taking the figures of timber exports in 2010 (approximately 1.5 million cubic meters of timber exported from Cameroon) and considering the results of surveys carried out by the Regional Delegation of the Ministry of Forestry and Wildlife of the South-west on the surface area of 2500 ha for which **SGSOC** received an authorisation to clear (57000 cubic meters of commercial value, that is, about 23 cubic meters per hectare) can be estimated at about 1.6 million cubic meters of timber volume of commercial value that will emerge from this process of forest conversion. If clearings are done in 5 years, we will have approximately 300 000 cubic meters of

annual production of non conventional timber under this permit. It would suffice for three transactions of this nature and this size for more than half of the wood produced in Cameroon to come from unconventional sources.

Logging operations led within this framework will result in the conversion of forests into monoculture. VPA provides, for the moment, the possibility of legalizing wood from unconventional sources by the procedure of public auction. It is therefore possible that in the near future, we should find on the European market for wood from forest conversion, and bearing a label certifying its legality.

The law in force at the time of signature of the VPA contained provisions favourable to the maintenance of forest cover. Article 28 (2) of the 1994 Law on Forests provides a device greatly limiting the possibilities of forest conversion. It reads: "The total or partial downgrading of a forest can only occur after a forest classification of the same class and of an equivalent surface area in the same ecology"

In the last version of the forestry law under preparation, it will be legal to proceed to a downgrading without reclassification, with the new Article 36(2) being less strict than the text of 1994, and providing that: "the total or partial downgrading of a forest can only take place after classification, **as much as possible**, of a forest of same category and of a surface area at least equivalent, **except for public utility reasons**"³. The new text therefore, leaves an open door to the conversion

³ We are the ones emphasising

of forests. We might think that there exists a medium term between the rigour of the law of 1994 and the extreme opening of the proposal of reform of the law. A medium term between the necessity for an efficient management of the forest and an optimal taking into account of other uses (plantations, mines, and great infrastructure projects) remain undoubtedly possible, and can be explored.

We call on both parties to VPA to lead a reflection within the framework of the implementation of the Agreement, and at least three ways can be envisaged:

- a.** The strengthening of the verification of illegality of operations leading to the clearing of forest areas (plantations, mines, etc.);
- b.** The precision of disposal procedures of wood from the conversion of forests, and the scrupulous monitoring of sales operations, and the publication of all information related to buyers, prices and volumes;
- c.** The monitoring of transactions between private operators, notably with the new obligation which could be imposed to exporters; the publication of the list of their suppliers.



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