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Counter-brief

# LOGGINGOFF

## A civil society counter-brief on the Cameroon–EU VPA

May 2010

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## SUMMARY

On 6<sup>th</sup> May 2010, the Cameroonian Government and the European Union (EU) signed a Voluntary Partnership Agreement (VPA) that aims to solve the country's pervasive problem of illegal logging and associated poor governance. The agreement aims to develop measures to ensure the timber sector in Cameroon is both legal and sustainable.

This briefing provides civil society views from both Cameroon and Europe on the signed agreement and its implementation. It concludes that signing the VPA is just the first step and that results will only be achieved if the agreement is effectively implemented. Initial efforts must focus on ensuring a legal review process which clarifies that many marginalised communities in fact hold rights to use and live in the forests. There must also be broad stakeholder involvement in the monitoring of logging activities.

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## ILLEGAL LOGGING IN CAMEROON – A PERVASIVE PROBLEM

Forests are integral to Cameroon's economy and society. Around 40 per cent of Cameroon is covered in forests; 12 million people (approximately 70 per cent of the population) depend on forest resources for their livelihoods; 220,000 hectares of forest are deforested in Cameroon every year; industrial logging contributes six per cent of Cameroon's GDP and up to 20 per cent of employment, making logging the second largest source of export revenue after oil.

Yet there are serious governance problems in the sector, leading to environmental degradation, inequality, increased poverty and illegal logging (the World Bank estimates that 50 per cent of logging is illegal). Illegitimate activities undermine responsible forest management, encourage corruption and tax evasion, and reduce the income of the Government. What is more, poor and disadvantaged communities rely on forests for their livelihoods and are therefore most disadvantaged by loss of forests or access to them.

Over the last few decades, Cameroon has taken measures to tackle corruption, improve governance and ensure that forests are managed responsibly, but these have so far proved ineffective. In 2003, Cameroon's government set up an independent forest monitor to carry out field inspections and their reports have improved the understanding and exposure of illegal activities. It is true that this has had some effect, but instead of stopping illegal practices, parties involved seem to have simply moved to activities that are hard to monitor such as document fraud and bribing officials to reduce fines (reductions of more than 90 per cent are common). Such independent observation is also limited by its inability to guarantee sanctions. Indeed, very few companies have been sanctioned on the basis of reports by independent observers.

It is hoped that the Cameroon–EU VPA will achieve success where other measures have failed, as it tackles the underlying causes of illegal logging such as lack of governance and little recognition of the rights and roles of forest-dependent communities. It is the most comprehensive initiative proposed to date, and is backed up by the political commitment of both parties to ensure that strong measures are taken against those cheating the system.

## THE NEGOTIATION PROCESS AND THE INVOLVEMENT OF CIVIL SOCIETY

*“The process to conclude the Cameroon-EU VPA lasted 5 years. Negotiations have helped reinforce ongoing governance reforms. Although consultation of civil society had a rocky start, the level of civil society involvement had been unprecedented in the country and has led to strong written commitments for reforms of the forest sector.”*

The process to conclude the Cameroon-EU VPA lasted 5 years from 2005–09. The informal pre-negotiation phase (2005–06), mainly involved a Cameroonian assessment of the VPA’s ability to increase timber product exports to Europe and help reinforce ongoing governance reforms. This included several multi-stakeholder consultations on issues such as how to define legality, traceability and control systems. This phase was followed by formal political and technical negotiation sessions (2007–09) that concluded with the signing of the agreement in May 2010.

The process had a rocky start, faced difficulties at times, and always suffered from having fewer civil society representatives than their private sector counterparts. Despite this, local groups were able to participate in both pre-negotiation and negotiation committees and felt that the process was strong. The level of civil society involvement had been unprecedented in the country and has led to strong written commitments to make information publicly available; continue independent monitoring of the forest sector; carry out reform of the legal framework applicable to the forest sector; and include civil society representation in the monitoring of the VPA’s implementation.

Although NGOs were involved, the direct participation of local communities and indigenous peoples was still mostly absent as the Government considered it to be civil society’s role to consult these groups. Some local NGOs with indigenous leadership took the role of gathering information from, and feeding information back to, the communities. There are currently concrete proposals on the table to ensure local communities and civil society are directly involved in implementing the agreement.

### Box 1. Key facts about the Cameroon-EU VPA

- The Cameroon–EU VPA’s objective is to provide a framework of legislation, systems, controls and verification procedures to ensure that all timber exports from Cameroon into the European market have been legally acquired, harvested, transported and exported.
- Cameroon and the EU want the VPA to be a tool to promote environmentally sound and socially just forest management. However, the extent to which the VPA actually promotes this will depend on the quality of the regulations and of the stakeholder processes that will inform its implementation: It should be ensured during the implementation of the agreement that all stakeholders have the opportunity to shape new policy, and that there is a platform that assures that the VPA is not only focused on trade facilitation but addresses the wider social and environmental issues of concern to forestry.
- The VPA foresees that legal reform will have to be undertaken, including making sure the legal framework regulating forest use is coherent, incorporates ratified international legal instruments (e.g. the Convention of Biological Diversity), and has improved social and environmental criteria.
- The Legality Assurance System (LAS) will apply to all timber and timber products produced, processed, imported and in transit in Cameroon.
- The VPA does not only address timber exported to the EU: The legal framework, systems, controls and verification procedures outlined in the VPA will cover all timber in circulation in Cameroon, whether it is destined to be sold in domestic or international markets.
- Timber in transit will not receive a Cameroon FLEGT (Forest Law Enforcement Governance and Trade) licence and systems will be set up to ensure that it does not enter the Cameroonian supply chain.
- The VPA will have to ensure that a vast array of information is brought into the public domain.
- Independent monitoring of forest operations will be part of the new control system.
- Civil society will have a formal role in monitoring the implementation of the VPA.
- The first FLEGT licences, which will be given only to timber exported towards the EU, are expected to be issued in 2012.

## THE VPA IN DETAIL

The first step in any VPA is to define what will be considered legal timber. The Cameroonian definition of legality is one of the strongest parts of the agreement, as it was developed with strong stakeholder input. For Cameroonian timber to be legal, it must abide by all legislation applicable to Cameroon's forest sector (including forestry, environment, human rights, labour and trade) and ratified international agreements, such as the Convention on Biological Diversity (CBD).

Unfortunately, weaknesses arise with the introduction of a tool called the "legality grid." The legality grid is a matrix which defines each legislative reference and the means of verifying that it has been implemented. However, different types of forest are regulated through different legal instruments, complicating the process of defining in detail the implementation criteria (or 'verifiers'). As a result, the grid itself is complicated. In addition, the process of developing the grid identified and raised many important questions that remain unanswered. The VPA foresees that these shortcomings will be addressed during the implementation of the Agreement and that the legality grid will be periodically updated to reflect any new changes. Vigilance and strong civil society input will be required to ensure that the identified shortcomings are actually addressed in practice.

So, despite a strong definition of legality, legal reform is still needed to ensure that implementation of the VPA complies with all international conventions. There needs to be coherence and consistency between laws, and time should be spent clarifying the issues that would ensure forest management takes into account social issues, achieves equity among stakeholders, and recognises traditional rights of forest-dependent communities. The VPA clearly states that legal reform process and subsequent revision of the legality grids must take place before FLEGT licences are issued.

Once there is an agreement on which laws should be checked, a Legality Assurance System (LAS) needs to be set up to trace legal timber to ensure it is not mixed with illegal timber before export. The LAS will apply to all timber and timber products produced in Cameroon; all products processed locally; all timber imported and in transit; and all timber destined for the domestic or international market (see box 2). Only timber exported to the EU will receive a FLEGT licence, which will be issued by the Cameroonian Ministry of Forestry and Wildlife (MINFOF).

The independent monitor of forest operations which is presently part of the Cameroonian governance system, will continue as part of the LAS, providing field-level investigations and gathering evidence of illegality. Under the agreement, the monitor is specifically authorised to collect information from all stakeholders in the ordinary course of duty. Moreover, an independent auditor will supplement the work of the monitor by assessing the performance and efficiency of the FLEGT licensing system. It will base its reports on information provided by the monitor as well as information provided by third parties (i.e. NGOs, local communities, Cameroon and EU authorities etc.), and its own research. It will provide information to the parties and support monitoring of the VPA's implementation. A summary of the audit report will be made available to the public.

*"Cameroon and the EU want the VPA to be a tool to promote environmentally sound and socially just forest management. However, the extent to which the VPA actually promotes this will depend on the quality of the regulations and of the stakeholder processes that will inform its implementation."*

*"The current Cameroonian independent monitor of forest operations will continue. An independent auditor will supplement the work of the monitor by assessing the performance and efficiency of the FLEGT licensing system."*

### Box 2. How the VPA deals with timber imported into Cameroon

All timber imported into Cameroon, as well as timber in transit, will be captured by the traceability system. All timber and timber products will be checked at the Cameroonian border. Timber imported into the Cameroonian system (that is, timber which will be sold as being of Cameroonian origin) will have its legality checked and will only be allowed in if it possesses a FLEGT licence or a private certificate that the Cameroonian government recognises as equivalent to the VPA legality grid. Timber in transit will need to be accompanied by proof of its country of origin throughout transit and will not be allowed to enter the Cameroonian supply chain. Timber in transit will therefore not receive a Cameroon FLEGT licence.

What the Cameroonian government has committed to under the VPA is to establish a chain-of-custody system for timber and timber products that confirms legal compliance and to integrate results into the SIGIF II database (Système Informatique de Gestion des Informations Forestières, or Digitalised Forest Management Information System). This may be a good step forward, but the success of such measures will depend on the robustness of the systems developed to ensure that no illegal timber enters the Cameroonian supply chain; otherwise timber laundering is likely to occur. Therefore, during the preparatory phase of the VPA implementation, specific attention should be given to the design of procedures for monitoring timber in transit, so as to foil timber laundering.

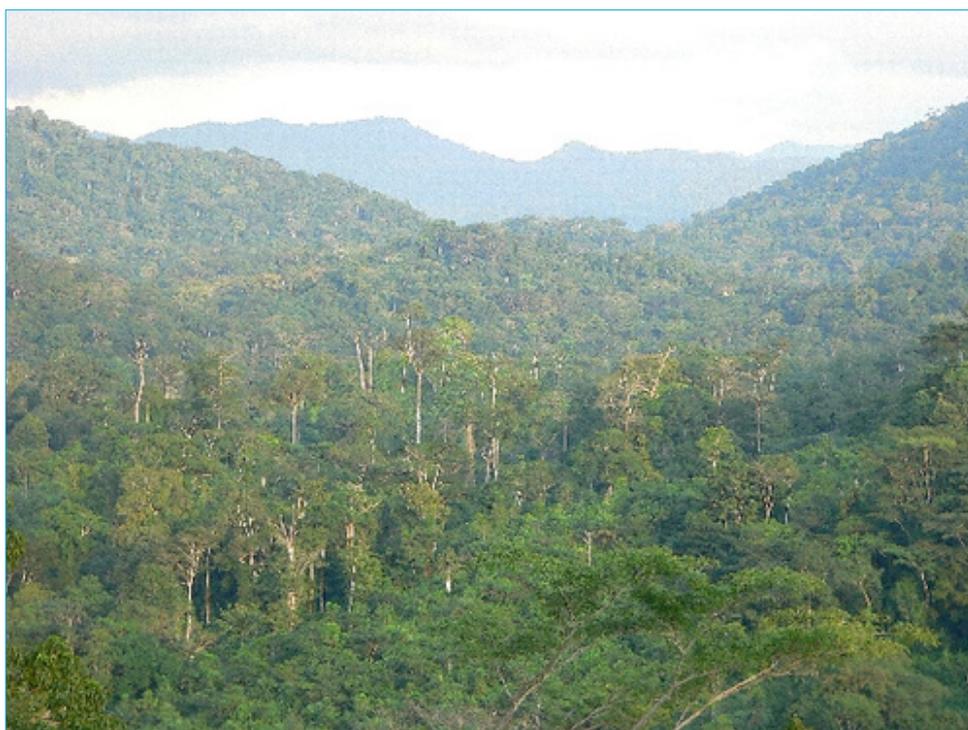
Implementation of the agreement will be overseen by two joint Cameroon–EU structures: a decision-making body known as the Joint Implementation Council or ‘Council’, and a consultative body known as the Joint Monitoring Committee.

The Council will be made up of two representatives of each partner, and decisions will be taken by consensus. The Council’s task will be to decide on the correct implementation of the agreement. It will also be in charge of publishing an annual progress report.

The Joint Monitoring Committee will operate under the supervision of the Council and will monitor and evaluate the effective implementation of the VPA. It is understood that the Committee will include an as yet unknown number of representatives of civil society. Its role is to ensure a regular dialogue between the parties throughout the implementation of the agreement. It will, for example, review reports issued by the independent monitor; consider third party complaints regarding the functioning of the monitor of the system; monitor the actions taken to address the problems identified; assess the social, economic and environmental impacts of the agreement; prepare an annual report to be submitted to the Council; and attempt to resolve any conflict that may arise with regards to the implementation or interpretation of the agreement. On top of this, a national multi-stakeholder committee will be created by a ministerial decision on the day the VPA is signed. The composition and the role of this committee, as well as its relationship with the bilateral Council and Committee, are yet to be defined.

Access to information on the objectives, implementation and monitoring of the agreement is a precondition for the success of the process. Information is the corner-stone of participation of all stakeholders including independent monitors, auditors and monitoring bodies. Moreover, transparency and accountability will provide credibility to the system and assurance to all interested parties. Ensuring that information is readily available in the public domain is therefore embodied in both the text of the agreement and its annexes. Among others it states that information needs to be available about: the definition of legality; forest management; transformation and transport; verification and controls of the system; and workings and functioning of the joint monitoring bodies. A yearly report on the operation of the FLEGT licence will also be available.

*“Civil society will be part of the Cameroon-EU committee in charge of monitoring and evaluating the effective implementation of the agreement. The Joint Council, the only decision-making body for the implementation of the agreement, will not have any civil society representation.”*



*Ebo forest in West Cameroon is an important area for Gorillas.*

*Photo: Filip Verbelen*

### Box 3. How private certification schemes fit under the FLEGT system

One of the major challenges for implementation of the VPA is how to deal with the existence of FLEGT licences and private and voluntary certification schemes at the same time. For example, private certificates (of legality and/or sustainability) issued by certification schemes approved by the Cameroonian government (through MINFOF) will be entitled to receive a certificate of legality under the FLEGT system. The certificate of legality checks the operators' compliance with standards such as processes of allocating rights, agreements with communities, payment of fees and taxes, and labour practices etc, but excludes legal compliance along the supply chain.

The approval of private certification schemes is dependent upon two tests: First, do the criteria used by the body issuing certificates (the 'certification body') adequately match the Cameroonian legality grid? Second, how robust are the monitoring and audit systems of the certification body? If results are positive, MINFOF will approve the certification scheme and operators whose timber has been certified under the scheme will be granted an annual or a six monthly certificate of legality — provided that their audit reports do not indicate any major non-compliance. This assessment will be carried out by MINFOF before FLEGT licences become operational.

Although this procedure has the advantage of avoiding the requirement to verify legality twice, if the certification scheme does not have to ensure compliance as robustly as the FLEGT system, it may mean that producers aim for private rather than FLEGT certification. An assessment report on private schemes will go some way to ensuring sub-standard schemes are not accepted, and participation of local civil society in the monitoring of the VPA will also help ensure coherence between FLEGT timber and that which has been certified by private schemes.

The timber from these operations will still be subject to checks along the supply chain. Legality checks related to which, where and how the tree is harvested, transported, processed etc will be covered through the traceability system that verifies legal compliance along the supply chain, and will apply to all operators.

## THE CHALLENGES AHEAD: THE IMPLEMENTATION OF THE AGREEMENT

One of the main challenges ahead is to ensure that the agreement will live up to the FLEGT objectives (as defined by the European Council) and to the aims established in the agreement itself. It should therefore strive to improve forest governance; strengthen land tenure and access rights (especially for marginalised communities); ensure the effective participation of all stakeholders (notably of non-state actors and indigenous peoples) in policy making; increase transparency and reduce corruption. These are impressive and challenging aims and therefore to achieve success the following activities must first be completed:

- Reform of those aspects of the Cameroonian legal framework that are applicable to the forest sector. This reform must include the following goals:
  - o coherence and consistency between laws
  - o integration of social and environmental aspects in forest management
  - o equity among rights-holders
  - o integration of all ratified international laws
  - o improved transparency and governance.
- The establishment of clear rules indicating the roles and responsibilities of all stakeholders in the design, implementation and monitoring of the process. Roles and responsibilities should be particularly clear during the law reform process, the process to make the wood tracking system operational, the setting up the institutional framework, the process to sensitise and strengthen the capacity of actors and above all during the development of additional measures to improve governance in the forest sector.
- The process must be moved beyond the individuals who have negotiated the VPA, to become part of the institutions hosting it. This is particularly important to ensure that the successes so far achieved are not lost. The process has so far been largely influenced by individuals at the level of MINFOF, and there is a legitimate fear that with little buy-in from their institutions the implementation may not take place.

*“Forest law and governance reforms, and clear mechanisms to continue to ensure the participation of all the stakeholders are key obstacles that will have to be jumped to reach the VPA objectives.”*

- Strong mechanisms need to be put in place to ensure the continued participation of all the stakeholders, especially local NGOs and communities, in the implementation and monitoring of the VPA. In particular, mechanisms must ensure involvement during the amendment of existing legal texts and the development of new ones that will have to be enacted before the first FLEGT licence is granted. To ensure meaningful involvement, provisions must be included to strengthen stakeholder capacity; particular emphasis should be made to ensure that local communities and indigenous peoples are involved directly during the implementation phase.
- Governance reform will only succeed if all Cameroonian stakeholders are informed of their legal rights and obligations and are able to hold their institutions accountable. For this to happen, communication channels allowing for a better understanding by the public on the legal requirements regarding forest use and the new control systems should be set up. Informing the Cameroonian public about the VPA will be instrumental in ensuring broader ownership of the legal and governance reforms that will be established.
- Corruption, which is almost always deeply intertwined with illegal logging, is another key area that will have to be addressed if governance is to be improved. The VPA negotiation process did not directly address this issue, though it was commonly understood that an improved law enforcement system is a precondition to counter forest corruption associated with illegal logging. Several measures were nonetheless developed to address the issue: improvement of the institutional framework at the level of MINFOF; increased transparency (and by doing so reduction of the discretionary power of government officials) through the establishment of regular and open reporting systems that will be available to the public; increased civil society participation in shaping, implementing and monitoring forest policy; and additional controls by a third party. For all these measures to be effective, they will have to be backed up by adequate sanctions — an issue still to be addressed in the VPA.

In order to ensure that these key activities are achieved and the VPA implementation is even more positive than the process leading to the signing of the agreement, civil society will concentrate on the following areas:

- Lobbying for comprehensive legal reform which strengthens the environmental and social weaknesses identified during the negotiations.
- Monitoring the implementation of the VPA.
- Assessing the impact of the VPA on the livelihood of local and indigenous communities.

We hope soon to hear an unambiguous message from the government of Cameroon making it clear that improvements in forest law enforcement and governance are only a first step towards promoting good social, environmental and economic forest practices.

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## END NOTES

1. Sizer and Plouvier (2000), Increased investment and trade by transnational logging companies in Africa, the Caribbean and the Pacific: implications for sustainable management and conservation of tropical forests.

2. FAO (2007), State of the world's forests.

3. CARPE (2005) The Forests of the Congo Basin – A Preliminary Assessment. Central African Regional Program for the Environment.

4. World Bank (2006), Strengthening forest law enforcement and governance. 36638-GLB.

5. These include measures initiated by the government such as the 1990s forest law reform carried out under the auspices of the World Bank and other donors under the assumption that a good legal framework is an adequate solution to the problem of illegal logging. Other measures include setting up two independent monitors, one to oversee the granting of forest exploitation rights and the other to carry out field inspections in the forest. In addition to these, are measures initiated by the private sector to improve forest management such as voluntary forest certification.

6. Reports are available at <http://www.observation-cameroun.info/>

7. Global Witness (2005), Cameroon IFM third summary report. Available at [http://www.globalwitness.org/media\\_library\\_detail.php/134/en/cameroon\\_ifm\\_third\\_summary\\_report](http://www.globalwitness.org/media_library_detail.php/134/en/cameroon_ifm_third_summary_report)

8. REM (2006), Independent monitoring. Progress in tackling illegal logging in Cameroon, annual report. Available at [http://www.observation-cameroun.info/documents/REM\\_IMFLEG\\_Cameroon\\_Report\\_1.pdf](http://www.observation-cameroun.info/documents/REM_IMFLEG_Cameroon_Report_1.pdf)

9. Such as the need to define social criteria, requirements deriving from international legal instruments that have not yet been transcribed into national legislation, clarifying incoherencies between laws, coverage of all forms/types of exploitation of forests, etc.

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*Small wood industry in Cameroon.*

*Photo: FERN*



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## **LOGGINGOFF**

This briefing note is developed by NGOs from European and timber-producing countries involved in or monitoring the implementation of the EU FLEGT Action Plan, and specifically the implementation of the Voluntary Partnership Agreements between the EU and timber producing countries. They intend to provide joint North-South civil society positions. For information on each VPA see:

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