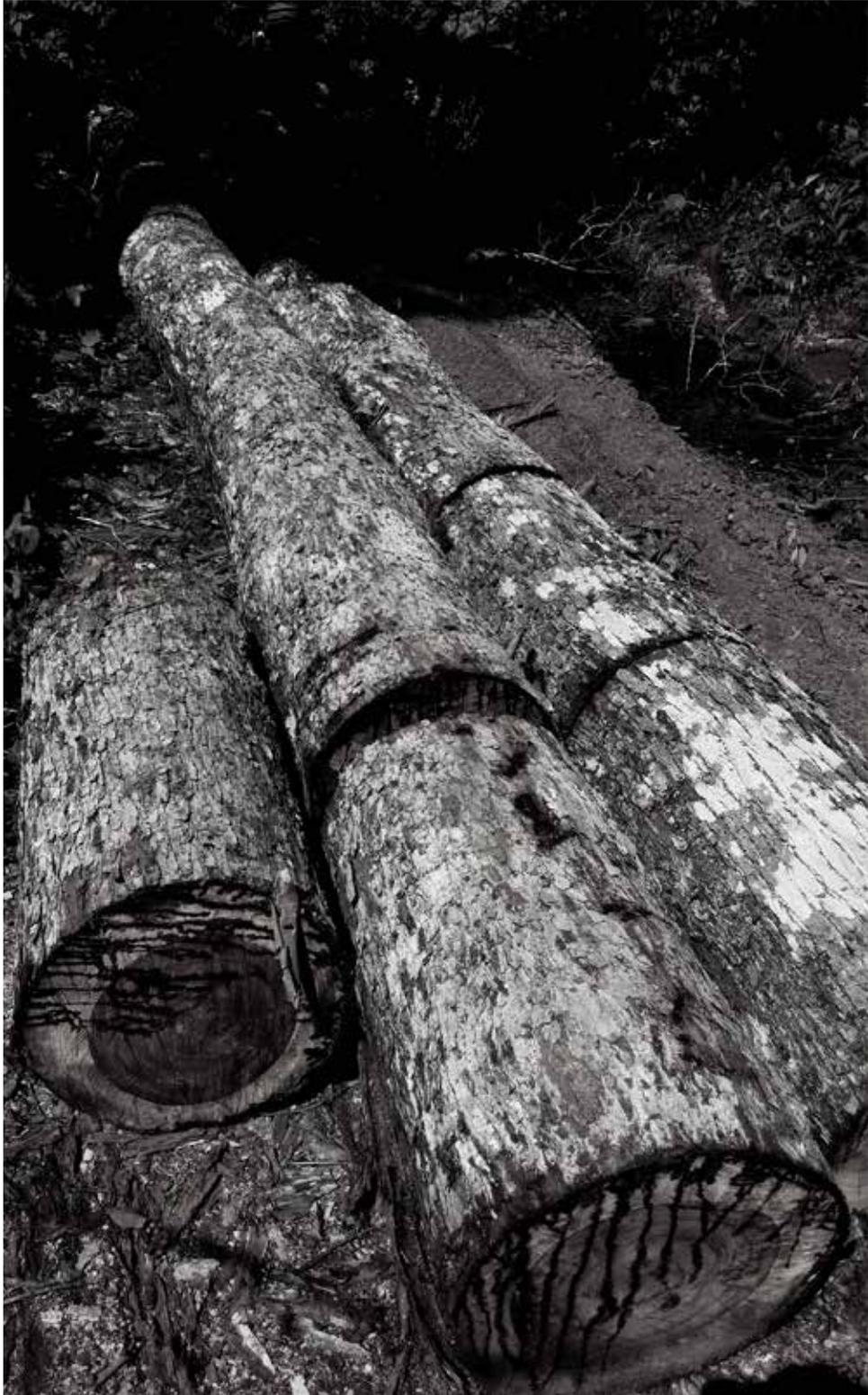


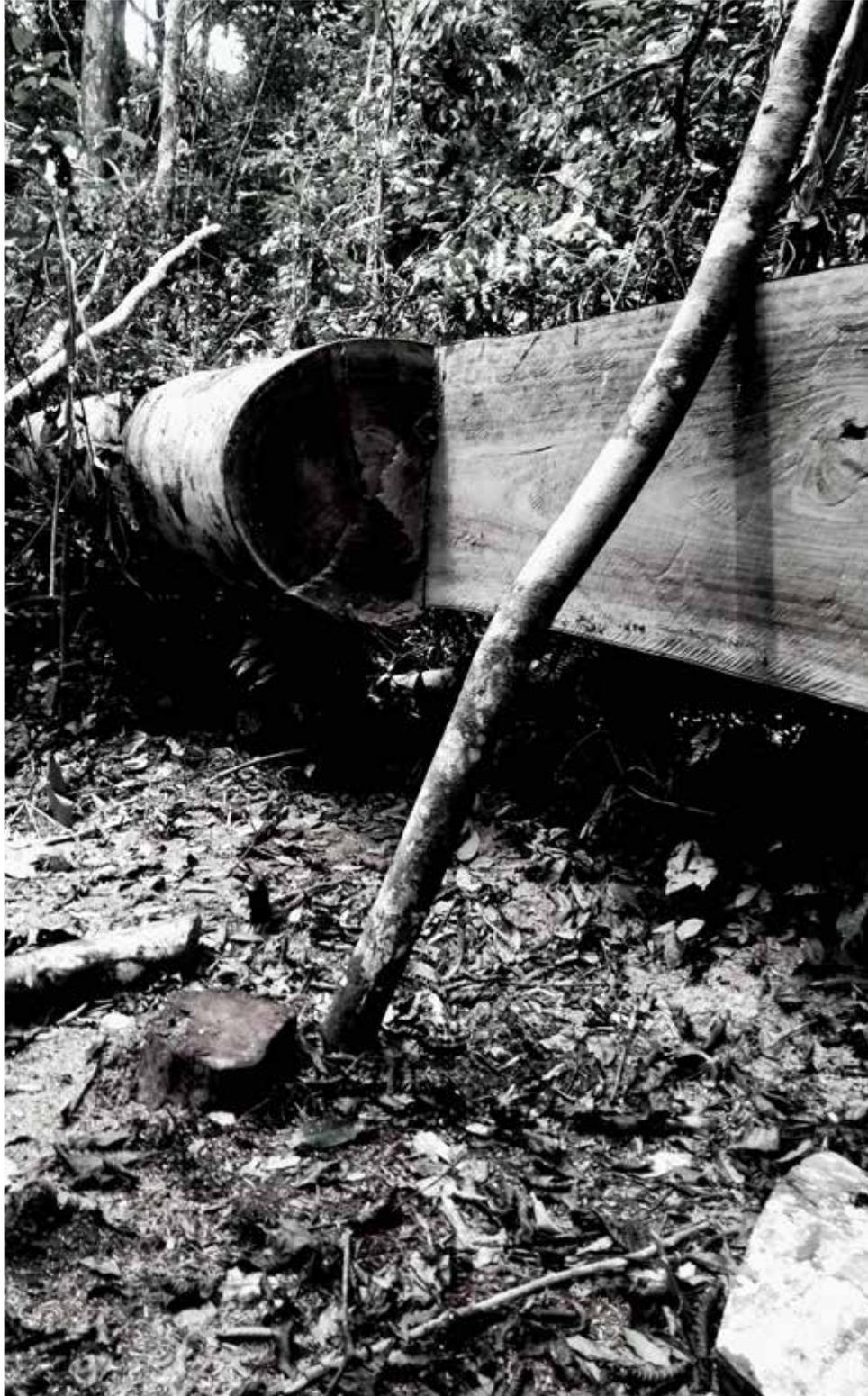
BRIEFING NOTE

THE ISSUE OF ILLEGAL LOGGING IN NATIONAL FOREST ESTATES

GEOGRAPHICAL OUTSOURCING OF SALE OF STANDING VOLUME







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Illegal logging remains prevalent despite significant achievements in reducing illegality in Cameroon's forestry sector. Although some believe that illegal logging has declined slightly in the permanent forest estate since the signing of the voluntary partnership agreement (VPA), this is not the case in the non-permanent forest estate, where the VPAs has had no impact on illegal logging.

With reference to Cameroon's Forestry Law of 20 January 1994, the timber sector in Cameroon operates in a national context where the forest estate is divided in two categories: the permanent forest estate (PFE) and the non-permanent forest estate (NPFE). The PFE consists of forest management units (FMUs), communal forests, protected areas and forest reserves. In contrast, the NPFE consists of community forests, timber recovery permits, timber removal permits, or timber permits and sales of standing volume (SSV). In practice, FMUs and sales of standing volume account for the vast majority of Cameroon's reported annual timber production, i.e., approximately 85% in 2019.

With regard to the latter permit, several studies have shown that sales of standing volume pave the way to illegal logging practices. In 2015, a report by Greenpeace already highlighted illegalities and timber laundering through sales of standing volume. In 2020, a report by EIA and CED recalled the illegality of/ sales of standing volume, the species involved and the destination of timbers.

In addition, there is unfortunately an increase in the number of new forestry permit nomenclatures which are not recognised by Cameroon's forestry regulations and which actually allow access to forestry resources. These include public auctions of standing timber, special authorisations for removal of timber, compensatory sales of standing volume and, finally, so-called outsourced sales of standing volume. To understand this phenomenon, SAILD conducted surveys in 14 outsourced sales of standing volume spanning across the Océan, Sanaga Maritime, Mvila and Nyong & Kellé divisions.

¹Collecting evidence of FLEGT-VPA impact. Cameroon country report. Paolo Omar Cerutti & al. 2021.

https://www.cifor.org/publications/pdf_files/reports/Cameroon-VPA-Report.pdf

²TAINTEED TIMBER, TARNISHED TEMPLES : How the Cameroon-Vietnam Timber Trade Hurts the Cameroonian People and Forests. EIA & CED. Report, 2020. https://content.eia-global.org/posts/documents/000/001/133/original/EIA_CED_report_tainted_timber_tarnished_temples.pdf

³CCT'S TIMBER TRADE FROM CAMEROON TO EUROPE. A TEST CASE FOR EUTR'S DUE DILIGENCE REQUIREMENT. Greenpeace, September 2015. <https://www.greenpeace.org/static/planet4-africa-stateless/2018/10/65f329b9-65f329b9-greenpeace-nederland-2015-cct-timber-trade-from-cameroon-to-europe.pdf>

⁴ETAINTEED TIMBER, TARNISHED TEMPLES : How the Cameroon-Vietnam Timber Trade Hurts the Cameroonian People and Forests. EIA & CED. Report, 2020. https://content.eia-global.org/posts/documents/000/001/133/original/EIA_CED_report_tainted_timber_tarnished_temples.pdf

THE QUESTIONABLE BASES FOR OUTSOURCED SALES OF STANDING VOLUME IN CAMEROON

These bases are assessed in the light of the absence of a legal framework for relocated timber sales on the one hand and the questionable practice of outsourced sales of standing volume on the other.

Lack of legal frameworks for outsourced sales of standing volume

A careful reading of the legislation and regulations shows that the same procedures apply to the allocation sales of standing volume in state forests (permanent forest estate) and national forests (non-permanent forest estate). Article 58 of Decree No. 95/531 of 23 August 1995 laying down the procedure for implementing the forests system, as well as the provisions of Order No. 001/MINFOF of 31 March 2005 laying down the pre-selection criteria and procedures for the selection of bidders for sales of standing volume, make it possible to say with certainty that the allocation of sales of standing volume can only be done after the assent of an interministerial commission, and following the public invitation to tender or tender procedure. A reading of the terms of all the analysed sales of standing volume allocation orders does not indicate that these procedures complied with the legal provisions governing the allocation of sales of standing volume. In fact, in 93% of the sales of standing volume analysed, the endorsements make it possible to identify the bidding and selection process and then the award of the former sale of standing volume that was displaced. As the issue of renewal is not legally provided for in relation to sales of standing volume, the administration cannot use this argument to justify this violation of procedure.

More specifically, with regard to displacements of sales of standing volume, forest legislation and regulations do not define such a category of sale of standing volume. No such designation exists in Cameroon's legislation. Article 73 of the law, reproduced in Articles 110 and 111 of Decree No. 95/531, states that: "(1) In case of the execution of a development project likely to partially destroy a communal forest, or in the event of a natural disaster with similar consequences, the administration shall carry out salvage logging either through forestry services or through the sale of standing volume of the wood concerned under the conditions laid down by decree". This article implies that recovery of timber, within the framework of development projects, can be done through the sale of standing volume, as is very often observed in the context of Cameroon. One can thus speak of the sale of recovered standing volume, if one were to qualify the sales of standing volume allocated in this context.

At the jurisdictional and forestry litigation level, offences related to outsourcing have been recorded in the past. For example, the September 2013 forestry and wildlife offence register recorded the case of the company Sodetra Regent, which was fined nearly 40 million FCFA for outsourcing sale of standing volume No. 08 06 206 in Dibang and unauthorised logging in the national estate. On this basis, WHY is it that a practice that has no legal basis and is considered to be illegal can now be applied by the forestry administration?

⁵However, there is an important contradiction between the law and the decree, which makes the latter's provision illegal. Indeed, in the context of development projects, while the law refers to salvage logging or sale of standing volume, the 1995 decree refers to salvage logging or sale at public auction. The law prevails in all cases as the higher standard.

The questionable practical process of allocating outsourced sales of standing volume
 The procedure for allocating sales of standing volume is described in various texts, including the 1994 Cameroon's forest law and its 1995 implementing decree, as well as other inferior texts. A comparison of this procedure as provided for in the legislation and regulations with the practice of granting outsourced sale of standing volume as observed during data collection on the fieldwork and interviews shows substantial differences which help to confirm the illegal nature of the latter. Table 1 below 1 summarises the procedures mentioned and the significant differences that result from them.

Table 1: Comparative presentation of the legal process of allocating a sale of standing volume versus the practical process of outsourcing a sale of standing volume

		SSV	Outsourced SSV
Procedures	Stakeholders		
Identification of forest areas that can be exploited for a period of three (3) years through sale of standing volume	Forestry Administration	yes	no
Determining, by order, on an annual basis, zones and areas that may be subject to sale of standing volume in order to validate the standing volume sale planning document (DPVC)	Forestry Administration	yes	no
Publication by posting at division offices, sub-division offices, town halls or services of the Administration in charge of forests in the regions concerned, or by any other means deemed useful, of the DPVC accompanied by the map of the area, the list of riparian villages concerned and the present Order (Order 0518), the Community Forestry Unit is obliged to disseminate it widely and to ensure, by acknowledgement of receipt signed by the traditional authority or any other authority recognised as such, that the riparian village communities in the areas concerned have received a copy of the said documents.	Forestry Administration	yes	no
Notice of invitation to tender published in newspapers, on posters or by any other useful means, in the administrative units, the councils and the services of the Ministry of Forestry and Wildlife, for an uninterrupted period of forty-five (45) days	Forestry Administration	yes	no
Submission of a file in ten (10) copies, including one original and nine (9) certified duplicates, deposited against receipt at the Ministry in charge of forests	Operation company	yes	no
Notice following the shortlisting and ranking of the best bidders on the basis of the following criteria, considering the minimum thresholds previously set by the Minister of Forestry and Wildlife in the invitation to tender: - planned investments; - financial capacities, including performance guarantee; - technical and professional capacities; - compliance with previous commitment, where necessary	Interministerial Commission	yes	no
Signing of the Allocation Order for the Sale of standing volume	Minister of Forestry and Wildlife	yes	yes
Convening and conducting the awareness-raising meeting during which the communities bordering the SSV are informed of the the modalities of payment of the percentage of the felling tax fixed by the Finance Act to their benefit	Local administrative authority, in the presence of the traditional authorities the local technical officers concerned and the forestry operator		
Signing of the deed to start the operating activities	Regional Delegate of the Ministry of Forestry and Wildlife	yes	yes

⁴Inventories of forestry and wildlife offences, September 2013

The data collected revealed that the outsourcing of sales of standing volume is carried out by an anonymous commission created in the central services of the Ministry of Forestry and Wildlife. Furthermore, some forest management staff members do not understand how outsourcing is done in practice and believe that it is an illegal practice. "...there is no formal process for outsourcing a sale of standing volume, instructions come from above, we just execute".

"...To tell you the truth, the outsourcing of sales of standing volume is a way of fraudulently exploiting timber by circumventing forestry regulations", said a worker of a deconcentrated service of the MINFOF interviewed anonymously.

ILLEGAL PRACTICES IN OUTSOURCED SALES OF STANDING VOLUME

Illegal practices involved in outsourcing sales of standing volume are visible through the irregularities noted in allocation orders, but also in failure to comply with the standards for operating in forest environment, as well as by the harm done to the interests of communities, which can be assessed in terms of damage suffered by them.

Irregularities observed with on the allocation orders for outsourced sales of standing volume

Overall, in addition to the ambiguity and illegality of the title "outsourced sale of standing volume", allocation orders contain several irregularities:

- The reason for outsourcing: In the statements of 93% of orders, one can read "the request made by the interested party (...) concerning the change of the area (...)" or the letter (...) made by the interested party concerning outsourcing (...)" as reasons for outsourcing. In other words, instead of being competitive and following the established procedure as presented in Table 1 (invitation to tender, assent of the interministerial commission, etc.), these sales of standing volume are prompted by the beneficiary of the first/initial sale of standing volume.

- Duration of outsourcing: Some allocated sales of standing volume are outsourced after more than ten years. Table 2 summarises the sales of standing volume that were analysed in this work.

Table 2: outsourced sales of standing volume under this study

Old sales of standing volume	Allocation year	Location	Outsourced sales of standing volume	Location	Allocation year	Operator/ company
09 03 355	07 Dec 2015	South Region	07 03 408	Makondo (sanaga maritime)	16 April 2021	Amougou amougou Jules
09 03 424	19 April 2018	Kribi 1 and Lokoundjé	09 02 232	Ebolowa 1 and efoulan (Mvila)	18 June 2021	Nambois
09 02 210	23 Dec 2016	Région du Sud	09 03 480	Lolodorf (océan)	07 March 2019	Nsali NJIDA
09 03 480	07 March 2019	Lolodorf (océan)	09 03 508	Messondo (Nyong and kellé)	25 June 2021	Nsali NJIDA
07 03 392	06 August 2020	Yabassi	07 03 405	Massok (sanaga maritime)	16 April 2021	Sali Ndjida
07 03 391	06 August 2020	Edéa II	07 03 406	Massok songloulou	16 April 2019	Nsali NJIDA
08 08 402	23 Sept 2019	Messondo	07 03 395	Nyanon	11 Nov 2020	SOFOCAM
07 03 350	02 Nov 2018	Edea	08 08 402	Messondo	23 Sept 2019	SOFOCAM
09 02 220	31 Jan 2020	South	07 03 396	Nyanon	11 Nov 2020	SOFOCAM
09 01 368	14 March 2016	Djoum	09 03 499	Lolodorf (océan)	9 Dec 2020	SOFOMAC
07 03 37			10 02 422	Messamena	30 Dec 2020	SFIM

09 03 321	18 sept 2014	Memve'ele	10 02 423	Messamena	30 dec 2020	Ngo Touck
08 06 209 09 03 321	29 Jan 2010 18 sept 2014	Centre Region	10 02 424	Messamena	30 Dec 2020	Ngo Touck
09 01 377 09 01 347	07 Nov 2018	South	07 03 391	EDEA II	22 June 2020	SBAC Nzama et fils

- The choice of the area for outsourcing: The sales of standing volume initially allocated for timber recovery in accordance with Article 73 of the law, within the framework of development project, but which are subsequently outsourced to an area where the impacts of the development project are not felt (outside the project's area of influence).

- Difference of surface area: More and less significant differences in terms of area allocated between the original and the outsourced sale of standing volume. The case of sale of standing volume 09 03 480 which became the sale of standing volume 09 03 508 went from 1,000 hectares to 2,500 hectares without any real clarification.

- Multi-block sale of standing volume: Sales of standing volume allocated in the same order to the same person but in two blocks and in two different regions, which is a significant irregularity in the light of Article 81 of Decree No. 95/531. The latter stipulates that: "(1) National forests shall be used under permits to sell felled timber over a unit area which shall not exceed 2,500 hectares, in accordance with the operating programme drawn up each year by the Forests Administration and published under the conditions laid down in Article 51 above. The cases of sales of standing volume 09 03 508 located in two different regions and 09 03 499 located in two different divisions are typical examples of this irregularity.

- Choice of silvicultural treatment: The silvicultural treatment is of different types, from one outsourced sale of standing volume to another: either cutting to minimum exploitability diameter, or selective cutting, or clear cutting, or no precision. While in the context of a development project, clear-cutting is understandable, it is observed that the latter has been mentioned in the orders for the allocation of sales of standing volume outside of any development project. This appears to be a violation of Article 84 of the 1995 Decree 7 insofar as several of these allocation orders give a choice of silvicultural treatment when the Decree is clear on the approach to be taken.

Non-compliance with the right of pre-emption of local riparian communities

Information collected from communities shows that the implementation of outsourced sales of standing volume has not followed the procedure complying with the pre-emptive rights of riparian communities. Communities are only informed of the allocation of outsourced sales of standing volume during

awareness-raising meetings convened by Divisional Officers of the area concerned, since there was no public notice allowing the riparian communities to exercise their pre-emptive rights in accordance with Order No. 0518/MINEF/CAB giving priority to neighbouring village communities for attribution of any forest that may be developed into a community forest; "We were not consulted, we were just made to understand that there is already a sale of standing volume in our village and neighbouring villages", said the representative of the Kum village chief. "At the meeting today, the Divisional Officer said the forest

⁷This article states that: "(1) Under a permit to sell felled timber in a national forest, only trees which have been listed in the inventory and marked may be felled, except for identified seed-bearers. (2) The holder of a permit to sell felled timber shall be required to submit to the Forests Administration every six months a report on the progress of his forestry activities and an overall report on completion of his activities."

CONCLUSIONS AND RECOMMENDATIONS

At the end of this study, which was carried out on 14 outsourced sales of standing volume, it appears that, in general, outsourced sales of standing volume are definitely illegal. This is due to the absence of a legal basis for this category of title, non-compliance with allocation procedures and non-compliance with management procedures. If one looks only at the terminology « sale of standing volume », the illegality may not be visible. However, if the contents of the orders are examined in detail and compared with the legislation and regulations in force, the more or less significant irregularities that underline their illegality become evident. The data collected in the field even show a more significant view of the illegality observed. In the end, it is not only the forests, but also the communities and the State that suffer as a result. To reduce or even put an end to this practice, several recommendations could be made:

To the MINFOF and the Government

- To put an end to the practice of outsourced sales of standing volume, a crucible of illegality;
- To launch an audit of sales of standing volume in Cameroon to identify those which fall under the category of outsourced sales of standing volume and cancel them;
- To standardise the legal and regulatory framework, especially Article 73 of the law and 110 of Decree No. 95/531;
- To ensure the dissemination of public notices on community radio stations and in riparian villages' chieftaincies to ensure that the communities concerned are informed;
- Through its decentralised services, involve forest communities in the identification of areas that could be subject to logging and inform them of the exercise of their pre-emptive rights over these forests.

To forest operators

- To comply with the legislation and regulations governing the allocation and exploitation of forest titles in Cameroon.

To CSOs

- To systematically denounce operators and allocations of forest titles that do not comply with legal requirements;
- To initiate advocacy actions to reverse illegal forestry practices, and more specifically outsourced sale of standing volume;
- To support forest communities to ensure better control over forest resources and the enjoyment of their rights under forest legislation.

To riparian communities

- To Get closer to the actors who have the information in order to strengthen their capacity on their rights and the procedures related to the management of their forest;
- To systematically denounce suspicious practices;
- To claim and use recourse to tap from the benefits of forest exploitation of local logging.



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