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Legality of Community Forests in the Upper-Nyong Division (Cameroon)

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Abstract:

Community forestry aims to improve the living conditions of local populations while ensuring the sustainability of forest resources. It appears to be a way by which local actors are involved in sustainable management of forests. Through the Forestry Law n°94/01 of 20th January 1994 and decree n°95-531 of 23rd August 1995, Cameroon's government aimed to involve local and indigenous populations in managing forest resources and to enable these groups to benefit from their exploitation. Community Forests (CFs) created under the ongoing legislation should be a legal supply source for the domestic wood market. A study was conducted in 30 CFs of the Upper-Nyong division to provide an overview of legality-related aspects of timber produced. A research team visited the exploitation sites in order to gather legality grid documents (verifiers) and carry out interviews with various stakeholders (managers of CFs, government officials and civil society organizations). The results show that 53% of CFs are under provisional agreement, 47% are under final management agreement and 13% are inactive, 23% are subcontracted and 64% are under control. None of the 30 CFs studied complies with the requirements of the VPA-FLEGT legality grid n°6. Compliance levels range from 20 to 70%, revealing difficulties CFs face to align to the new trend embodied by the VPA-FLEGT. It finally appears that, none of the 30 CFs studied can obtain a certificate of legality. The review of legal framework of CFs, organization of capacities building sessions for managers and the mutation of CFs into forest management cooperatives are the main identified issues to address in order to get CFs out of illegality.

Keywords: Community Forest, Legality, FLEGT, Upper-Nyong, Cameroon

1. Introduction

According to FAO (1991), community forestry refers to situations where forest adjacent communities are closely associated to ongoing forest activities surrounding their lives spaces. Since 1994, community forestry has provided an opportunity for Cameroonian rural communities to participate actively in the management of their forest resources in order to improve their socio-economic conditions (Vermeulen et al., 2006; Mbunya, 2016). The concept was established by the forestry law n° 94/01 of 20th January 1994 and decree n° 95-531 of 23rd August 1995 laying down modalities for the implementation of the forest law. In this decree, community forestry has three objectives: enhance the livelihoods of rural populations, conserve forest resources and biodiversity and improve local governance through the transfer and democratic implementation of management authority (Lescuyer 2012). CFs are defined as "a portion of the non-permanent forest transferred by the State to a community that requested for it and who manages it on the basis of a management agreement signed with the State". Since the signing of the first management agreement in 1997, the number of CFs applications received by the Ministry of Forestry and Wildlife (MINFOF) has steadily increased. In 2016, 683 applications files were received by MINFOF and the East region had 119 CFs in exploitation distributed in 18 subdivisions.

CFs were created to contribute to the protection of the environment, the conservation of natural resources and especially the improvement of the community participation in the management of forest resources, in order to improve their livelihood. After 20 years of implementation, the objective has not yet been fully achieved (Cuny et al., 2011; Alemagi, 2011;

Julve et al., 2013). CFs have instead turned into home for illegal logging, as 96 to 98% of its timber supplies 3% of the national illegal timber market, causing a loss of about 14 million USD to the Cameroonian economy (Nanfack, 2016).

In order to control illegal logging and timber trade that jeopardizes the sustainability of global forest resources, the European Union (EU) adopted in 2003 the Forest Law Enforcement, Governance and Trade (FLEGT) action plan, linking the improvement of governance in producing countries to access to European markets. It is in this framework that the Cameroonian government signed the FLEGT Voluntary Partnership Agreement (VPA) with the EU on October 2010, and then ratified it in August 2011. This agreement aims at certifying that all timber products exported from Cameroon to the EU are legally produced or acquired. This agreement also promote the establishment of a reliable means to distinguish forest products of lawful origin from illicit origin, the Legality Assurance System (LAS). During the development process of the LAS adapted to CFs, a study was conducted to provide an overview of CFs legality in the Upper-Nyong Division in East Cameroon. The expected results are relevant up-to-date information to be taken into account all along the development of the CFs Timber LAS.

2. Methods

2.1. Study Area

The study was conducted in 06 subdivisions (Dimako, Doume, Lomie, Messok, Dja and Ngoyla) of the Upper-Nyong Division, East Cameroon Region.

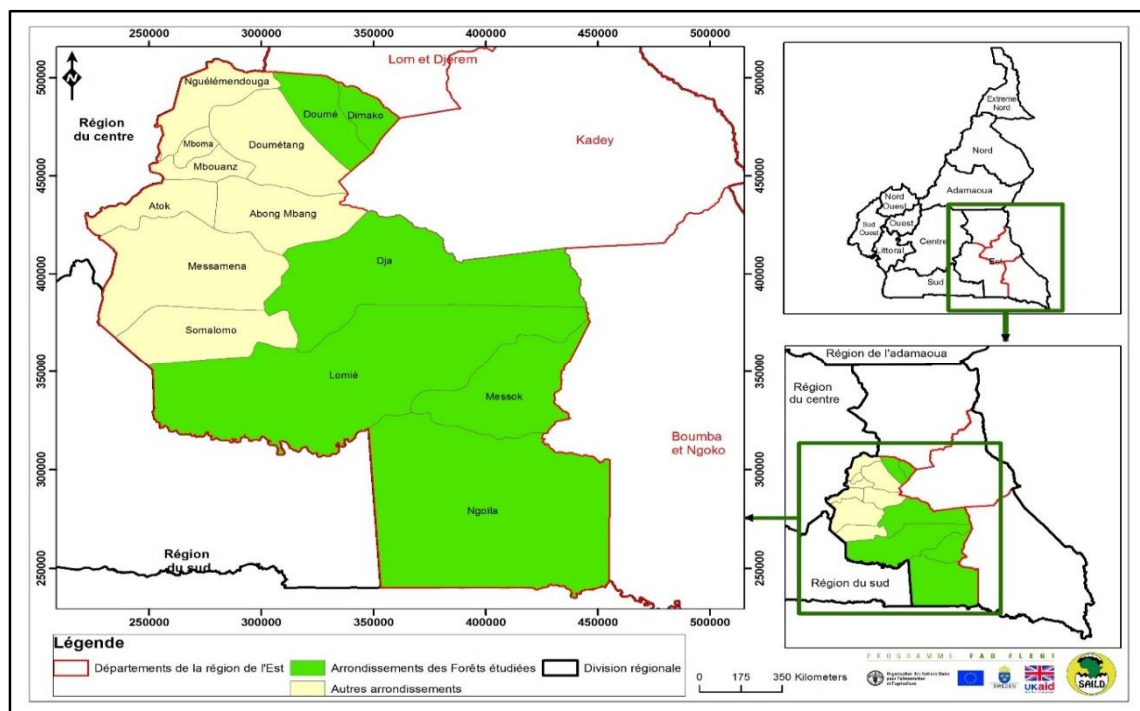


Figure 1: Location of the subdivisions in the study area

2.2. Selection of CFs

Six criteria were used to select CFs:

- located in the Upper-Nyong division, which hosts 1/3 of CFs in Cameroon (MINFOF, 2016);
- belonged to the Dja Community Forestry Network (REFOCOD including the Lomie, Messok, Ngoyla FCs) and the Union of Common Initiatives Groups of Community Forestry (UGIFOC including Doume, Dimako, Nguemendouga, Doumetang CFs).
- been active, evidenced by the presence of a validated Annual Exploitation Certificate (AEC);
- accessible according to the period of the study;
- availability and willingness of managers.

The study was thus conducted in 30 CFs, 15 belonging to UGIFOC and 15 others to REFOCOD.

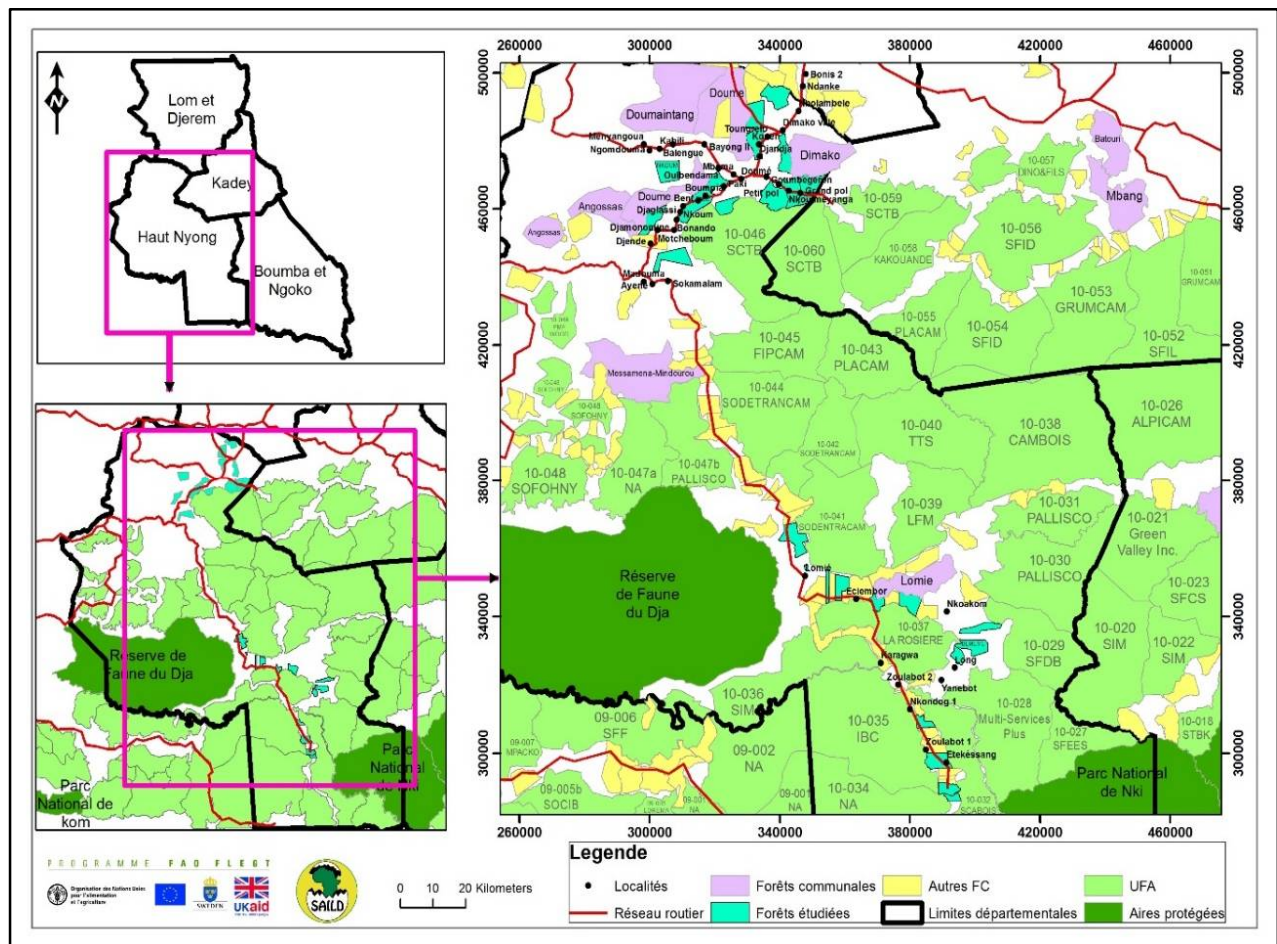


Figure 2: Location of CFs

2.3. Data Collection

The study was carried out during a period of 20 days, in the 06 subdivisions selected. Investigations in the field were conducted by two separate teams, consisting of 02 members each and a field supervisor. This permitted to:

- be assured of the availability of legality grid documents (verifiers) and to scan these documents
- conduct interviews with CF managers and local MINFOP officials (Chairpersons of management entities, CF Forestry Operations Officer (ROFs) and Forest Post Heads)
- visit exploitation sites in order to take pictures of the CF operation process.

2.4. Data Processing

This step was carried in two phases:

- the consolidation of the data was done at the same time it was collected. It permits the verification of scanned document, in adequacy with the check list of control, selection, coding and agreement of documents per CF,
- statistical analysis preceded the constitution of a data base and the production of graphs through Excel.

2.4.1. Evaluation of the Compliance of CFs with VPA-FLEGT n° 6 legality grid

VPA-FLEGT n° 6 legality grid includes 5 criteria, 12 indicators and 37 verifiers. The assessment of CFs compliance is in function to documentary compliance of the verifiers with the VPA-FLEGT legality grid n°6. The following elements were used to evaluate the verifier's compliance:

- applicability of the verifier to the CFs in relation to its legal status;
- existence or non-existence of the document in the data collection base;
- validity of the document according to the legal provisions and information contained therein: date, stamps, signature, content, etc.

According to the aforementioned elements, three assessment levels of the verifiers were proposed:

- Non-conforming, when the verifier is applicable to the CF and is non-existent or available but not valid;
- Conforming, when the verifier is applicable to the CF and is available and valid;
- Not applicable, when the verifier is not applicable to the legal context and the operation of this CF.

3. Results

3.1. Type of Agreement

47% of the CFs studied are under a 3 years Provisional Agreement (PA). This phase precedes the entry into final agreement. 53% of the CFs are in Final Agreement (FA), of a duration of 25 years renewable.

N°	Subdivision	CF	Operation Mode		N°	Subdivision	CF	Operation Mode	
			CF	CF				CF	CF
1	Dimako	CADBAP			3	Lomie	COBANKO		
		APOBA					COBADEM		
		PALOBA					ASTEDOU		
		APROK					CODEVIR		
		APAEL					ASCONNED		
		AVAB					AVILSO		
		DEBROUILLARD			4	Messok	BEMEME		
NYANGO-KOATO			ADELIBAM						
2	Doumé	KAME			5	Dja	EFNO		
		SIPAME			6	Ngoyla	COBABA		
		CHOU CHOU TSIC TSIC					CODEVIE		
		FABE					CODEMBA 1		
		TSOUNG AMANDE					CODEMAB		
		APHODYM					CODENVI		
		CODENVI					COBISSAD		

Table 1: Type C Fagreement

CF = Community Forestry PA = Provisional Agreement FA = Final Agreement

3.2. Mode of Exploitation

Among the 30 CFs, 7 are under control (harvesting and marketing is under control of the communities), 19 under subcontract and 4 are inactive.

N°	Subdivision	CF	Operation Mode			N°	Subdivision	CF	Operation Mode		
			Under Control	Subcontract	Inactive				Under Control	Subcontract	Inactive
1	Dimako	CADBAP				3	Lomie	COBANKO			
		APOBA						COBADEM			
		PALOBA						ASTEDOU			
		APROK						CODEVIR			
		APAEL						ASCONNED			
		AVAB						AVILSO			
		DEBROUILLARD				4	Messok	BEMEME			
NYANGO-KOATO				ADELIBAM							
2	Doumé	KAME				5	Dja	EFNO			
		SIPAME				6	Ngoyla	COBABA			
		CHOU CHOU TSIC TSIC						CODEVIE			
		FABE						CODEMBA 1			
		TSOUNG AMANDE						CODEMAB			
		APHODYM						CODENVI			
		CODENVI						COBISSAD			

Table 2 : CFs mode of exploitation

3.3. Compliance of CFs with VPA-FLEGT n° 6 legality grid

According to our results, none of the 30 CFs complies with the VPA-FLEGT n°6 legality grid. Only one CF has a compliance level of 70%, 24 have a compliance level lower than 50%, 4 have a compliance level of 30% and 1 of 20%.

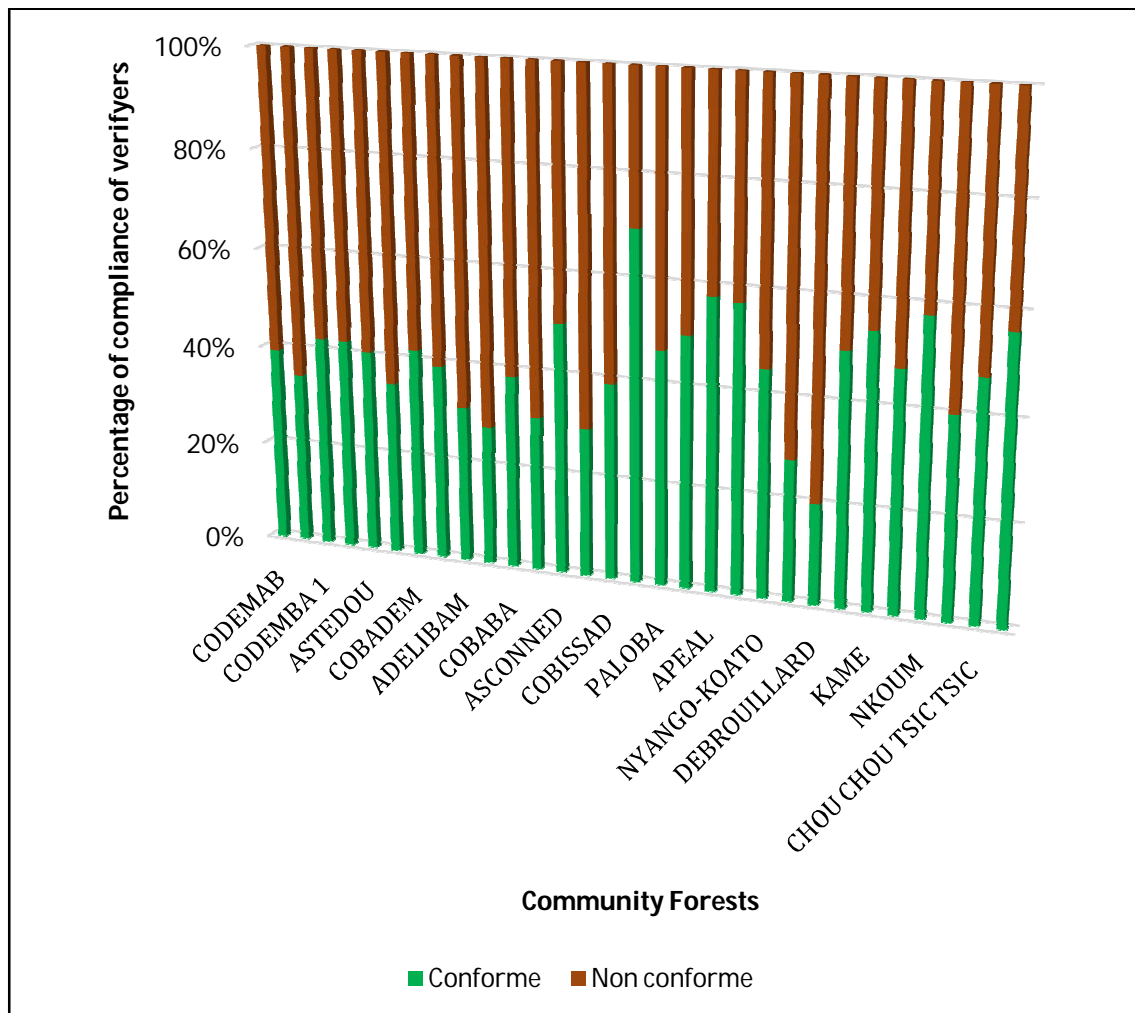


Figure 3: CF Compliance with VPA-FLEGT n° 6 legality grid

3.4. Compliance Level of Each Verifier for all CFs

Four (04) verifiers (1.1.3, 2.4.2, 3.1.2 and 3.1.3) of the VPA-FLEGT n°6 legality grid were not applicable to all of the CFs studied. These verifiers are related to the act of the court clerk, the certificate of reattachment and the special registered declaration are not applicable to CFs.

Five (05) verifiers (2.2.1, 2.2.2, 5.1.1, 5.2.2 and 5.2.3) are non-conforming. They are related to respect of subcontracting rules (approval of various subcontractors) and environmental requirements (environmental compliance certificate, information and awareness materials, attestation of compliance with environmental clauses, environmental offense record). It has been observed that no CF has an EIA (Environmental Impact Assessment) report, and therefore an Environmental Compliance Certificate. This implies that their managers do not carry out forest protection activities, although awareness-raising activities on anti-poaching measures are carried out. These are not recorded in reports and are therefore not documented.

Three (03) verifiers (1.4.1, 1.4.2, 5.1.1, 5.2.2 and 1.4.3) are conforming. They are related to the administrative sanctions imposed to CFs (summary of offenses, decision of suspension, and litigation record of competent local services). No CF under a measure of withdrawal or suspension of its license by the administration in charge of forestry was identified in our study.

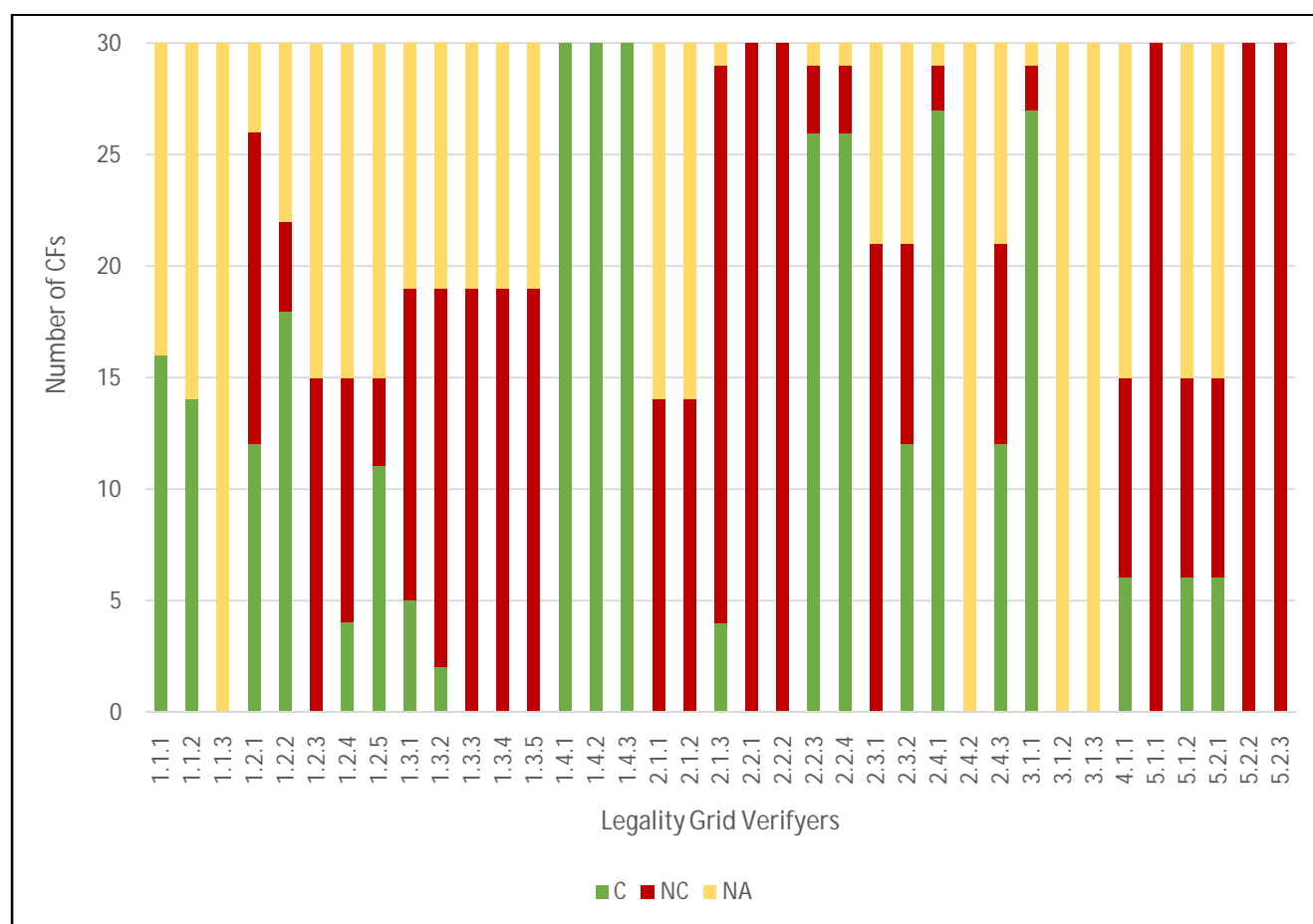


Figure 4: Compliance by CFs with the verifiers of VPA-FLEGT n°6 legality grid

Four (4) verifiers (2.2.3, 2.2.4, 2.4.1, 3.1.1) have a high level of compliance. They are related to available AEC, notification of assumption of activities, site register and the secured and initialed consignment letter (LV). At least 25 CFs meet logging requirements in terms of felling authorization. As evidence, they have a AEC, the notification of assumption of activities and secure documents namely the DF10 and waybills (Lettres de voiture) LV.

Seven (7) verifiers (1.2.3, 3.4, 2.1.1, 2.1.3) have a high level of non-compliance. These verifiers are related to the Forest Management Agreement (deposit receipt of a complete SMP submission file), subcontracting of inventory and operational activities of the CFs (trade register established in the relevant court, approval to the forestry profession, extract of deposit of the marking hammer, approval of the various subcontractors, service provision contracts with an approved structure, attestation of compliance of inventory work).

- 19 CFs are exploited under subcontracts and subcontractors do have neither a trade register, nor an authorization for forestry profession and marking hammer extracts deposit.
- 14 CFs under process the realization of inventory work. However, these subcontractors do not have the authorization to carry out inventories and the subcontracting contracts have not been signed with the communities.
- 15 CFs have not archived their deposit receipts of a complete SMP submission file for the final agreement.
- 19 CFs do not have a certificate of conformity for inventory works, which is an essential element of the AEC application file.

4. Discussion

The VPA is an initiative to ensure that all timber and derived products imports from Cameroon, within the EU, are legally produced. The objective of the study was to provide an overview of the legal aspects of 30 CFs in the Upper-Nyong division, East Cameroon region. The choice of this division was motivated by the fact that it hosts the largest number of active CFs (MINFOF, 2016).

Four elements were taken into account to study legality: the type of agreement, the mode of exploitation and CFs' compliance with VPA-FLEGT n°6 legality grid and their compliance with each verifier.

The results show that the majority of CFs are under Provisional Agreement (PA). The community appropriation of the concept of community forestry has been gradual and deferred over the years in the localities, under the impetus of various stakeholders (administration, civil society, elites, etc.). Community forestry has therefore taken time to get into the habits and this fact is not specific to Cameroon. Same observation has been highlighted in a study conducted by Vermeulen et al. (2015) in

Gabon. In addition, many bottlenecks hinder genuine community involvement in the exploitation process of CFs. That is why, after just over 20 years of implementation, CFs under PA are still the most abundant.

Majority of CFs is exploited under subcontracts, meaning that their exploitation activities are carried out by economic operators. This situation is favored by the lack of skills but also by the shortage of financial means that characterizes the communities in these localities. Four of the 30 CFs targeted are inactive because of their inability to renew both their exploitation file and their SMP. According to the law, exploitation files and SMP must be renewed every year and every five years, respectively. The production of these documents is subject to financial investments that are not available.

None of the 30 CFs studied complies with the requirements of the VPA-FLEGT n° 6 legality grid. Compliance levels range from 20 to 70% and clearly show the difficulties that the CFs have in adjusting to the new trend embodied by the VPA-FLEGT. Taken individually, grid verifiers are applied in different ways in CFs. Some (1.2; 1.3; 2.1; 2.2; 5.2) are not adapted to CFs while others are adapted but not applied. 100% of the CFs do not comply with verifiers in relation to biodiversity protection and environmental management (5.1.1, 5.2.2, 5.2.3). Compliance with environmental requirements is contingent on the completion of an EIA, an expensive activity that communities can hardly cover.

More than half of CFs do not comply with the legislation in terms of performing inventory works (2.1.1, 2.1.2, 2.1.3). The latter provides for the contractualization of a consulting firm approved for the realization of the inventories. In the field, this activity is most often entrusted to resource persons, in this case, the Communal Forestry Unit Head supported by community members.

The non-compliance and the poor application of verifiers observed in CFs is the result of a combination of factors. The lack of financial resources that CFs managers face forces them to outsource exploitation to partners or subcontractors. The latter are not usually in possession of an authorization duly signed by MINFOF, do not respect the types of partnerships envisaged by the legislation (sale of cut, exploitation permit or by personal authorization of felling) and do not have formal documents establishing outsourcing (1.3.2, 1.3.3, 1.3.4, 1.3.5). In addition, the costs involved in obtaining approval to carry out logging activities, the registration fees of a marking hammer, the absence of a framework defining the terms and conditions for subcontracting CFs operations and the opening up of CFs under subcontract to the payment of the felling tax introduced by the 2016 Finance Law, are elements that do not encourage legal CFs timber exploitation.

On the one hand, timber exploitation requires huge investments and, on the other hand, the resulting profit margins are reduced because of the multiplication of taxes by the forestry administration. In the end, managers face a dilemma and are tempted to choose the simplest solution, non-compliance. Observations from this study have also been made by other authors in Cameroon (Tabi, 2012; Julve et al., 2013,2007).

Cameroon has developed measures improving CFs compliance with legality. One of the most important is easing environmental requirements for CFs, by the introduction of the Environmental Impact Notice (EIN), much easier to realize compare to EIA. Unfortunately, ownership of this text by communities is still very weak and the mechanisms for issuing documents by local administrations, which are actually at the center of the process is not yet sufficiently operational.

5. Conclusion

At the end of the study, it clearly appears that the 30 targeted CFs cannot achieve the objectives of legality. Consequently, they could not obtain a certificate of legality, prior to the exportation of their timber to European markets. Cameroon's community forests suffer from a number of weaknesses such as the extremely complex and costly regulatory framework for obtaining and managing a community forestry concession, communities do not have the necessary skills to engage in commercial extraction processes, local capacity-building processes have not been put in place, meaning communities generally have to call on external entrepreneurs to help them log their timber, governance structures are not effectively operational, CFs activities have a low economic viability, organizational structure are poor and the lack of equity and social justice in forest management generate multiple conflicts which are often hard to reconcile.

Exploitation of CFs in the Upper-Nyong division is characterized by amateurism and non-compliance with the ongoing legislation. In order to improve this situation, some proposals are formulated:

- review CF exploitation legal framework, in particular by simplifying the acquisition procedures of operating permits;
- revisit VPA-FLEGT legality grid n°6 in order to remove some verifiers, adjust those related to sub-contracting and to harmonize the title of the grid with its content;
- strengthen the capacities of CF managers through a transfer of competences as stipulated in the applicable legislation;
- contribute to improve the organization and transfer of CF into forest management cooperatives.

6. Acknowledgements

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