Workshop on the concept of Forest Offense in the regulatory texts of the Gabonese forestry sector

Atelier sur la notion d'Infraction forestière dans les textes réglementaires du secteur forestier gabonais

Report on the workshop regarding the concept of Forest Offense in the regulatory texts of the Gabonese forestry sector Brainforest: Quartier Ancienne Sobraga, Rue Multipress BP: 23 749 Libreville Tel: 44 53 52 Gabon August 2010 This report was prepared for the program related to the enforcement of forestry regulations, governance, and trade exchanges for countries in Africa, the Caribbean, and the Pacific (ACP-FLEGT Support Program - GCP/INT/064/EC) Libreville from July 23 to 24, 2010 REPORT□REPORT

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Report on the workshop regarding the concept of Forest Offense in the regulatory texts of the Gabonese forestry sector Libreville from July 23 to 24, 2010 4 INTRODUCTION: From July 23 to 24, 2010, the Gabonese Civil Society Platform for FLEGT and the VPA organized a capacity-building workshop on the theme: “The concept of forest offense in the regulatory texts of this sector of activities in Gabon.” This workshop is part of the annual activities calendar of Gabonese civil society and is the first in a series of training sessions aimed at strengthening the capacities of their members for efficient participation in the negotiations related to the Voluntary Partnership Agreement with the European Union. Organized under the guidance of a team of consultants recruited to carry out the analysis of Gabon's forestry regulatory texts, the workshop saw participation from organizations within the Civil Society Platform as well as some representatives from the forestry and environmental administration. In order to facilitate the knowledge appropriation process, the methodological approach adopted by the speakers during this workshop was that of interactive exchange with the participants. Thus, this report provides a summary of the proceedings and highlights: − The context of technical support for the ACP-FLEGT program; − The objectives of the workshop; − The sub-themes of the various presentations and their contents; − The main recommendations. All this data is presented in an analytical form and reflects only the informative substance of the exchanges that took place during the two (02) days of work.

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Report on the workshop regarding the concept of Forest Offense in the regulatory texts of the Gabonese forestry sector Libreville from July 23 to 24, 2010 5 I - The context of technical support for the ACP-FLEGT program: Taking place within the framework of the technical assistance provided to the Gabonese Civil Society Platform to support the implementation of the elements of the FLEGT action plan for the signing of a VPA, the first communication of this workshop aimed to set the general context of FAO's assistance. In this regard, it should be noted that the international community, particularly the European Union, having recognized the threat posed by the expansion of illegal logging, decided to establish a combat mechanism in the form of the FLEGT action plan. Indeed, the direct consequences of this practice are: − Loss of forested areas, − Loss of biodiversity, − Erosion of the rule of law, − Corruption − Loss of tax revenues... Furthermore, the FLEGT focal point for Gabonese civil society, Richelieu ZUE OBAME, informed this category of stakeholders in the national forestry sector that the project funded by the ACP-FLEGT program of the FAO aims notably to: − Support the effort to analyze the regulatory texts of the forestry sector; − Strengthen the required capacities of civil society for efficient involvement in the work on FLEGT and the VPA in Gabon − Raise awareness among local communities in forest regions about the issue And that in this regard, having entered the execution phase on May 14, 2010, the mid-term results can be understood as follows: − Development and validation of a memorandum of understanding between the organizations of the civil society platform/FLEGT; Design and launch of a website for project activities and all other activities related to FLEGT accessible at: www.brain-forest.org;

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Gabonese forestry sector Libreville from July 23 to 24, 2010 6 − Organization of an information mission in the Nyanga province; − Organization of this workshop on the concept of forest offense in the regulations of this sector of activities Following this presentation, the proceedings continued with the other communications. II Objective(s) of the workshop: The workshop on the concept of forest offense pursued one objective: to establish the knowledge of civil society actors on the main provisions that govern forestry activities in Gabon so as to enable the government's general policy in this area to achieve its objectives. In other words, the workshop aimed to help civil society recognize the offenses provided for in the various regulatory texts and to confront the practices in the forestry sector with the provisions of the Law; this in order to assess the legality of the latter. To this end, civil society focused notably on: 1. Identifying the central orientations that support as pillars, the structure of the various texts examined; 2. Enumerating according to the regulatory contexts the main practices recorded and verifying their compliance with the regulatory framework; 3. Making specific improvement recommendations for each regulatory framework examined. Structuring the workshop, the above sub-objectives guided the contents of the various presentations and provided participants with maximum answers to the questions they had. Members of the FLEGT Civil Society Platform Organizations and the Comifac Focal Point

Report of the workshop on the concept of Forest Offense in the regulatory texts of the Gabonese forestry sector Libreville, July 23-24, 2010 7 III - The different presentations and their content III-1) Generalities on FLEGT Presented by Nathalie NYARE, this communication was meant to remind us of what FLEGT is, the origin of this mechanism, and the various dates that structure it internationally starting from the G8 summit in 1998. In this regard, civil society will remember that the examination of the situation of forestry exploitation in the world by the eight most industrialized countries in 1998 constitutes the historical engine for the development of the FLEGT issue. Indeed, agreeing on the necessity to adopt measures to combat illegal logging, the G8 will adopt an Action Program on Forests. Following this program, the European Community will organize an international workshop in 2002 to identify concrete measures to be taken in the effort to address the phenomenon of illegal logging. The evolution of European interest in this issue will subsequently materialize through an official commitment during the Earth Summit in Johannesburg (South Africa) to fight against illegal exploitation of timber resources. To confirm its commitment, the European Union (EU) will publish the FLEGT Action Plan in May 2003 as a response to the issue of illegal logging worldwide. Aware of the economic, social, and environmental stakes of this fight, African governments during the Ministerial Conference on the Application of Forest Legislation and Governance in Africa (AFLEG), from October 13 to 16, 2003, made a declaration to express their intention to commit to the fight against illegal logging in their respective countries. From there, at the sub-regional levels, various organizations will integrate the principles and objectives of FLEGT into their governance systems of the forestry sector. This is the case of the Central African Forest Commission (COMIFAC) with the Convergence Plan. The presentation on the evolution of the fight against illegal logging allowed for a better understanding of its foundations, as well as some key concepts of FLEGT and VPA. Indeed, it was noted that the facilitator, following the historical reminder of the FLEGT process, placed particular emphasis on encouraging everyone to integrate concepts such as: the Voluntary Partnership Agreement (VPA); the legality licensing system for timber; the FLEGT action plan (the set of measures adopted by the European Union to assist timber-producing countries in their fight against illegal logging). Regarding European measures through the FLEGT Action Plan, the following points were noted: − Support for timber-producing countries; − Activities aimed at promoting legal timber trade; − Promotion of public procurement policies; −

Support for private sector initiatives; − Guarantees for financing and investments; − Implementation of existing legislation or adoption of new legislation to support the plan; − The issue of conflict timber. A- Support for timber-producing countries This translates into technical and financial assistance to timber-producing countries with the following objectives: − Establishing improved governance structures and reliable verification systems for the legality of produced timber; − Reforming policies centered on relevant laws and regulations for the country that promote the concertation of all actors regarding policies; − Better transparency and information exchange between producing and consuming countries; Richelieu ZUE OBAME, FLEGT Focal Point during the Workshop

 − Capacity building and training in producing countries; − Support for the development of community forest management and the empowerment of local populations. B- Activities aimed at promoting legal timber trade These include: − Establishing Voluntary Partnership Agreements (VPA) • Working with the EU's trade partners. − Establishing multilateral frameworks for collaboration on combating illegal logging at the international level • The role of other timber-importing countries in trade exchanges (China, Japan, United States). C- Promotion of public procurement policies This measure aims to encourage EU countries to implement policies favoring timber from legal, sustainable, and verified sources in their public markets − Requirement for suppliers to provide irrefutable proof of the legality and/or sustainability of their timber sources. D- Support for private sector initiatives Measures in favor of the private sector particularly focus on: − Encouraging private sector involvement (capacity building in producing countries) through actions aimed at: • Raising forest management standards; • Improving the application of legislation; • Enhancing supply chain management; • Adopting corporate social responsibility standards.

 E- Guarantees for financing and investments These focus on encouraging banks and financial institutions to consider the long-term supply of legal timber as well as environmental and social factors when conducting pre-investment assessments. F- Implementation of existing legislation or adoption of new legislation to support the plan − The EU action plan requires states to determine which community or member state legislation can be used to combat illegality in the forestry sectors; − The European Commission is exploring the possibility of adopting new legislation at the community level where each member country would cover aspects of illegal timber trade not covered by VPAs. Addressing the concept of the Voluntary Partnership Agreement (VPA), the facilitator stated that it is an agreement whereby the EU and the partner country commit to work together to support the objectives of the FLEGT Action Plan and to implement a legality licensing system for timber. In this perspective, the partner country commits to: − Establish legal and administrative structures, as well as credible technical systems to verify that timber is produced in accordance with national legislation; − Ensure that the applicable forestry law is consistent, understandable, and enforced and aims for Sustainable Forest Management (SFM). − Develop technical and administrative systems for monitoring logging operations − Improve transparency in forest governance − Establish verifiers for monitoring and a licensing system − Develop licensing procedures for the export of legally harvested timber. Moreover, the presentation on the generalities of FLEGT allowed civil society to know what elements are taken into account during the negotiation process of the VPA. In this regard, it notably concerns: social benefits; the involvement of actors;

the negotiation and effectiveness of the Agreement; informal exchanges, the official notification by the timber-producing country, the Joint Implementation Committee; Planning and implementation; the Scope of Partnership Agreements; Review and reporting; Annual Reports, the number of licenses, the quantity of timber exported to the EU; the Duration of the Agreement; the Withdrawal of one of the parties (1 year), failure in implementation. At the end of these technical explanations, the debate focused on the advantages that the VPA provides to the signatory states. In this regard, the following points were noted: − Political, institutional, and regulatory strengthening; − Better access to EU markets; − Increased revenues from duties and taxes; − Establishment of additional tools to combat illegal activities; − Improvement of the country's brand image internationally; − Etc. The legality licensing system for timber: Addressed during the first exchange, the legality licensing system for timber consists of: − A definition of legality; − The traceability chain; − The legality verification system; − The issuance of licenses; − And independent control. 1. Definition of legality of timber origin This definition incorporates the laws that the producing country deems most relevant from the perspective of the severity of the damages that would result from non-compliance. 2. Traceability chain

 It refers to the ownership chain of timber-derived products from forest harvesting to export and then to the final consumer. 3. Legality verification system Verification operations are carried out in the form of audits both in forest units and processing units as well as at each maritime transport, reception, or processing site of a product. 4. Issuance of license This activity will be carried out by a designated public authority based on findings made at the end of the audits. This issuance can be done by batches of timber or by exporting entity. 5. Independent control It aims to guarantee the effectiveness and credibility of the licensing regime, by involving a third party responsible for monitoring its implementation and reporting on it.

 IV - The main orientations of forestry regulation and other texts related to sustainable forest management The examination of the main orientations of forestry regulation and other texts related to sustainable forest management constituted the second major communication of the workshop. Addressing the regulatory texts one after the other, the following emerged: A- Law 16/01 of December 31, 2001, known as the Forestry Code: This law contains, in the form of pillars, four main orientations from which articles of law and implementing decrees derive. These orientations are: − The obligation of sustainable forest management; − The industrialization of the timber sector; − The conservation of biodiversity; − The involvement of nationals in the management of forest resources. A.1 On the obligation to sustainably manage forests. This is one of the main innovations introduced by the new Forestry Code. The obligation to manage is outlined in articles 18 to 23 of Law 16/01 of December 31, 2001. It constitutes an instrument of sustainable management and is mandatory under the law. A.2 On the industrialization of the timber sector This orientation stems from a dual objective: 1/ To promote the sustainable exploitation of the resource, notably through capping the total areas allocated to the same concessionaire at levels not exceeding 600,000 ha; 2/ to increase the contribution of the forestry sector to the State budget through the institution of a local transformation obligation at a rate of 100%. A.3 On the involvement of nationals in the management of forest resources Creation of community forests underpinned by a simple management plan developed by the Water and Forests administration; and revision of forest

titles and their allocation modalities. Three types of forest permits: CFAD, PFA, PGG. B- Law 003/2007 known as the Law on National Parks Beyond the provisions related to the conservation of biodiversity in parks, the main orientation related to forest resources in the Parks Law, which captured the attention of the seminar participants, is the provision of Article 03 related to Buffer Zones. Indeed, Ms. NYARE's presentation at this level focused on: 1/ the explanation of what is called a Buffer Zone; 2/ its distances; the types of activities to be carried out there; the geographical location, etc. To support her thoughts, the following clarifications were provided to civil society actors: B.1 Regarding the clarification of what a Buffer Zone is: Peripheral Zone Geographical space surrounding a park aimed at preventing and limiting negative impacts on the park as well as developing ecologically appropriate actions for the conservation of biological diversity, without prejudice to customary usage rights. Buffer Zone Geographical space of protection contiguous to a park.

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