Unauthorized logging in the rural forest area of Oyane 4

Exploitation forestière non autorisée dans le domaine forestier rural d'Oyane 4

MISSION OF OBSERVATION OF PRESUMED FOREST ILLEGALITIES Mission Team Olivier MEYE OBIANG, Lawyer/Expert OI Elodie Grace NTSAME OLLOMO, Lawyer Member Gabon My Land My Right Hubert Aimé KOUMBA REPORT N°002 FROM MARCH 14 TO 19, 2019 LOCATION: VILLAGE OYANE 4, DEPARTMENT OF KOMO KANGO, ESTUARY PROVINCE VISIT TITLE: RURAL FOREST DOMAIN

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Page 2 of 21 LIST OF ABBREVIATIONS CFG: Gabonese Forest Code CKK: Komo Kango District CLPA: Local Communities and Indigenous Peoples CV4C: Citizens Voices for Change: Congo Basin Forest Monitoring Project DP: Provincial Directorate of Water and Forests OI: Independent Observer OIE: External Independent Observation

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Page 3 of 21 EXECUTIVE SUMMARY Brainforest received on February 25, 2019, a denunciation letter from Mrs. widow MBINA Pauline born IBOUMBI NZIENGUI, reporting illegal logging on rural land located in the rural forest domain of village Oyane 4, in the department of Komo Kango. Following this denunciation, the Brainforest team conducted an OIE mission from March 14 to 19, 2019, in the said village to verify the compliance of the ongoing logging operations in village Oyane 4 with the current legislation. Documentary analysis, interviews conducted with the CKK of the Prefecture of Komo Kango and the inhabitants of village Oyane 4, and finally field visits allowed for the observation of: - Blocked rivers due to makeshift pathways created for the evacuation of illegally/illicitly logged wood - A significant amount of felled wood lying in the forest - Unmarked stumps and logs Following these observations, the OI recommends: To the Komo Kango district: - To conduct a control mission in village Oyane 4, - To ascertain the facts of unauthorized logging, - To summon and hear the suspects and sanction them in accordance with the law. To the communities: - To organize a consultation meeting to secure their lands,

particularly through the creation of a community forest.

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Page 4 of 21 I. INTRODUCTION I.1. Context The NGO Brainforest received on February 25, 2019, a denunciation letter from a resident of village Oyane 4, in the department of Komo Kango, Estuary province. This letter reported a presumed case of illegal logging in the rural forest domain, specifically in the complainant's family forest. In addition, the operator in question allegedly sought to federate community members, holders of customary usage rights in the requested forest, to lead them to create a community forest, even though he had already begun logging. After a preliminary investigation conducted at the Provincial Directorate of Water and Forests of Estuary, it appears that the logging in question would be subject to an “administrative authorization.” However, no document justifying the activity could be provided by the DP services, which suggested that the team approach the Kango water and forest district. To verify the facts of the presumed illegal logging reported in village Oyane 4, department of Komo Kango, Estuary province, Brainforest deemed it appropriate to initiate, within the framework of the project: “Citizens Voices for Change: Forest Observation in the Congo Basin” (CV4C), an independent observation mission in the said village, from March 14 to 19, 2019. I.2. Objectives of the mission The team aimed to verify the compliance of the ongoing logging operations in village Oyane 4 with the current legislation. Specifically, it was about: - Discovering all activities related to the ongoing logging in the mentioned village; - Identifying and describing the actions of the various stakeholders involved in this logging; - Seeking from these stakeholders all documents related to this logging operation. I.3. Methodology During the mission, the team conducted interviews with the CKK, the Prefecture of Komo Kango, and the inhabitants of village Oyane 4, notably the complainant's family, village notables, resource persons, and also with Mr. BOUSSOUGOU, mentioned in the complainant's denunciation letter attached to this report. Following these interviews, the team conducted a documentary analysis based on the documents collected before, during, and after the various interviews, all attached (Order n°019/ MATCLD/PES/SG/SAD of March 23, 1992, granting a rural land; Minutes of land recognition...). Finally, they visited the site in question to observe the activities that are or have been carried out there.

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Page 7 of 21 Actors Mr. Moustapha Presumed forest operator in the forest of Oyane 4, presents himself as a wood trader. Mr. BOUSSOUGOU Member of the community of village Oyane 4, presumed accomplice in the denunciation of illegal logging. III. MAIN OBSERVATIONS Blocked rivers During the field visit, the OI noted the existence of three (3) blocked rivers, respectively at points A (X=10.347308004274964; Y=-0.001695994287729), B (X=10.348660005256534;

Y=-0.000971965491772) and C (X=10.353311961516738; Y=0.003532972186804). The blockage would result from development work undertaken by the operator for the evacuation of wood. The team saw no bridge or culvert built over the rivers located at the above geo-referenced points, but observed logs placed perpendicularly across the watercourse to allow crossing: an alignment that significantly slows down the flow of water and could cause flooding. Right of ownership over the forest by local communities, what the law says Only those holding a title of ownership are considered owners in Gabon, as stated in ordinance n°5/PR/2012 of February 13, 2012, establishing the regime of land ownership. Indeed, no constitutional or legal provision provides a specific procedure for acquiring ownership for local communities and indigenous populations. However, Decree n°0077 of 1967 provided, for a transitional period of two years, that “any Gabonese citizen [or rural communities] occupying land for at least five years may, upon request, obtain definitive ownership of this land if he proves that this occupation has been peaceful, continuous, public, and unequivocal.” It is through this text that local administrative authorities could allocate areas to local populations. However, this was repealed by decree 257/PR/MECIT of June 19, 2012. Thus, the title of ownership grants: the right to use the land, the right to enjoy the land and to reap its fruits, and the right to dispose of the land (art 61, Ordinance n°5/PR/2012 of February 13, 2012, establishing the regime of land ownership). However, in terms of forests, article 13 of the Gabonese forest code specifies that: “All forests fall under the national forest domain and constitute the exclusive property of the State”; and that without prior authorization from the water and forest administration, no one may engage in free or commercial exploitation, harvesting, or transformation of any natural product (art.14 CFG). On the other hand, the forestry law partially recognizes the CLPA the right to possess, occupy, or traditionally use their lands (art. 12 and 252 CFG). However, these provisions only mention “enjoyment” of lands and forests without further specification.

 The National Technical Guide for Forest Management, in its section dedicated to the "Transportation Network 2," clearly recommends that "When a road crosses a watercourse, a bridge or culvert should be put in place to avoid disrupting the natural flow of water and the movement of aquatic fauna. The construction of this bridge or culvert must not reduce the width of the watercourse by more than 20%. Each structure must be stabilized against any potential erosion risk." The use of wooden logs as observed, to allow the crossing of watercourses, in place of bridges or culverts, constitutes a violation of the guidelines set forth in the National Technical Guide for Forest Management. These actions are indicative of intensive exploitation harmful to the environment. According to Article 276 of the forestry code, the perpetrator of this act risks imprisonment for three to six months and a fine of 500,000 to 10,000,000 CFA francs or one of these two penalties only. Recommendation: The CKK must initiate a mission in the forest of the village of Oyane 4, to control the quality of the bridges built by the operator, and order, if necessary, the clearing of the watercourses that have been disturbed. Image Board 1: Blocked Rivers Significant amount of felled wood lying in the forest The mission noted the presence of ten (10) logs at the edge of the forest road, with an average diameter of 70 cm of various species including: Ovengkol (6), Ebiara (2), Bilinga (2). It also observed forty-one (41) logs stored in three wood yards, all bearing the SCS mark. However, community members interviewed by the mission team regarding the meaning of this mark claimed not to know. The average diameter of these logs was 70 cm and they corresponded to the following species: Tali (3), Ebiara (12), Padouk (9), Ovengkol (5), Movingui (3), Mahogany (2), Okoumé (3), Bilinga (2), Alep (1), Iroko (1). Judging by the decay of some logs, it is possible that this wood has been cut for more than 6 months and could therefore fall into the category of abandoned wood. In this regard, during interviews, the communities estimated the date of intrusion of the operator, who would have cut this wood, to October 2018. At the level of the Kango water and forests office, no concrete information

regarding the period related to this wood cutting in the village of Oyane 4 was obtained. According to the provisions of Article 134 of the forestry code: "It is prohibited for operators to abandon on the logging sites, on loading yards or at the edge of drainage paths, logs of commercial value. Logs that have not been evacuated six months after felling are deemed abandoned on the permits. The mission was unable to gather all the necessary information to confirm the abandonment of the logs presented above. However, since the area is not subject to any allocation, it is likely that this is an unauthorized exploitation by the water and forests administration, sanctioned by Article 275 of the Forestry Code. Recommendation: The CKK must initiate a control mission to apprehend and hear the suspects and sanction them in accordance with the law. Furthermore, community members, under the leadership of their chief, should organize a consultation meeting to secure their lands, particularly through the creation of a community forest.

Page 9 of 21 Stumps and unmarked logs During the field visit, the OI noted twelve (12) unmarked stumps with an average diameter of 60 cm corresponding to the following species: Ovengkol (6), Bilinga (4), Movingui (1), Padouk (1) and eight (8) unmarked logs with an average diameter of 60 cm corresponding to the following species: Ovengkol (3), Movingui (1), Bilinga (4), in the rural land of the late NZIENGUI Placide, father of the complainant (see allocation decree and land recognition report in annex). The trees from these eight stumps have neither been topped nor extracted. Article 128 of the forestry code of the Gabonese Republic states that: "Every tree felled in forest permits must be marked with the imprint of the hammer and an identification code of the tree on the wood, on the stump, the butt, and on the cut logs. On the logs from the felled tree, in addition to the hammer imprint, a number is indicated in the form of a fraction where the numerator is the tree number and the denominator is a digit indicating the order of the log from the butt." The stumps observed by the mission bore no marks. These facts constitute a violation of the provisions of the aforementioned Article 128. Image 1: 2 Abandoned Ovengkol Logs at the Edge of the Forest Road Image 2: Decaying Logs, Stored in a Forest Yard

Page 10 of 21 In the absence of marking, it is difficult to ensure the traceability of the wood. These facts constitute an exploitation without title, in violation of the provisions of Article 14 and expose the perpetrator to the sanctions provided by Article 275 of the Forestry Code. Recommendation The CKK must expedite a control mission in the village of Oyane 4 to observe the illegal exploitation taking place in the village. Image 3: Unmarked Ovengkol Stump Image 4: Unmarked Bilinga Stump

Page 11 of 21 Map 3: Observed Facts IV. DIFFICULTIES ENCOUNTERED During the mission, the team faced two main difficulties. The first was related to access to certain areas, particularly in the complainant's forest. The forest road being cut off in places, it was necessary to cross on makeshift bridges made from a tree trunk. The second difficulty concerned access to documentation. Indeed, during the interview with Mr. BOUSSOUKOU, the resident of the village of Oyane 4 who introduced the operator into the forest, he claimed to hold no documents linking him to this operator. And even at the CKK, no documents were provided to us. The last difficulty concerned the difficult collaboration with the alleged operator, Mr. Moustapha, who denied the facts, arguing that he is merely a wood buyer. V. RECOMMENDATIONS In light of the observed facts, the OI made the following recommendations: At the Kongo Kango office:

Page 12 of 21 - to carry out a control mission in the village of Oyane 4, - to observe the facts of unauthorized forest exploitation, - to apprehend and hear the suspects and sanction them in accordance with the law. To the communities: - to organize a consultation meeting to secure their lands, particularly through the creation of a community forest.

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