Forest royalties and implementation of Article 251 of the Gabonese Forest Code: Pilot experience in the city of Makokou

Redevances forestières et mise en œuvre de l'Article 251 du Code Forestier Gabonais : Expérience pilote dans la ville de Makokou

PILOT EXPERIENCE IN THE CITY OF MAKOKOU May 2014 FOREST FEES AND IMPLEMENTATION OF ARTICLE 251 OF THE GABONESE FOREST CODE: PROJECT: "CAPACITY BUILDING FOR THE RESPECT AND PROMOTION OF THE RIGHTS OF FOREST COMMUNITIES"

-- 1 of 28 --

2 PHOTOS © DR

-- 2 of 28 --

3 May 2014 PILOT EXPERIENCE IN THE CITY OF MAKOKOU FOREST FEES AND IMPLEMENTATION OF ARTICLE 251 OF THE GABONESE FOREST CODE:

-- 3 of 28 --

Forest fees and implementation of Article 251 of the Gabonese Forest Code: Pilot experience in the city of Makokou This publication was made possible through the financial support of the UK Department for International Development (DFID). The opinions expressed in this report are those of the authors and do not represent the position of the donors. May 2014 Authors: this publication, a joint initiative of Brainforest and the Rainforest Foundation United Kingdom, was produced as part of the project: "Capacity Building for the Respect and Promotion of the Rights of Forest Communities" by the following team: Djinang Martial (Environmental Lawyer, Project Leader); Sam Ziengui Kassa (Deputy Project Leader); Ntsame Ollomo Grâce Elodie (Community Lawyer); Mvé Abessolo Elvis (Community Lawyer), and Mbélé Minko Marius (Community Lawyer). Layout and design: Germain DJEUKING (graphic designer, Brainforest Communication Unit) Collaboration: Laurence Duprat (Rainforest Foundation United Kingdom) and Dr. Njipgang Hermann (Doctor in Communication, Specialist in Documentary Information Systems).

-- 4 of 28 --

5 Table of Contents

I. CONTEXT ..... 9 A. The Project and its Justifications ..... 9 B. Logging, Benefit Sharing Mechanisms ..... 9 1. Foundation and Definition ..... 9 2. International and Regional Texts Ratified by Gabon that Provide for Benefit Sharing in Forestry ..... 9 3. Gabonese Forest Code and Benefit Sharing in the Forestry Sector ..... 10 C. Target Forest Communities and Relevant Forestry Permits ..... 11 II. THE PROJECT'S CONTRIBUTION TO THE PROMOTION OF COMMUNITY RIGHTS IN THE FORESTRY SECTOR ..... 13 A. Relevance of the Project for the Promotion of Rights in General and the Importance of Legal Support in this Process in Particular ..... 13 B. Approach Adopted in the Framework of Article 251 ..... 13 1. At

the National
Level .....13 2. At the Local
Level 15
2.a. Capacity Building for
Communities .....15 2.b. Facilitation of Multi-Stakeholder Dialogue
Frameworks .....17 III. DYNAMIC ANALYSIS OF ARTICLE 251: CONTENT AND OPPORTUNITIES FOR
ACTION .....19 A. Content and Limitations of Article 251 of the Forest Code .....19 B. Opportunities for the Implementation of Article 251 19
C. Threats to the Proper Application of Article
251 .....20 IV. RECOMMENDATIONS AND PERSPECTIVES FOR THE REALIZATION OF COMMUNITY RIGHTS IN LIGHT OF ARTICLE 251 OF THE GABONESE FOREST CODE .....21 A. Improvement of the Current Legal Framework .....21 B. Development or Continuation of Practical Actions and
Activities .....21 V. CONCLUSION .....
..... 23 VI. BIBLIOGRAPHIC REFERENCES
..... 24 VII. AN
NEXES .....
..... 24

-- 5 of 28 --

Forest fees and implementation of Article 251 of the Gabonese Forest Code: Pilot experience in the city of Makokou 6 WCTS: Wanchman timber Sarl CF: Forest Code DPEF: Provincial Directorate of Water and Forests RFUK: Rainforest Foundation United Kingdom TBNI: Transport Bois et Négoce International XWBS: Xinwang bois Sarl COMIFAC: Central African Forest Commission GDP: Gross Domestic Product PSGE: Gabon Emergent Strategic Plan NGO: Non-Governmental Organization SMIG: Guaranteed Minimum Interprofessional Wage WWF: World Wildlife Fund WCS: Wildlife Conservation Society ACRONYMS AND ABBREVIATIONS

-- 6 of 28 --

7 INTRODUCTION Gabon is a small country in Central Africa with a low population (1.5 million inhabitants) covering an area of 267,667 square kilometers1. It is a forested country covered 85% by dense forest2. Gabon has a rent-based economy reliant on oil resources, which contribute more than half of the Gross Domestic Product (GDP) and about 80% of export revenues. Revenues from the forestry economy rank second among the revenues generated by the state from its natural resources3. The forestry economy sector remains the largest private employer4. The stakes in this sector are enormous, given the global demand for wood, but also the triple role that the forest plays: environmental, economic, and social. Although about 85% of this Gabonese population is found in Libreville, the capital, and in cities with significant economic activities such as Port-Gentil, Franceville, or Lambaréné, the rest of the population lives in rural areas. This population consists of local and indigenous communities whose survival is closely linked to the use of land and forests, which are considered common goods, accessible and usable without restrictions. They represent the foundation of their existence. Indeed, it is their

nurturing mother, their source of pharmacopoeia, the setting for distraction and cultural and spiritual celebration5. In light of the presence of local and indigenous communities on its territory and especially the close link they maintain with the forests, the Gabonese government has strengthened its commitment to the principle of sustainable management of natural resources advocated by sub-regional, regional, and international texts of which it is a signatory. This commitment was reiterated in Law No. 016/01 on the forest code, promulgated on December 31, 2001, and its numerous implementing decrees. This is a set of provisions regulating the forestry sector and recognizing, among other things, the rights of local communities in this sector. These rights encompass customary and economic usage rights, the possibility of creating and managing community forests. These rights also include consultation and involvement of communities in the creation and management of protected areas, the possibility of creating community protected areas, the sharing of benefits arising from logging through Article 251, the possibility of requesting an administrative hunt, and practicing acts of legitimate defense in case of attempts on human life and property by wild animals. In this publication, we will focus on the right to benefit sharing as provided for by Article 251 of the Gabonese Forest Code. This indeed refers to the obligation placed on logging concessionaires, whose concessions are located on village lands or in their vicinity, to contribute to their development. The notion of "benefit" in this provision, although not clearly specified, seems to correspond to a set of social achievements (construction of schools, health clinics, hydraulic pumps, etc.) but also to a "financial" contribution that would feed a local fund for the realization of community development projects. This is to help local communities improve their daily lives through poverty reduction. This is indeed the main objective of the project "Capacity Building for the Respect and Promotion of the Rights of Forest Communities" within which this publication is written. It is also one of the pillars of the Gabon Emergent Strategic Plan (PSGE) which presents sustainable development as the primary foundation for emergence. In this general policy document of Gabon, it is notably provided for the establishment of a new development model that integrates human well-being, social equity, sustainable growth, and environmental conservation. 1 Djinang Martial, CED Cameroon: "Investments and Protection of Community Rights in Central Africa: The Case of Gabon", December 2013 2 ftp://ftp.fao.org/docrep/fao/003/X6686f/X6686F00.pdf 3

http://www.fao.org/docrep/ARTICLE/WFC/XII/0288-C2.HTM#P118_20393 4 Bernard Cassagne, Jean-François Chevalier: "What Sustainable Management for Small Forestry Permits in Gabon?" 5 Djinang Martial in collaboration with Marc Ona Essangui, Friedrich Ebert Stiftung Foundation, Yaoundé Cameroon: "The Issue of Large-Scale Land Transfers in Central Africa, Analysis of the Legal and Regulatory Framework in Gabon", August 2012

Forest fees and implementation of Article 251 of the Gabonese Forest Code: Pilot experience in the city of Makokou 8 A view of the Adjap village upstream of the Ivindo © Photo Brainforest 2010.

Context 9 I. CONTEXT A. The Project and its Justifications In Gabon, and more specifically in the forestry sector, several measures have been taken in favor of local and indigenous communities. These measures generally concern access to and use of resources and the sharing of benefits arising from forestry exploitation. The rights recognized to them are also accompanied by duties. Despite this situation, it has been observed that: either the existing provisions are not satisfactory, or they are not always implemented. This lack of enforcement can be explained by the ambiguity that characterizes certain notions such as the sharing of benefits provided for in Article 251 or by the lack of knowledge of the law by the main users. Indeed, communities do not

always know their rights and duties regarding forestry and wildlife, as well as the procedures to follow in this matter. Despite the considerable investments observed in the timber sector and the place it occupies in the national economy, most riparian communities do not always benefit from the returns generated by this sector of activities. It is against this backdrop and the general situation of community rights over land and natural resources that the project "Capacity Building for the Respect and Promotion of the Rights of Forest Communities" was initiated by the Rainforest Foundation United Kingdom (RFUK) and implemented in Gabon by the NGO Brainforest. B. Forestry Exploitation, Benefit Sharing Mechanisms 1. Foundation and Definition The concept of "benefit sharing" has been enshrined in the legal framework by the Convention on Biological Diversity and relates to specific forms of social responsibility concerning the sharing of revenues from the exploitation of natural resources, whether financial or not, with local communities. The ultimate aim of this concept is to enable local communities to share the wealth created by the exploitation of the resources on which they depend. To date, this concept remains somewhat vague, but it is generally agreed that it excludes forms of taxation and focuses more on at-risk local communities than on the general public. Regarding the Convention on Biological Diversity that introduces this concept, it should be noted that it was adopted in 1992 in Rio. It is an international agreement that addresses biodiversity issues, ratified to date by 192 countries, including Gabon. This convention pursues three major objectives: - Conserve biological diversity; - Use biological diversity sustainably; and; - Share the benefits of biological diversity fairly and equitably. 2. International and Regional Texts Ratified by Gabon that Provide for Benefit Sharing in Forestry In addition to the Convention on Biological Diversity that introduces this notion of access and benefit sharing, Gabon is also a signatory to other texts that provide for this concept. Gabon is a founding member of the Central African Forest Commission (COMIFAC) and, as such, has participated in the process of developing all decisions and directives of this organization. Some legislative and regulatory texts from Gabon align with many decisions or directives from COMIFAC. The Treaty establishing COMIFAC is in continuity with the Yaoundé Declaration and gives binding character to its commitments. It aims to achieve conservation and sustainable management of Central African forest ecosystems through sub-regional cooperation in this area. According to the COMIFAC Convergence Plan, which supports the common vision of the member states to promote the sustainability of Central African forests, a number of priority actions are established to be implemented collectively to harmonize national forestry policies. Ten strategic axes emerge from this, including the sixth, which aims at "The development of alternative activities and the reduction of poverty." In the sub-regional directives on the participation of local and indigenous populations and NGOs in the sustainable management of Central

African forests, there is a consensus around the idea that sustainable forest management depends on a participatory approach and the fight against poverty in rural areas. Gabon is also a signatory to the Nagoya Protocol on access to genetic resources and the fair and equitable sharing of benefits arising from their utilization related to the Convention on Biological Diversity. The Nagoya Protocol establishes the Access and Benefit Sharing (ABS) mechanism, which responds to the third objective of the Convention on Biological Diversity and aims to organize the relationships between providers and users of genetic resources and associated traditional knowledge. In this framework, sovereign states over their natural resources are responsible for establishing access modalities to these resources and knowledge on their territory, and for sharing the benefits arising from their use. In their approaches, states must integrate the provisions of the Nagoya Protocol on ABS. The sharing of benefits generated with local and indigenous communities must be fair and equitable. These shared benefits can be monetary and non-monetary and should contribute to the conservation and sustainable use of biodiversity. Other international texts also complement those discussed and align with the orientations of the

Convention on Biological Diversity from Rio 1992. As can be seen, Gabon is a signatory to several international texts that provide for the notion of fair and equitable sharing of benefits arising from the exploitation of natural resources. It is notably provided that this sharing can be monetary or non-monetary. In other words, sharing when it is not monetary may include, among other things, the recruitment of labor, the provision of wood waste to communities, and the realization of projects or social works for the benefit of these communities. In light of the above, one might wonder how the sharing of benefits in the forestry sector is framed in Gabon? In other words, does the content given to it reflect the commitments made by Gabon internationally? It should also be noted that the monist system of Gabonese law has implications at the national level regarding the implementation of ratified international conventions. Indeed, according to the Constitution, endowed with legal supremacy, treaties ratified by the head of state are immediately applicable and do not require transformation by a law to be fully effective (unlike what is the case in dualist countries, which are primarily found in common law systems, where an establishment law "transforms" treaties into national law). This has considerable implications when the international obligations to which the state commits to comply are immediately applicable in the national legal order; these commitments are therefore immediately enforceable for the beneficiaries of the rights enshrined by these international instruments. However, there is a limit: the ratification of the texts by the President of the Republic and publication in the Official Journal. Obligations will remain void if the signing of the agreement or convention does not lead to ratification and subsequently to publication. 3. Gabonese Forestry Code and Benefit Sharing in the Forestry Sector Thus, in reference to the third objective of the Convention, the Gabonese legislator introduced this notion through Article 251 of the forestry code promulgated in 2001. While providing for this principle, the forestry code does not provide any definition. According to this article, forestry operators, the main users of the concerned natural resources, must contribute to poverty reduction in the communities living on the periphery of their forestry concessions. By this provision, the legislator enshrined the principle of sharing benefits and advantages. This principle is based on the holding of customary rights by the community over the forests. Furthermore, the legislator aimed to mitigate the inconveniences that these communities might suffer

due to this exploitation. The legal recognition of benefit sharing is merely the translation into domestic law of the commitments made by Gabon internationally in the field of natural resources.

Context 11 The sharing of benefits and advantages arising from forestry exploitation finds its legal foundation in Article 251 of the forestry code, which states: "To promote the social aspect of sustainable management policy, a financial contribution is established, funded by the holders of these concessions to support the collective interest development actions initiated by the said communities. The nature and level of this contribution are defined by the contractual specifications related to each concession. The management of this contribution is left to the discretion of the representative assemblies of the concerned communities." Although advocating for the principle of sharing benefits and advantages arising from forestry exploitation, the content and application of this provision raises some concerns. It is initially noted that only the aspect of the contribution from the forestry operator is highlighted, while other aspects of benefit sharing, such as the recruitment of local labor or the recovery of wood waste by the communities, are not included. Regarding the contribution of forestry operators, it is observed that the article does not make the monetary nature of the contribution absolute; it indeed provides that this contribution can be notably financial, with the assessment of its nature and level left to the forestry operator. This is certainly an aspect that ultimately tends to further weaken the rights of communities in this sector. Indeed, how can the operator be both judge and party? They are simultaneously the one who must fulfill this commitment and, according to the

law, the one who must determine how to do so. Another difficulty concerns the term "Representative Assemblies of the Communities." Should this be understood as representatives legitimately chosen/named/elected by the community or as a community association created specifically to manage this process? As can be seen, this question leads to various interpretations on the ground and in practice. Still regarding this article, it is noted that the nature and level of the contribution from the forestry operator are defined in the contractual specifications. However, the law remains silent on the content of such a document. The consequence of this silence is that to date, no forestry concession has an elaborated, signed, and officially applied specification document. As a result, in the application of this article, each forestry operator interprets it according to their understanding, willingness, sensitivity, and whether it concerns certified concessions or not. It is precisely to facilitate the application of this article that work is currently being carried out at the ministry in charge of water and forests, in partnership with civil society, on the development of a model of contractual specifications in reference to this Article 251. During a recent workshop on "The Rights of Forest Communities in the Forestry Sector" supported by our project and other partners, the administration of Water and Forests collaborated with other entities: both economic operators and national and international NGOs, the local and indigenous communities, development aid agencies, the Ministry of Agriculture, and the National Parks Agency, to reflect, among other things, on the issue of benefit sharing and more specifically on the content to be given to the model of contractual specifications that must be signed between forestry companies and the neighboring communities. In addition to adopting general recommendations regarding the improvement of community rights in the forestry sector, this workshop led to several proposals concerning the content of the contractual specifications. These proposals, along with the workshop report related to them, have been forwarded to the appropriate authorities. C. Target forest communities and concerned forestry permits In the city of Makokou and its surroundings, our support for the effective application of Article 251 of the Forestry

Code is currently benefiting four communities. These are the villages of Bombenda, Messeb, Iyo-ko-Ngota, and Batouala. These villages are primarily inhabited by Bantu communities of the Kota ethnicity and are located on the outskirts of several forestry operations managed mainly by Chinese companies such as: WCTS, XWBS, SUNRY. The problems faced by these communities are generally common. They all live in a state of great poverty and usually have as their main source of income the commercialization of products resulting from the exercise of their usage rights in the forest. Although some of their members are employed because they benefit from preferential hiring in these forestry companies, they often live under difficult working conditions (lack of social security, insurance against work accidents) with salaries that sometimes do not exceed the Gabonese minimum wage of 150,000 FCFA.

Forest royalties and implementation of Article 251 of the Gabonese Forestry Code: Pilot experience in the city of Makokou 12 Before the start of the project, these communities did not have a precise definition of the concept of forest royalties or benefit sharing. They were also unaware of the legal procedures to follow to access them. In other words, they did not know that the contribution of forestry operators to social achievements for their benefit is a legal obligation. The communities perceived the actions of the operators as favors granted at the goodwill of the forestry operator who wished to maintain cordial relations with their community. This situation was certainly not advantageous for the communities as some forestry operators took advantage of this ignorance to evade their legal obligations. Thus, they were content to carry out a few sporadic actions or gifts that did not meet the needs of the communities or the obligations set by Article 251 of the forestry code. It should also be noted that some community

members took advantage of this situation to prioritize their selfish interests at the expense of community interests. Map 1: situation of the target communities in relation to forestry permits Some representatives of the forest communities of Makokou © Photo DR.

The contribution of the project to the promotion of community rights in the forestry sector 13 II. THE CONTRIBUTION OF THE PROJECT TO THE PROMOTION OF COMMUNITY RIGHTS IN THE FORESTRY SECTOR A. Relevance of the project for the promotion of rights in general and the interest of legal support in this process in particular The project "Capacity Building for the Respect and Promotion of the Rights of Forest Communities," led by Brainforest and RFUK, focuses on the rights of forest communities, aiming, as its title indicates, to support their respect and promotion. Therefore, it is entirely logical that it addresses the issue of access to and management of benefits arising from forestry exploitation by the communities themselves. The operational mode of the project is quite particular and innovative. Indeed, it relies on the recruitment, continuous training, and placement of lawyers in rural areas to provide the necessary legal and organizational support to local communities. In Gabon, lawyers are placed in the areas of Makokou, Fougamou, and Minvoul. They are supported in their work by paralegals and community relays who are resource persons from the partner communities and who assist them in all their field missions, to facilitate their various meetings (introduction, translation). Paralegals and community relays also benefit from capacity building from the lawyers. In addition to strengthening the legal capacities of local communities and other actors, the project aims to support them in establishing multi-stakeholder consultation frameworks to promote their various rights in order to combat poverty. It is to achieve this that the project has supported several communities in the Makokou area so that they can benefit from the exploitation of the forests to which they are adjacent. This is indeed one of the project's objectives. It should also be noted that the support for communities in the implementation of Article 251 of the Forestry Code has primarily taken place in this area. Legal support is all the more relevant as it is a complex and laborious process for communities that are neither familiar with these mechanisms nor sufficiently guided by the law and other actors. Indeed, it is not simply a matter of going to a forestry operator to demand a sum of money as some communities still do. The implementation of Article 251 requires prior knowledge and the implementation of a process that the communities are unaware of, hence the importance of a lawyer specializing in the issue to assist them. The project "Capacity Building for the Respect and Promotion of the Rights of Forest Communities" responds to this need for support, assisting communities not only in this process but also in a general way regarding their different rights in the forestry sector. Indeed, before undertaking any action regarding the improvement of the legal framework governing their rights, it is first necessary to support them in the appropriation and use of existing rights, but also of the duties attached to them. B. Approach adopted in the context of Article 251 1. At the national level At the national level, the project has seized the opportunity and participated in the working group established as part of the project: "Strengthening the Legal Capacities of Civil Society, Local and Indigenous Communities through a Cross-Cutting Approach to Natural Resource Management," initiated by the NGO ClientEarth. The group also relied on the collaboration agreement signed by ClientEarth and the Ministry in charge of forestry issues in Gabon. This working group operates with a set of experts from national and international civil society, all of whom have expertise in legal, policy, and governance issues in the forestry sector. Its mission is notably to support national civil society

Forest royalties and implementation of Article 251 of the Gabonese Forest Code: Pilot experience in the city of Makokou 14 and other partners on the following issues: Strengthening legal

capacities; Legal analysis and production of materials to contribute to reforms of legal texts in the forestry sector; Development of legal materials and tools; Facilitation and organization of reflection frameworks and workshops in collaboration with forestry sector administrations. Following discussions with ClientEarth and based on the similarities observed between our projects, we deemed it necessary to integrate this working dynamic. To date, in addition to preparing training modules and themes on forest rights, this group has worked to analyze the content of the current provisions of forestry legislation, with the aim of formulating proposals to improve and facilitate its application. These activities aim for better consideration of the rights of local and indigenous communities. To facilitate the application of Article 251, a model contractual specifications document to be signed between forest operators and communities has been developed and submitted for review and validation by civil society. Subsequently, during a national workshop co-organized by the Ministry in charge of forestry issues and civil society, which focused on "The rights of communities in the forestry sector," concrete recommendations10 were made by all stakeholders regarding the contents and possible amendments to this contractual specifications document. Discussions continue today between civil society and the ministry with a view to finalizing it. However, to give it mandatory force, civil society has proposed to the ministry to support the specifications document with a decree. As can be seen, the working group initiated this reflection and extended it to other actors, with the aim of producing a consensus document that takes into account the interests of all. It should be noted that local communities were consulted and involved in this dynamic not only through the community lawyers project but also during the preparatory workshop on February 4 and the national workshop from February 5 to 6 in Libreville. Specifically regarding the preparatory workshop on February 4 with the communities, it is important to note that it was entirely initiated and led by our project11. Indeed, during this meeting, the aim was to facilitate the structuring and organization of the advocacy that the communities were to carry out during the national workshop. This preparation first allowed for the identification of community spokespersons; it also enabled communities from different forest areas (Makokou, Minvoul, Fougamou, Lastourville, and Boué) to discuss their challenges and, above all, to list the main grievances and recommendations related to improving their rights in the forestry sector. This preliminary work was crucial for the participation of communities in this national workshop. We received interventions, messages, and field experiences that allowed us to adjust the final recommendations according to their different realities. Beyond this preparatory workshop, it is important to note that facilitating community participation in this type of meeting and process is part of the overall strategy of the project, which aims for them to be stakeholders in all meetings addressing their rights in the forestry sector. For the project, indeed, participatory management is far from being a mere concept; it is a complex process that requires communities to be consulted and involved at the grassroots level in the development of the laws governing their environment. At the end of the national workshop, an essential recommendation was made regarding the effectiveness of the forest royalty. Indeed, it was recommended to adopt a decree that makes the Contractual Specifications mandatory and gives it enforceable force, and furthermore, the participation of communities through testimonies

recounting their difficulties in implementing Article 251 was effective, as was their contribution to the overall work of developing the model of contractual specifications for Article 251 of the Gabonese forest code. It is also important to recall that during this national workshop, group work focused on analyzing two models of contractual specifications: one proposed by civil society and the other by the ministry. The goal was to produce a single document based on the various proposals. 10 http://www.brainforest-gabon.org/download.php?f=68-rapport_atelier_national_droit_communaute_forestiere_gabon-fr.pdf 11 The Project: "Strengthening capacities for the respect and promotion of the rights of forest communities"

implemented by Brainforest and RFUK;

The contribution of the project to the promotion of community rights in the forestry sector 15 2. At the local level 2.a. Strengthening the capacities of communities As mentioned above, the particularity of the approach taken in this project lies in the recruitment and placement of a lawyer within local communities. Certainly, this is a capacity-building effort, but it is a capacity-building effort at close range due to the presence and ongoing support of lawyers on the ground. It is important to note that capacity building always responds to specific needs. These were previously identified during the preparation and start-up of the project in a general manner. Subsequently, identification continued through conducting a complementary socio-economic study and developing community strategic action plans. Through these activities, we supported communities in identifying the main problems they face regarding knowledge and use of their rights in the natural resources sector. Subsequently, we assisted them in formulating and implementing concrete actions based on national legislation in particular. It is in this context that the issue of the right to share benefits from logging, as provided for in Article 251 of the Forest Code, was identified. As part of this support, we undertook several actions: The very first was to improve the communities' knowledge of the stakes and content of Article 251. To achieve this, several training and awareness missions were organized in the villages. The paralegals/ community relays, having been previously trained, were of crucial importance for translating into the Kota language. In addition to translation into local languages, the lawyer used simple French to reach a wide audience and adapt the discourse and tools to the capacities and perceptions that communities have of rights, context, and the issues they face. It was during these trainings that a general strategy was defined, in accordance with what is provided for by forestry law. It was necessary to form a representative assembly, discuss governance modes and the interests of different groups in the village. Then, it was necessary to analyze needs and formulate projects and actions that align with community interests. Finally, meetings with forest operators were to be held to engage in negotiations aimed at securing funding for these projects. Our support was therefore to continue for the implementation and monitoring of these various activities. According to the provisions of Article 251 of the forest code, the management of the contribution paid by the forest operator falls to the "representative assemblies" of the communities. Based on their request, we helped the communities organize themselves into an association to meet this legal requirement. To achieve this, the communities first set up technical groups to prepare the statutes and internal regulations. A participatory and community approach was prioritized in this process. Indeed, the governance mode and the choice of individuals to be part of this committee were entirely left to the communities. Regarding the consideration of traditional governance modes, it should be noted that the communities wished for the traditional organization of villages to be integrated into their associations. As a result, alongside the executive board, which is the classic management body of an association, they created a Council of Elders comprising the village chief and some notable residents of the village and city. In addition to this aspect of traditional governance, the associations ensured the involvement of youth and women in these processes to engage all components of their communities and stimulate their interest. Based on the project's advice, these technical committees prepared provisional versions of the statutes and internal regulations. We also facilitated this work by providing the communities with the main elements that should appear in such documents. On this basis, the technical

committees were to reflect on the naming of the associations, their objectives, and generally on the contents of the statutes and internal regulations. In the village of Iyoko-Ngota, for example, the association was named "Minabigneka," which means in French "let's try a little," as if to

express the community's willingness to work together for the development of their village. The work on the statutes and internal regulations allowed the communities to introduce their traditional conflict resolution mode and follow-up with the establishment of the council of elders (a traditional body authorized to oversee the actions of the management team), etc. We encouraged the communities to prioritize the representation of all groups (men, women, youth, elders) and especially to adopt effective management rules such as dual signatures for fund disbursement, the selection of leaders on the basis of inclusivity, and the establishment of transparent processes for decision-making.

 based on their competence and quality as good managers, the justification of funds received for any expenditure, the separation of functions between those of president and treasurer, the limitation of mandates of the management team, and the obligation for it to draft activity reports. At the end of their term, the Technical Committees presented provisional versions of the prepared documents for review and amendment. The constituent general assemblies served as a framework for this work and effectively allowed for the final versions of the statutes and internal regulations to be obtained, which were submitted to the Prefect for the official recognition procedure. Some communities, such as that of La scierie, although not benefiting from the project in this context, have sought our support for this same type of preliminary activities, to realize their right to share benefits. This community had already organized itself into an association and had also drafted its various operational documents, namely the statutes and internal regulations, but had not proceeded with its legalization. It is important to note that this entity, having been established with the assistance of non-legal personnel from the logging company, presented some weaknesses from an organizational and functional point of view. The project also identified a major risk in this process: often, in order to comply with Gabonese law, logging companies send personnel to assist communities in creating associations. The intention is good in principle, however, their knowledge of the law, their work experience, and their understanding of the realities of the communities are very weak or even nonexistent. The process they want to implement is often too rapid and inappropriate to effectively ensure consultation and guarantee the representation of the interests of an entire community and the people affected by logging and its consequences. It follows that even if the law is respected, the work of preparing the community, adapting, and appropriating is completely overlooked and the risks of non-implementation, even conflicts generated by the implementation of development projects under these conditions, are high. Indeed, going to a community to negotiate with its chief, a group of people, or an association that does not represent community interests, certainly allows the operator to comply with the law, but carries many risks for the community. Sometimes associations are created from scratch and disappear as soon as the operator withdraws from the area, leaving behind an empty shell and very often intra-community conflicts. In the case of the community of Iyoko-Ngota, doubts weighed on the impartiality of the operator, whose entity was to engage in a process that involved obligations towards the community. Moreover, the communities stated that during the establishment of the association by the logging operator, the traditional organization of the village was not taken into account, sidelining the traditional chiefs. The village chief reported to us the statements made by the facilitator assigned to the communities. The latter indeed claimed that it was a process that did not concern the Village Chiefs at all. This illustrates well the fragility of the obligation to constitute a "representative assembly" made by Article 251. The failure to involve traditional authority in the process led to serious conflicts that resulted in the disengagement of those who felt wronged. To this end, several consultation meetings and discussions were necessary to refocus things and bring the community to work on a community basis devoid of any

individualistic interest as had been the case in the past. This consultation also led to the involvement of the entire community in the process and the review of the statutes and internal regulations, ensuring the integration of good

management rules proposed by the lawyer. In addition to organizational and legal support regarding the preparation of necessary documents (Request for legalization, Statutes, Internal Regulations, Minutes of the Constitutive Assembly, the list of the management team and that of the members), these communities were also supported in the administrative legalization procedures of these entities with the competent services (Prefecture). However, it should be noted that due to the novelty of associative functioning among the communities, the adaptation is gradual both for participation in meetings and for the application of certain provisions such as the payment of membership fees by members. This is why capacity building has also focused on the functioning of an association and the responsibilities of the different bodies such as the Executive Bureau, the Council of Elders, and the General Assembly. Due to what Article 251 provides that the contribution paid must fund development projects initiated by the communities, we have planned support in identifying community projects, prioritizing them, analyzing their feasibility, developing them, ensuring their sustainability, and monitoring. This phase is all the more important as it aims to guide communities in choosing realistic and achievable community-interest projects. On this basis, the concerned communities have developed projects related to agriculture and livestock. For them, indeed, beyond satisfaction in terms of food sovereignty, these activities will allow them to achieve financial autonomy. In this process, the four supported communities all have created and active associations. Two of them have already developed community projects and one, to date, is receiving benefits from logging in terms of support for the realization of an agricultural project with the provision of equipment. Unfortunately, since this phase, this community has not received anything further. We hope that the implementation of the recommendations from the multi-stakeholder consultation framework held on April 15, 2014, in Makokou will help resolve this situation. 2.b. The facilitation of multi-stakeholder dialogue frameworks After this phase, which can be described as the first step, it was discussed, with the support of the Provincial Directorate of Water and Forests of Ogooué-Ivindo, to establish a dialogue between the logging operator and the concerned communities. This facilitation was all the more necessary as the operator was initially very uncooperative. The involvement of the provincial services of Water and Forests has indeed helped to resolve this situation, which had seen no progress, despite all the attempts initiated by the communities through the project. As the administration responsible for ensuring the application of forestry legislation, the Water and Forests administration, during a consultation meeting that we suggested, encouraged the forestry company to comply with this obligation provided by Article 251 of the Forestry Code. Following these exchanges and based on the projects presented by the communities, the forestry company committed to finance the creation of a banana plantation of several hectares and the development of livestock. To date, the latter has partially fulfilled the commitments made. Indeed, the community has only received agricultural equipment (shovels, machetes, and wheelbarrows), which does not represent much compared to what it should effectively receive in terms of benefits from logging. Beyond this phase of quadripartite dialogue (Water and Forests, WCTS, Brainforest, and the Community of Iyoko-Ngota), a multi-stakeholder consultation framework was co-organized by Brainforest and the Provincial Directorate of Water and Forests of Ogooué-Ivindo on April 15, 2014. The overall objective of this meeting was to establish a multi-stakeholder dialogue and sustainable consultation framework that facilitates the effective implementation of Article 251 by logging

operators in the city of Makokou for the benefit of the communities bordering their concessions and forest permits, while ensuring the consultation and participation of local communities in decision-making and forest governance. Indeed, this meeting had the merit of bringing together

actors from various sectors but all concerned with the issue of benefits arising from logging in the province of Ogooué Ivindo. On this basis, representatives from decentralized and deconcentrated administration (Municipality, Departmental Council, Provincial Directorate of Water and Forests, Governorate), civil society (Brainforest, WWF, WCS, Conservation Justice, DACEFI Project), forestry companies (OLAM, SUNRY, TBNI, XINWANGBS), communities bordering forest concessions (Tsenkellé, Iyoko-Ngota, Boubemda, Mbess, Ebyeng, Lascierie), and traditional chiefs were involved in this reflection. During this consultation, the opportunity was given to everyone not only to contribute based on the sharing of experience but also to propose solutions for the good application of Article 251 of the Forestry Code in this province. Beyond this exchange approach, emphasis was also placed on educating stakeholders on the contours of this legal provision and its limits. Subsequently, the question-and-answer session and consideration of different viewpoints allowed for the gathering of final recommendations recorded in the workshop report.12 Reading this report is recommended as it complements this study and initiative13. 12 See Workshop report on the establishment of a multi-stakeholder consultation framework in the province of Ogooué-Ivindo, for the effective application of Article 251 of the Gabonese Forestry Code 13 http://www.brainforest-gabon.org/download.php?f=70-cadre-de-consertation_makokou.pdf

Forest royalties and implementation of Article 251 of the Gabonese Forest Code: Pilot experience in the city of Makokou 18 Paralegal brainforest raising awareness among the communities of Bombenda on the stakes of Article 251 of the FC. © photo Brainforest Lawyer brainforest explaining the process to follow for the creation and functioning of an association in Bombenda Village © photo Brainforest Regional coordinator explaining the objectives of the project. © photo Brainforest

Dynamic Analysis of Article 251: Content and Opportunities for Action 19 III. DYNAMIC ANALYSIS OF ARTICLE 251: CONTENT AND OPPORTUNITIES FOR ACTION A. Content and Limits of Article 251 of the Forest Code This article, in its current content, presents several limits that further weaken the rights of communities and truly jeopardize their chances of achieving the desired outcome of community development. Article 251 accentuates the inequality between the community and the logging operator through the powers granted to it. Indeed, the responsibility for determining the nature and level of contributions is currently entirely left to the logging operator. Being both judge and party, they can either set a modest amount or determine nothing at all. Practice confirms this analysis. The law addresses the contractual specifications as the document in which the nature and level of the contribution to be paid by loggers will be defined. However, it does not provide any details regarding the form or content that this document may have. Furthermore, it does not refer to the adoption of an implementing text to give it binding value. The law also does not foresee an ad hoc control and monitoring body that would allow for a reminder to the logging operator in case of non-compliance. The establishment of control mechanisms by the law will mean that the logging operator's compliance with its obligations will depend not only on its goodwill but also on the communities' ability to enforce it, either through local authorities or through other means of pressure. Another aspect concerns the interpretation of the phrase "representative assemblies," which is indeed confusing. Should this be understood as an association or any representative group recognized as such by the concerned community? In the current state of the law, it seems that the emphasis is placed on legitimacy rather than legality. However, in practice, the option of an association remains preferred due to its formal and legally recognized nature. The fact that this article also remains silent on the method of restitution and management of this contribution creates

another shortcoming. Indeed, is it the logging operator's responsibility to manage these funds or the community's? In either case, one is not safe from unpleasant surprises. It often happens that the logging operator provides the communities with funds that are used for purposes other than those for which they were intended. In other circumstances, one also observes overbilling by logging operators. B. Opportunities for the Implementation of Article 251 Regarding the opportunities concerning the implementation of Article 251 of the Forest Code, it is necessary to analyze both the local and national context. At the local level, the gradual establishment of a multi-stakeholder consultation framework, as well as the involvement of the administration in this process, constitutes opportunities for the application of this provision of the law. The consultation framework is unique in that it creates a dialogue among the various actors not only to address the issues related to the enjoyment of this right by the communities but also to define solutions. This dynamic is also important in that it allows for monitoring the effective application of the resolutions made within it. Beyond these aspects, the consultation framework allows for genuine consultation of the communities regarding the consideration of their rights to share the benefits derived from logging. By virtue of its status as a supervisory authority, the involvement of the Ministry of Water and Forests lends more credibility to the process while making it formal. This involvement has proven to be decisive for the advancement of the process concerning the interests of the community of Iyoko-Ngota in this sector14. 14 http://www.brainforest-gabon.org/braingest/publication_fichiers/70-cadre-de-consertation_makokou.pdf

 20 At the national level, the opportunities particularly concern the ongoing reform of the forest code, as well as the openness of the ministry responsible for forest management for the involvement and effective consultation of civil society and local communities. Additionally, there are ongoing efforts by the Ministry of Water and Forests to facilitate the application of Article 251. In this regard, a national workshop on community rights in the forestry sector was co-organized by this ministry and national and international civil society in Gabon on February 5 and 6, 2014. At the end of this workshop, several recommendations were made to improve the recognition and protection of these rights in the forestry sector. Similarly, a specific model of contractual specifications was proposed. It is important to note that prior work in this regard had been carried out by civil society. During the workshop, the models of specifications to be examined came from civil society and the Ministry. It should also be noted that after this workshop, exchanges continued between these different parties to give a definitive content to this document, and missions to report the results will be organized to inform the communities and gather their opinions on the next steps. Regarding the future contractual specifications, civil society has proposed that it be accompanied by a decree to strengthen its legal value. C. Threats to the Proper Application of Article 251 As obstacles and threats to the proper application of this article, we can cite several elements: - The non-adoption of a model of contractual specifications or the adoption of a model with unsatisfactory content will constitute a considerable obstacle to the application of this provision. As noted above, the ambiguity of this article requires that it be accompanied by a tool that clarifies its content and thus prevents any interpretation according to the interests of some and others and depending on the circumstances. This tool is all the more important as it obliges all logging operators to act on the same basis. However, it is desirable that the administration effectively takes into account the proposals of civil society and local communities to strengthen rather than weaken the rights of communities. - Whether it is the current situation marked by the difficult application of this article or the future situation with the adoption of a model of contractual specifications by the ministry, the control of the supervisory administration is of paramount importance. If the administration is not involved in this process, communities will find themselves alone against the

giants represented by logging operators. Likewise, to avoid any drift that may arise from the communities, it is important that they receive support and guidance regarding the content of this article and the steps to be initiated for its implementation. - The absence of appropriate consultation of the communities also appears as a threat concerning the application of this article. Indeed, the law specifies that the fund is for financing actions of collective interest. These are actions that have been identified and proposed by the communities in response to a specific problem. Unfortunately, it may happen that logging operators prioritize actions that require less expenditure at the expense of relevant projects. - The existence of illegal and uncontrolled logging also constitutes a threat to the application of this article. In this hypothesis, communities generally do not receive anything from these operators who extract timber resources illegally. In such a context, the operator may be tempted to establish associations merely for form's sake, without them being legitimate and therefore representative of community interests. This can result in serious conflicts within the communities. We believe that for the

establishment of viable processes, it is important that beyond consultation, community participation is at the center of the process. The consultation and participation in question involve taking into account traditional governance modes, representativeness, and good management practices.

Recommendations and perspectives for the realization of community rights in light of Article 251 IV. RECOMMENDATIONS AND PERSPECTIVES FOR THE REALIZATION OF COMMUNITY RIGHTS IN LIGHT OF ARTICLE 251 OF THE GABONESE FORESTRY CODE In light of all the above and based on the discussions we have had with the relevant stakeholders, it is important that several parameters be taken into account for the effective enjoyment of the right to benefit sharing provided for in Article 251 of the Forestry Code. In this regard, solutions involve both improving the current legal framework and developing practical actions and activities on the ground. A. Improving the current legal framework The content of this provision does not allow for easy enjoyment of this right by the affected communities. To this end, it is more than urgent that a model of contractual specifications binding operators to communities be developed. For greater effectiveness, this tool should include the following aspects: - The basis and methods for calculating the amount to be paid for the funding of the community development fund; - The mode of disbursement and management of this fund with the establishment of a monitoring and control body; - The mode of organization of the community and the criteria for selecting its representatives. In this section, it is indeed important that beyond the legal form that will be given to the entity, emphasis is placed on the traditional governance modes of the communities. The issue of representativeness must also be on the agenda as it is primarily a community process. - The criteria for selecting eligible projects; - The sanctions in case of violation by either party of its obligations. However, within the framework of the reform of the Forestry Code, it is important that the question of rights holders be clarified. Indeed, up to what distance/perimeter of its concession does the operator have obligations towards the communities? In the case of several neighboring communities: should they form a collective entity or create an entity for each community? These points deserve to be addressed by law. Regarding the model of contractual specifications, it is important to note that it is currently being finalized by the ministry responsible for forestry issues. The current version is the result of a concerted effort among other stakeholders, including the administration, communities, civil society, and the private sector. The adoption of the proposals and recommendations made by civil society is greatly awaited. It should also be noted that the dynamic of preparing the model of contractual specifications was initially driven by Brainforest and ClientEarth as part of their legal capacity-building projects. In these projects, while supporting communities in understanding and utilizing

forestry rights, the aim is to develop advocacy to improve them. It is in this perspective that this action initiated at the national level is situated. As for the aspects to be taken into account by the ongoing reform, these will also be communicated to the relevant authorities in due course. B. Developing or continuing practical actions and activities - Continuing practical support for communities on the ground Whether it concerns the current situation marked by the ambiguity surrounding Article 251 or the upcoming situation with the adoption of a model of contractual specifications, community support is essential because to enjoy a right, one must first be aware of its existence. Beyond support and capacity building regarding knowledge of this right, it is necessary that communities be accompanied in its utilization. The work initiated by the project and other actors working on this theme must continue but will certainly take another form when the legal framework is strengthened. Regardless of this revision, it goes without saying that communities will need support for their organization and the selection of priority development projects. This support

Forest royalties and implementation of Article 251 of the Gabonese Forestry Code: Pilot experience in the city of Makokou 22 will also be necessary when it comes to conducting lobbying actions regarding operators resistant to the application of this provision. - Encouraging the involvement of the administration in the process As the authority responsible for public order, the presence and involvement of the administration is a guarantee of success for such a process. This involvement should occur not only for decentralized and deconcentrated local administrative authorities (Prefect, Sub-prefect, Governors, Mayor, Departmental Council) but also for authorities from the relevant technical service (Water and Forests). - Developing an independent monitoring mechanism As a principle-neutral actor, civil society should develop an independent monitoring mechanism and contribute based on its actions and reports to improve the application of this article on the ground. In the framework of this monitoring, it will be a matter of encouraging good practices and denouncing unorthodox practices from both sides. - Ensuring systematic and effective consultation, and promoting the information of communities on these processes and ongoing discussions at the levels of state actors.

CONCLUSION 23 V. CONCLUSION The project "Capacity Building for the Respect and Promotion of the Rights of Forest Communities" supports, in the city of Makokou and its surroundings, four communities in understanding and utilizing the right to benefit sharing provided for in Article 251 of the Forestry Code. Based on this support, not only do the communities now have a good understanding of this provision, but they have also been able to organize themselves into an association and propose projects that have been submitted for funding by forest operators. However, due to the bad faith or non-cooperation of certain key actors, only the community of Iyoko-Ngota has seen its projects partially funded to date. Challenges have been raised, and we have had to progress with the current content of the law despite its shortcomings. The involvement of the Provincial Directorate of Water and Forests in this process has been of great utility. This is why discussions are currently underway to maintain the working dynamic initiated through the establishment of a multi-stakeholder consultation framework in this city. It is also important to note that thanks to the support of the project, communities have been consulted and have been able to formulate recommendations based on their field experiences regarding the future contractual specifications. This consultation approach is part of the project strategy, which wishes that the drafting of laws and documents addressing community rights be formulated based on local realities. Benefit sharing remains a complex process in light of the current content of the law, which does not facilitate its application. Its implementation is more of an obstacle course when communities find themselves alone facing forest operators. Indeed,

several forestry companies take advantage of the current legal ambiguity to completely or partially evade the application of this provision. This situation is sometimes mitigated with certified companies subject to compliance with international standards. We hope that the work done by civil society in terms of analyses, observations, and recommendations will be taken into account in the framework of the model of contractual specifications and the ongoing revision of forestry law in our country. The working dynamic established with the ministry responsible for forests and especially all the consultations carried out in this framework raise hopes in this direction. However, upon the adoption of this model of contractual specifications, a crucial step will involve evaluating its applicability on the ground. This step will require even more mobilization from the various stakeholders involved. Based on the effectiveness of the developed approach and especially the results obtained and those underway, we recommend renewing such action in other localities and communities facing the same realities. It is indeed necessary that communities be supported, when this has not yet been the case, in a process aimed at promoting their forestry rights in particular and their various rights in general. This is what the community lawyers project is striving for: to meet a real need for capacity building that involves knowledge of the law and actions to be implemented to assert these rights and ensure their protection. There is no better example than the words of one member of one of the partner communities: "it is ignorance that kills us!".

-- 23 of 28 --

Forest royalties and implementation of Article 251 of the Gabonese Forest Code: Pilot experience in the city of Makokou 24 VI. BIBLIOGRAPHIC REFERENCES Policy Documents and Legal Texts − Gabon Emergent Strategic Plan: Vision 2025 and strategic orientations 2011-2016; − Treaty on the conservation and sustainable management of Central African forest ecosystems and establishing the Central African Forest Commission, adopted in September 2004; − Law No. 016/01 on the forest code, of December 31, 2001; − African Charter on Human and Peoples' Rights, June 1981; − Convention on Biological Diversity, June 5, 1992; − Nagoya Protocol, October 2010. Reports, publications, and books − Djinang Martial, CED Cameroon: "Investment and Protection of Community Rights in Central Africa: Case of Gabon," Dec. 2013; − Djinang Martial in collaboration with Marc Ona Essangui, FES, Yaoundé Cameroon: "Analysis of the legal and regulatory framework for large-scale land concessions in Gabon," August 2012; − NGO ClientEarth: "Rights of local and indigenous communities to share benefits from forest exploitation (Gabon)," November 2013; − Liz Alden Wily with contributions from Nathalie Faure, FERN: "Land rights in Gabon: Facing the past and the present," June 2012; − Bernard Cassagne, Jean-François Chevalier: "What sustainable management for small forest permits in Gabon?". Internet Links − ftp://ftp.fao.org/docrep/fao/003/X6686f/X6686F00.pdf − http://www.fao.org/docrep/ARTICLE/WFC/XII/0288-C2.HTM#P118_20393 − http://www.brainforest-gabon.org/download.php?f=68-rapport_atelier_national_droit_communaute_fo- restiere_gabon-fr.pdf − http://www.brainforest-gabon.org/braingest/publication_fichiers/70-cadre-de-consertation_makokou.pdf VII. ANNEXES Annex 1: Excerpt from the Convention on Biological Diversity Article 1. Objectives The objectives of this Convention, the realization of which shall be in accordance with its relevant provisions, are the conservation of biological diversity, the sustainable use of its components, and the fair and equitable sharing of benefits arising from the utilization of genetic resources, notably through satisfactory access to genetic resources and appropriate transfer of relevant technologies, taking into account all rights over these resources and technologies, and through adequate funding. Article 4. Scope Subject to the rights of other States and unless expressly provided otherwise in this Convention, the provisions of the Convention apply to each of the contracting Parties: a) When it comes to elements of biological diversity of areas located within the limits of its national jurisdiction; b) When it comes to processes and activities carried out under its jurisdiction or control, whether within the area

under its national jurisdiction or outside the limits of its national jurisdiction, regardless of where these processes and activities produce their effects. Article 15. Access to genetic resources 1. Given that States have sovereignty over their natural resources, the power to determine access to genetic resources lies with governments and is governed by national legislation.

 2. Each contracting Party strives to create conditions conducive to facilitating access to genetic resources for the purpose of ecologically sound use by other contracting Parties and not to impose restrictions contrary to the objectives of this Convention. 3. For the purposes of this Convention, genetic resources provided by a contracting Party, as mentioned in this article and in Articles 16 and 19 below, exclusively refer to resources provided by contracting Parties that are the countries of origin of these resources or by Parties that have acquired the resources in accordance with this Convention, 4. Access, when granted, is governed by mutually agreed conditions and is subject to the provisions of this article. 5. Access to genetic resources is subject to the prior informed consent of the contracting Party providing such resources, unless otherwise decided by that Party. 6. Each contracting Party strives to develop and conduct scientific research based on genetic resources provided by other contracting Parties with the full participation of those Parties and, where possible, on their territory. 7. Each contracting Party takes appropriate legislative, administrative, or policy measures, in accordance with Articles 16 and 19 and, where applicable, through the funding mechanism established under Articles 20 and 21, to ensure the fair and equitable sharing of the results of research and development as well as benefits arising from the commercial and other use of genetic resources with the contracting Party providing these resources. This sharing occurs according to mutually agreed terms. Annex 2: Excerpt from the Treaty on the conservation and sustainable management of forest ecosystems in Central Africa and establishing the Central African Forest Commission, adopted in September 2004; PREAMBLE THE STATES PARTIES: the Republic of Burundi, the Republic of Cameroon; the Central African Republic; the Republic of Congo; the Democratic Republic of the Congo; the Gabonese Republic; the Republic of Equatorial Guinea; the Republic of Rwanda; the Democratic Republic of São Tomé and Príncipe; the Republic of Chad. TITLE I: COMMITMENTS Article 1: The States Parties to this Treaty commit, within the framework of the conservation and sustainable management of Central African forest ecosystems, to: − Include in their national priorities, the conservation and sustainable management of forests as well as environmental management, − Adopt harmonized national policies on forests and accelerate the establishment of management instruments, including internationally recognized certification systems, approved by the Central African States and develop human resources for their implementation; − Establish measures aimed at reconciling actions for the conservation and sustainable management of forest ecosystems with development policies in other sectors, including reforestation, transport, and agriculture; − Establish, in each State, sustainable financing mechanisms for the development of the forestry sector from revenues generated by forestry activities and international cooperation; − Encourage their Governments to implement the priority actions of the Convergence Plan, namely: the identification of priority conservation areas, the creation of new protected areas, the development and implementation of management plans for protected areas, and the ownership by States of processes engaged in pilot programs; − Develop adequate forest taxation and necessary accompanying measures for its implementation to sustainably support conservation efforts, sustainable management, and research on forest ecosystems; − Accelerate the process of creating transboundary protected areas between Central African countries and invite neighboring countries to integrate into the process, while strengthening the management of existing protected areas; − Strengthen actions aimed at increasing the rapid participation of rural populations in

the planning and sustainable management of ecosystems and reserve sufficient spaces for their socio-economic development; Annex 3: Excerpt from the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization Article 1: Objective The objective of this Protocol is the fair and equitable sharing of benefits arising from the utilization of genetic resources, notably through satisfactory access to genetic resources and appropriate transfer of relevant technologies, taking into account all rights over these resources and technologies and through adequate funding, thereby contributing to the conservation of biological diversity and the sustainable use of its components. Article 3: Scope This Protocol applies to genetic resources that fall under the competence of Article 15 of the Convention as well as to benefits arising from the utilization of these resources. The Protocol also applies to traditional knowledge associated with genetic resources under the competence of the Convention and to benefits arising from the utilization of this knowledge. Article 5: Fair and Equitable Sharing of Benefits 1- In accordance with paragraphs 3 and 7 of Article 15 of the Convention, benefits arising from the utilization of genetic resources and subsequent applications and commercialization are shared in a fair and equitable manner with the Party providing such resources and which is the country of origin of these resources or a Party that has acquired the genetic resources in accordance with the Convention. This sharing is subject to mutually agreed conditions. 2- Each Party takes legislative, administrative, or policy measures necessary to ensure that benefits arising from the utilization of genetic resources held by indigenous and local communities, in accordance with domestic law regarding established rights of these local and indigenous communities over these genetic resources, are shared in a fair and equitable manner with the concerned communities according to mutually agreed conditions. 4- Benefits may include but are not limited to monetary and non-monetary benefits listed in Annex I: initial payments, royalty payments, contributions to the local economy, wages, and preferential conditions if mutually agreed upon, etc...

27 PHOTOS © DR

BRAINFOREST Quartier Ambowé, B.P: 23 749 Libreville – Tel: 07 97 84 25 E-mail: info@brainforest-gabon.org – www.brainforest-gabon.org Registration No: 00265/MISPD/SG/CT - NIF: 89616C