



Responses to concerns about illegal practices of FSC Certificate Holders in Cameroon

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1. INTRODUCTION

On the 20th of August an article was published in Mediapart.FR which referred to a non-published report from the Independent Auditors of the FLEGT System (IAS FLEGT) with the title “*Évaluation de la conformité des documents associés au processus d’attribution de chaque titre forestier en vigueur au Cameroun*”. The main message of the article was that it appears that none of the forest companies active in Cameroon are entirely acting in accordance with the relevant national laws, not even those that are FSC certified. Sometime later, FERN asked FSC to react on this assumption.



2. A GENERAL RESPONSE

1. Respect for Legality is the first FSC Principle (in the old and the new FSC Principles & Criteria for Forest Stewardship). So respect for legality is the minimum, and the other FSC principles are additional requirements to legality, given that no national legislation in any country covers 100% of the FSC requirements. The extent to which forest managers have to go beyond the national laws depends on the quality and scope of these laws.
2. The most substantive issue of possible violation of the Cameroonian legislation is about the combined size of concessions (in terms of the total surface area) one company can have in the country. FSC itself does not set maxima to sizes of FMUs or total ownership of forests by individual actors. So it is, in the first place, the responsibility of the government to enforce that law. Nevertheless, FSC Certification Bodies (CBs) have to ensure that the companies holding FSC Certificates comply with all relevant laws, including this one.
3. The other issues in Cameroon are administrative, due to insufficient performance of the relevant authorities, and do not affect the environmental and social performance of our Certificate Holders (CHs).
4. In case any organization or individual, inside or outside Cameroon, considers that one or more FSC CBs have not properly reacted to violations of legislation, FSC has a transparent complaints procedure any interested party can apply. Also, if a certificate holder or FSC Member is considered to have violated laws outside certified areas, FSC can be called upon, on the basis of its Policy for Association, to disassociate from such an organization, through the withdrawal of all FSC certificates and/or membership.
5. The FSC Congo Basin office has no formal role in overseeing the activities of the certificate holders and CBs. However, this clarification note has been produced to underline that also for us compliance with all relevant laws is of utmost importance as a first step to sustainable forest management.

3. FSC FOREST CERTIFICATION AND CONTROLLED WOOD IN CAMEROON

Cameroon has experienced considerable deforestation in recent times, especially due to the development of large agricultural projects (Cocoa, Palm Oil). Currently, forests cover 42% of the territory of Cameroon representing almost 20 million hectares, amongst which 5.6 million hectares are allocated to production (*State of Congo Basin Forests, FAO, 2013*).

17% of the Cameroonian production forests are FSC certified (forest management), representing 940 945 hectares, with another 5% managed under the FSC Controlled Wood Standard, as shown in **Table 1**.



Table 1. FSC Certified forests areas in Cameroon

COMPANY	FMUs	Certificate Code	Area (ha)
CAFECO (Group WIJMA)	11-005	BV-FM/COC-140380	70 298 ha
Groupe Wijma Cameroun (CFK, SCIEB SARL et Wijma Cameroun SA)	09-021 09-022 09-024 09-025	BV-FM/COC-051201	243 272 ha
PALLISCO et Partenaires (LFM et SODETRAN-CAM)	10-030 10-041 10-039 10-044 10-031 10-042	BV-FM/COC-832214	341 708 ha
Société Forestière et Industrielle de la Doumé – SFID Groupe Rougier	10-038 10-054 10-056	RA-FM/COC-006347	285 667 ha
<i>Société Forestière et Industrielle de la Doumé – SFID Groupe Rougier</i>	<i>09-003 09-004A 09-005A 09-005B 09-007 09-008</i>	<i>RA-CW/FM-007166</i>	<i>262 772 ha</i>
TOTAL (FM+CW)(ha)			1 203 717 ha

Source: FSC Data base; 2015-10-11.

4. THE LEGAL ISSUES AT STAKE

4.1 ISSUE 1: MAXIMUM SIZE OF CONCESSIONS ACCORDED TO A SINGLE ECONOMIC OPERATOR

4.1.1 Legislative framework

The Cameroon forestry law (Law n°94/01 of 20th January 1994), in its Article 49 paragraph 01, fixes the maximum area which can be accorded in concessions to a company to 200 000 hectares.

The second paragraph of this Article forbids a company to acquire a majority of the shares in another enterprise that shall lead to its management of more than 200.000 hectares.

The law does not mention the case of acquiring minority shares. The possibility for a company to have minority shares in other companies is accorded within the Cameroonian Law to group the management of several FMUs. This passes through the creation of “Industrial Partnerships”, allowing companies to group themselves to manage forest concessions.

The Decree N° 95/531/PM signed on 23 August 1995 modified by Decree 2000/092/PM signed on 27 March 2000, fixing forest sector requirements in the Republic of Cameroon, in its Article 139, gives details on the procedures for the establishment of partnerships.

This legislative framework allows a company to take a share in another company, and, as an important safeguard, fixes the conditions for an application (legal documents to compile), which ensures that all legal requirements have been verified by the Administration before accepting any industrial partnership or divestiture.



Furthermore, the Law does not prevent companies/partnerships that have concessions, to subcontract the actual management to another company. The Decree n°95/531/PM signed on 23 August 1995, fixing detailed rules for the application of the forest regime in Republic of Cameroon, in its Article 140, allows a concession holder to sub-contract some of its management activities to an approved subsidiary body, subject to a prior approval of the Ministry of Forests and Wildlife,.

As you will see below, Pallisco and WIJMA Groupe are official partners in industrial partnerships for part of the FSC Certificates they manage. The Administration in charge of Forests has approved the industrial partnerships established by these companies

You will also see that SFID (Rougier Groupe) is acting as sub-contractor in part of the FSC Certificates it manages.

4.1.2 Case Study of Pallisco and Partners

Pallisco & Partners, mentioned in Pigeaud's article, manages the following forest titles shown in **Table 2**.

Table 2. Forest Titles of Pallisco & Partenaires - Case Study

Forest Titles Reference	Owner	Date of Allocation	Surface (ha)
UFA 10-030	PALLISCO	2001	76 850
UFA 10-031	PALLISCO	2010	41 202
UFA 10-039	La Forestière de Mbalmayo (LFM)	2013	47 585
UFA 10-041	SODETRAN-CAM	2010	64 961
UFA 10-042	SODETRAN-CAM	2001	44 249
UFA 10-044	SODETRAN-CAM	2010	66 861
TOTAL			341 708

Pallisco has signed two "*Contrats de Partenariat Industriel*" Industrial partnership contract):

- One with La Forestière de Mbalmayo (LFM) to manage one FMU (UFA 10-039);
- One with SODETRAN-CAM to manage three SODETRAN-CAM FMUs, through a unique Socio-Environmental and Forest Management Service, commissioned on 01/02/2006, to ensure that PALLISCO and its partner's logging and industrial timber processing activities respond to FSC standards requirements.

The three FMUs allocated to SODETRAN-CAM (UFA 10-041, 10-042 & UFA 10-044) have been grouped within a single Management Plan, to ensure more responsible management activities for the mid-term and insure a better regeneration rate.



These three FMUs are contiguous and the Cameroonian Administration in charge of Forests approved this organization in groups on 01st July 2003. The initial version of the management plan has been validated on 26th November 2004.

None of those three entities hold more than 200.000 ha (Pallisco: 118.052 ha, La Forestière de Mbalmayo: 47.585 ha, SODETRAN-CAM: 176.071 ha).

4.1.3 Case Study of Rougier and its partners

SFID (Société Forestière et Industrielle de la Doumé), subsidiary of Rougier, owns two concessions itself, and is a subcontractor (partnerships agreement for forestry management) to CAMBOIS, MPACKO and LOREMA.

The two MPACKO's FMUs have one single Forest Management Plan, the four LOREMA's FMUs also have a single Forest Management Plan.

SFID doesn't have shares in these companies.

As described in the **Table 3**, none of these entities, working through subcontracting agreements, hold more than 200.000 ha (SFID: 140.917 ha, CAMBOIS: 144.750 ha, MPACKO: 79.422 ha, LOREMA: 183.350 ha).

Table 3. Forest Titles of SFID and its partners- Case Study

Forest Titles Reference	Owner	Date of Allocation	Surface (ha)
UFA 10-054	SFID (Rougier)	2001	140 917
UFA 10-056	SFID (Rougier)	2004	
UFA 10-038	CAMBOIS*	2001	144 750
UFA 09-007	MPACKO	2006	79 422
UFA 09-008	MPACKO	2006	
UFA 09-003	LOREMA	2000	183 350
UFA 09-004a	LOREMA	2000	
UFA 09-005a	LOREMA	2000	
UFA 09-005b	LOREMA	2000	
TOTAL			548 439

*: On March 2013, during the Forest Management Certification Assessment of SFID, Rainforest Alliance had put a minor nonconformance to SFID regarding its subcontracting agreements with CAMBOIS. After the audit, SFID updated its partnership agreement with CAMBOIS. The new version of the contract specifies the responsibilities of SFID in the technical management of FMU 10 038 and the contract was approved by the competent authority, being the *Ministre des Forêts et de la Faune*. The minor nonconformance has been closed.



4.1.4 Case Study of Wijma and its partners

As shown in **Table 4** below, Wijma is the majority shareholder of CAFECO (70.298 ha). Furthermore it is a minority partner in two partnerships, CFK and SCIEB. These partnerships hold respectively 61.301 ha and 200.211 ha in concessions.

Wijma is a Group Manager of a certification group type 1 group whereby the manager only has part of the responsibility with regard to forestry, environmental and social activities

In conclusion: Wijma itself doesn't hold any forest title in Cameroon, and the Article 49 of the forestry code doesn't apply here. Wijma is acting as an industrial partner of forest owners, allowing almost 310.000 ha of tropical forests to be managed responsibly.

Table 4. Forest Titles of WIJMA and its partners- Case Study

Forest Titles Reference	Owner	Date of Allocation	Surface (ha)
UFA 11-005	CAFECO	2006	70 298
UFA 09-022	CFK	2005	61 301
UFA 09-021	SCIEB	2002	36 439
UFA 09-024	SCIEB	2002	75 625
UFA 09-025	SCIEB	2000	88 147
TOTAL			335 466

4.2 ISSUE 2: FAILURE TO PROVIDE THE ENTIRE SET OF DOCUMENTS REQUIRED IN THE FLEGT LEGALITY GRIDS

The Independent Auditor for the FLEGT system in Cameroon highlighted the difficulty for the Administration and the forest managers to produce original hard copies of the complete set of legal and administrative documents required by the FLEGT legality grids.

The Independent Auditor recommends that the Administration should review some verifiers and give clarifications on how to use the legality grids, in order to make sure that Timber Legality Assurance System in Cameroon is applicable and applied properly by companies (especially verifiers related to the systematically missing documents).

A solution for the missing documents could be to make them available as soon as possible, within the frame of a supervised and legal deliverance.



5. CONCLUSIONS

FSC supports the proposals of the Auditor to use the upcoming forest law reform to deal with the problems identified. We underline that, contrary to the impression the article of Ms Pigeaud gives, the Auditor insists that his findings, given the limitations in the research done, should not lead to conclusions about the (il)legality of any operations in Cameroon.

As concerns what appears to be the main issue, the threshold of 200.000 ha, FSC itself submits that for the implementation of its certification requirements there is no need for such limits. However, it appreciates that the Cameroon lawmakers may have other considerations than forest management as such.

FSC is convinced that all the FSC-certified companies in Cameroon respect the current forestry law and enabling texts. They have contracted formal industrial partnerships and/or license transfers, in compliance with the Cameroonian legislative framework. The required annual auditing by Certification Bodies underpins this confidence.

We hope that the Cameroonian Administration will follow the recommendations of Independent Auditor to find a suitable and legal solution to tackle the issue related to the lack of legal/administrative documents and to clarify the situation of industrial partnerships and license management with regards to the threshold of 200.000 ha.

6. AUTHOR & CONTACT INFORMATION

Author:

FSC Congo Basin Programme Manager, Mathieu Auger-Schwartzenberg
m.schwartzenberg@fsc.org

Address:

FSC Congo Basin Office
2 Avenue de la Base, Immeuble LBC–2^{ème} étage
Quartier Batignolles, Brazzaville – République du Congo.