Green Development Advocates
For a Green Congo Basin

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RIGHTS OF LOCAL AND INDIGENOUS COMMUNITIES

IN LAW N°2024/008 OF JULY 24, 2024, ON THE FOREST AND FAUNA SYSTEM

INTRODUCTION

Since 2008, the State of Cameroon has initiated the process of revising its 1994 forestry law, by decision No. 0941/D/MINFOF/SG/DF/SDAFF of September 2, 2008, creating a multi-stakeholder working group responsible for monitoring the work of revising legislative texts and their implementing decrees. After 16 years of waiting, on July 24, 2024, the State of Cameroon adopted a new law, Law No. 2024/008 of July 24, 2024 covering forest and wildlife regime. Comprising 191 articles grouped into seven (07) chapters, it covers all the rules that govern the conservation, protection, exploitation, restoration of forest landscapes and degraded lands, the development and renewal of forest and wildlife resources in forest areas. It nevertheless includes customary rights, the usage rights of riparian communities as well as a forest control based on the national strategy for forest and wildlife controls, which defines the organization of the control of verification of forest exploitations, the procedures, the sanctions and its implementing measures. The new law repeals and replaces Law No. 94/01 of January 20, 1994.

This note aims to simplify the understanding of the new forest law for indigenous peoples and local communities as well as civil society organizations supporting these communities. To do this, we will highlight their main rights, which we have grouped into four different categories.

01 RIGHTS TO MANAGEMENT OF FOREST AREAS

In Cameroon, the new forestry law of 2024 offers local populations new development possibilities, in particular through the implementation of methods ofmanagementforestryit is about:

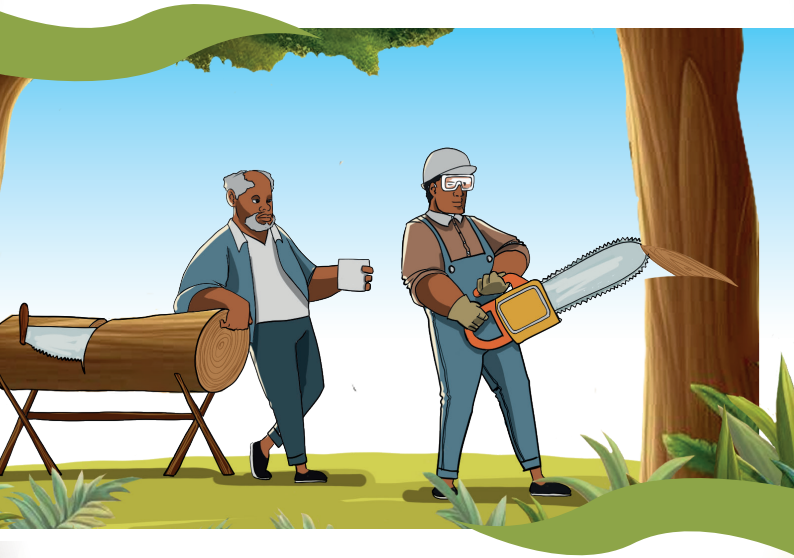
1.1 Community protected areas

Community protected areas are classified spaces that are part of the private domain of the State in favor of communities for their cultural and/or socio-economic needs (article 33). In this space, communities are required to respect the initial vocation of the protected area assigned to them by the State. As potential protected areas, we have for example sacred forests, areas of heritage conserved by indigenous peoples and local communities (ICCA).

1.2 Community forests

The community forest is a portion of the national forest on which the State grants usage rights to a village community that requests them (Article 37). This forest is managed by the relevant riparian community, with technical assistance from the forestry administration. This forest is allocated for use by the State to a riparian community that expresses an interest in it. Its allocation is first accompanied by a provisional agreement for a maximum period of two years (Article 38 paragraph 1), a simple management plan for a period of (5 years), then a definitive agreement for a period of twenty-five years (25 years) renewable (Article 38 paragraph 2).

The riparian community itself decides on the activities it will carry out in the community forest. These activities must be described in the management plan. Therefore, the activities that can be carried out in the community forest are agriculture, hunting, gathering, collection of dead wood, felling of trees for construction, logging as well as religious activities.



1.3 Community hunting territories

This is an area of the national domain which is the subject of an agreement between a community which shows interest in it and the administration in charge of wildlife. In this area, the communities exclusively practice hunting for their subsistence needs and can also market the products resulting from it (article 45). The maximum duration of the provisional agreement is two years (art 46 paragraph 1).

1.4 Community-managed hunting interest zone

Community-managed hunting interest zones are areas located on a permanent forest and/or a non-permanent forest, granted to one or more riparian communities that express an interest in them (Article 49), and subject to a management agreement between these communities and the administration responsible for wildlife. In the event of a violation of the clauses of said agreement, the administration may automatically carry out the necessary work at the expense of the community concerned or terminate the agreement without prejudice to the recognized usage rights (Article 51). This area is intended for communities to practice hunting.

02 RIGHTS OVER FOREST AND WILDLIFE RESOURCES

The law recognizes several rights of riparian communities over forest and wildlife products. Among these, we can cite:

2.1 Right of use

The right of use is a right recognized to riparian communities to sustainably harvest forest and wildlife products, with the exception of protected species, for personal use, the products resulting from them can still be marketed on nearby markets (article 3). Riparian communities most often exercise this fundamental right through the hunting, gathering and all other forestry and wildlife activities but in a controlled manner, especially in permanent forests (article 6, article 44) on the national forest domain (article 21).

2.2 Right to compensation or indemnity

Riverside communities also benefit from the right to compensation or indemnification (article 6 paragraph 3) especially when they are deprived of their usage rights or when their rights are restricted following expropriations for public utility reasons (article 25), this is the case when their rights are restricted in the forest management unit (UFA), protected area, communal forest, regional forest, etc. Communities also benefit from this right when they have suffered harm due to human-wildlife conflicts (article 117).

2.3 Right of pre-emption

The right of pre-emption is understood as a prerogative recognized to communities to acquire, in preference to any other natural or legal person, the ownership of a good or a forest or wildlife product when it is sold. The riparian communities benefit from this right over all competitors when alienating the products on which the communities exercise their usage rights (article 7). For example, if the state wants to sell one or more forest or wildlife products such as the sale of wood, it must first ask the communities whether they want to buy it or not before offering it to another person. The latter enjoy this right in the following areas: community forests (article 37), Community hunting territories (Article 45 paragraph 2), and areas of hunting interest with community management (Article 49 paragraph 2). In concrete terms, to sell any products resulting from these titles, it would be necessary to first of all ask the communities if they wish to acquire them.

2.4 Right to ritual hunting

This right is a prerogative recognized to the riverside communities to practice hunting within the framework of their traditions or customs and cultural or religious beliefs for the celebration of rites (article 120 paragraph 3) such as Libandi among the Baka, the Djengui, the Bouma, the Likano etc. It should be noted that ritual hunting is done periodically.

03 BENEFIT SHARING RIGHTS

These include:

3.1 Rights to wildlife royalties

The annual wildlife fee is the tax paid by wildlife users, such as hunters, hunting tourism companies, etc. The amount of this fee varies depending on the category of wildlife use and the geographical area (protected areas, forests, etc.). Article 151 of the law provides that the proceeds of all taxes, fees and charges related to wildlife and protected area exploitation activities are distributed among all stakeholders concerned, including local communities. It should be noted that the communities' share is paid to the municipality where the wildlife exploitation titles are located to finance local community development projects (Article 151, paragraph 3).

3.2 Rights arising from litigation

Communities have the right to receive a share of funds from litigation over forest and wildlife products. These are the proceeds from public auctions of forest products (illegal logging, animal species taken from poachers, etc.), fines, transactions and damages (Article 148, paragraph 1). However, in order to claim the benefits of the shares of the various royalties and taxes provided for by this law, the riparian communities must constitute themselves as a legal entity.

3.3 Right to financing of development projects

In this specific case, the State must take all necessary measures to ensure that the financial resources generated by activities relating to forestry and wildlife exploitation cover the needs inherent in the renewal of heritage and contribute to the financing of population development projects (article 141).

It should be noted that compared to the 1994 law, the new law is a step backwards by excluding riparian communities from the sharing of benefits due to taxes and royalties relating to forests such as the Annual Forestry Royalty. This is no longer part of the benefits recognized to communities. Only other stakeholders benefit from its distribution. Furthermore, royalties from genetic resources, which are payments made by users of genetic resources, such as companies or research institutions, do not benefit riparian communities who are the holders of traditional knowledge of these resources.

It should also be noted that, for all these profits from forestry and wildlife exploitation, the law does not define any modalities or distribution grid for these.

04 PROCEDURAL RIGHTS

These are rights whose enjoyment contributes to transparency in forest governance. Among these rights, the new law provides for the right of access to justice, the right to consultation and the right to participation.

4.1 Right of access to justice

This right is recognized to riparian communities that suffer all the damage caused by economic, fiscal, ecological, environmental, social and cultural services. As a result, Article 180 paragraph 2 establishes the terms of access to justice even if this is not expressly expressed. These communities have the right to seek justice to collect damages for the damage caused to them. However, to do so, they must constitute themselves as a civil party, that is to say that when damage occurs, it is the State as public prosecutor who files a complaint and the community with an interest to defend can join the procedure to explain the damage it has suffered even if the law does not expressly specify it.

4.2 Right to consultation

This is a right that allows riparian communities to be consulted by the State or any other natural or legal person in the event of a need to carry out a project in the community concerned. The law specifies in Article 6 paragraph 2 that: "the State may, for reasons of public utility and after consultation with the populations concerned through their representative institutions, suspend or restrict the exercise of usage rights...when the need arises". That is to say that for any project that affects a community, the State must consult the riparian communities to give their opinion on the project. Those responsible for the project (State, concessionaire or an individual), whether it be projects to create protected areas, Forest Management Units or the granting of forest land for investment projects, must therefore consult the communities.

4.3 Right to participation

With regard to participation, the law enshrines in its provisions the participation of communities in the management of forest and wildlife resources. In this sense, the State guarantees the participation of all stakeholders in the management of forest and wildlife resources (Article 4 paragraph 1). Riverside communities collaborate with other stakeholders in the protection of forest and wildlife heritage(Article 14). Similarly, Article 92 (3) emphasizes that: “Forest landscape restoration is a participatory process, based on adaptive management that responds to social, economic and environmental changes.”