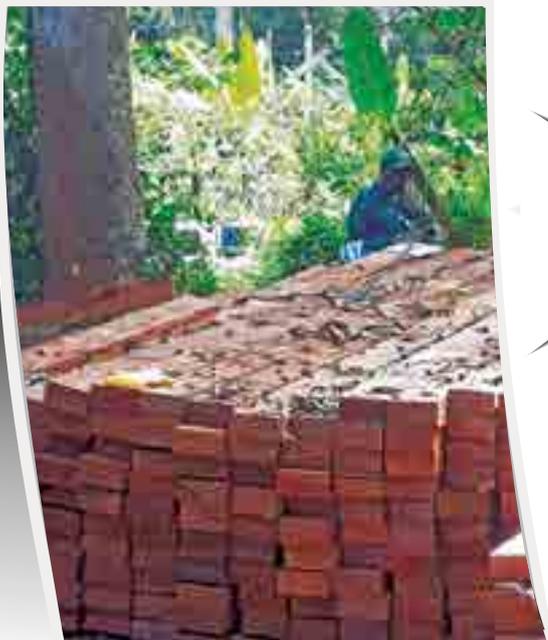




*Participation of the civil society process
of revising forestry law:*

**Real Progress
or setbacks?**



CONTENTS

List of abbreviations.....	3
Introduction.....	4
I - Progress and setbacks of consultation.....	5
II - Contributions of the civil society in the draft forestry law of December 20.....	6
A - Contributions considered	6
B - Contributions not included in the draft law	7
III - Reaffirmation of the position of the civil society in relation to the 1004 forestry law review process.....	8
BIBLIOGRAPHY.....	9
ForMA 2015.....	10

ABBREVIATIONS

VPA :	Voluntary Partnership Agreement
FLEGT:	Forest Law Enforcement Governance and Trade
MINFOF :	Ministry of Forestry and Wildlife
NTFP :	Non Timber Forest Products
FPIC :	Free Prior and Informed Consent

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Introduction

The Forest Law review process is one of the requirements of civil society within the framework of the negotiation of voluntary partnership agreements. Indeed, since 2007, the civil society was seeking, within the negotiations of VPA-FLEGT, a participatory reform of the legal framework. The main argument of this was the (none) insufficient echo of the provisions of international conventions ratified by Cameroon in forest law. Thus, for nearly a decade, the civil society expressed through concrete actions, its desire and ability to participate in the drafting of legal texts of the forest sector. The result over time was the birth and the gradual consolidation of a climate of trust and cooperation between the latter and the institutions in charge of forests¹. Moreover, the choice of adopting a methodology of participatory development of the Forest Law by the Ministry of Forestry and Wildlife (MINFOF) seems to be clear evidence of that collaboration.

This policy brief aims to draw lessons from the participation of the civil society in the Forest Law review process and to recall some major innovations dear to civil society, and that should not be lost in the wake of text review process of the draft Law.

¹ - For example from 1998 to 2008, civil society and the Ministry of Forestry led a successful participatory process of procedures manual revision of the award and community forest management standards. See SNV, *Process, outcomes and proposed amendments to the provisions relating to community forest management and forest governance in Cameroon*, 2011; P. 3



I- Progress and setbacks of consultation

The drafting of the 1994 forestry law was severely criticized for the non-involvement of communities. The approach that has been chosen for its review was intended to be participatory. Indeed, it involved more than a dozen representatives of actors in the administration, private sector, civil society and regional and local authorities whose proposals have been taken into account.

From 2008, the Minister of Forestry and Wildlife created a working group to conduct the work of reviewing the Forest Law and its subsequent texts². This group had to work for the success of the review process of the 1994 Forestry Law and its complementary texts. This group was open to civil society (3 places), and two representatives of indigenous peoples. The process of the action plan also provides for the recruitment of a consultant to conduct the diagnostic study of policy and law and regional consultations in each agro-ecological zones of Cameroon to take into account the concerns and proposals of local stakeholders in general, and communities in particular.

Specifically, the working group was involved in developing the terms of reference for the selection of the consultant to carry out preliminary studies and monitor the implementation of its work. Then it had to take part in consultations at the administrative centres of the regions. Finally, it had to approve the draft texts for submission to the Prime Minister and the

National Assembly.

However, on the test of facts, it is clear that communities were not consulted. In reality, a participatory process of developing or reviewing legal texts requires that the pilot ensures effective flow of information between stakeholders to ensure good understanding of the stakes, and capacity building of vulnerable actors to enable them to contribute effectively. As in the drafting of the 1994 Law, MINFOF remained consistent in its approach of excluding communities in the consultation process for the drafting of legal texts. The argument brought up was the requirement of having to pass the bill in the Prime Minister's Office before 31 December 2012 to meet the commitments made within the framework of the ministerial roadmap.

The initial specification had some changes unilaterally decided by MINFOF. The process of reform was thus, deprived from the mechanisms of consultation and participation initially planned. In the end, the administration went from a mere pilot to a decision-making role of what was to be taken into account or not. This has seriously distorted the rules of consultation.

² - This is the Ministerial Decision No. 0941/D/MINFOF/SG/DF/SDAFF of 2 September 2008 on the establishment of a working group in charge of monitoring the work of reviewing Law No. 94-01 of 20 January 1994 governing forestry, wildlife and fisheries and its implementation texts were amended and supplemented by another, taken on 5 May 2009 under number 05571/D/MINFOF/SG/DF/SDAFF.



II - Contributions of the civil society in the draft Forestry Law of December 2012

The contributions from civil society targeted improving the protection of the rights of forest communities. Some were included in the draft Forestry Law and others were not.

A - Contributions considered

They include:

- The integration and the development of participatory management concept;
- The prescription of the inclusion of vulnerable social groups including women, youth and indigenous peoples, in the allocation of forest and wildlife securities, their operation and the redistribution(share) of income from these activities to encourage their participation in the development process and for them to draw benefits.
- the prescription that the administration responsible for forests and wildlife must ensure public access to information on forest management and wildlife;
- the requirement of information meetings to precede the start of operations of any forest and the definition of their content.
- the introduction of commercial law to allow people to market NTFPs collected within the framework of the right of use and to provide for their basic needs like buying soap, oil, salt, finance schooling of their children.
- the institution, in lieu of traditional hunting, of subsistence hunting, without repeating of restrictions that the 1994 Forestry Law brings to the type of tool allowed for the first, to reconcile the law's concern to ensure the sustainable use of wildlife resources with the need of ensuring the feasibility of traditional legal hunting in the current context.
- the institution of ritual hunting and authorization of its practice to both indigenous peoples and local people.
- the establishment of community protected areas: these are areas of permanent forest estate of a community dedicated to the forest and managed by its representative institutions in accordance with the simple management plan.
- Introduction into law of special rules with respect to remedying the damage caused by wildlife, by providing for a special fund for repairs and addressing the issue official culling.
- the requirement of taking into account when calculating damages for forest and wildlife products exploited fraudulently, of all damages, including economic, ecological, environmental, social and cultural suffered, including local and indigenous populations of the forest concerned



B - Contributions not included in the draft Law

Some strong proposals of civil society were not included in the draft Law. These include:

- The requirement to obtain the free, prior and informed consent (FPIC) of indigenous peoples when their rights over the land and over the resource are affected, or likely to be.
- The definition of a new plan for the allocation of forest land in a concerted and participatory approach.
- institutionalization of payment mechanisms for environmental services and the introduction of incentives to encourage actors to use it;
- The authorization of access granted to communities to seize justice as well as the State and see the offender punished in case of finding violations of the forest legislation and diversion of the annual forestry fee funds.
- The prescription for the suspension of the right of use, six months to a year notice given to the population concerned and prior payment in favour of the latter, an allowance calculated and agreed with their free, prior and informed consent, based on the tangible and intangible values of the resources on which they exercised their right of use.
- The authorization of collection of certain protected species, when they fall within the scope of established traditional cultural practices that are compatible with conservation requirements

and sustainable use of such species.

- The introduction of alternatives to compensation, such as the creation of enclaves and the erection of certain areas of the forests to be converted into series of community or agro forestry development, as these solutions are not incompatible with the objectives assigned to the forest to classify;
- delimitation of customary lands of communities to realize jointly by the ministries in charge of land tenure, forestry, and territorial administration.
- granting, without prior formalities, a land title to each community on the areas concerned, which would be an inalienable property of the village, even if they were to be on the permanent forest estate;
- management of space and resources in the forest in each village by the existing customary management structures, with technical support and under the supervision of the Ministry of forestry;
- the application of customary law within the space covered by the collective land title.

III - Reaffirmation of the position of the civil society in relation to the 1994 forestry law review process

The position of the civil society in relation to the Forestry Law review process remains constant. It relies on the State of Cameroon within the framework of VPA FLEGT and regulations which provide for the consultation of all stakeholders in decision-making on forest issues. Article 5 paragraph 1 of Decree No. 95-53/PM of 23 August 1995 laying down detailed rules for implementing forest regimes provides: "Within the framework of the drafting and implementation of forest policy, the Administration in charge of forests consults and associates the local population affected and professional associations in the forest sector".

A participatory process implies a willingness to involve all stakeholders in decision-making. It begins with information, in a language that is accessible to all stakeholders on the subject of the consultation, stakes and consequences of the proposed changes. It continues through effective stakeholder consultation and information of stakeholders on what was or was not taken into account in the final version.

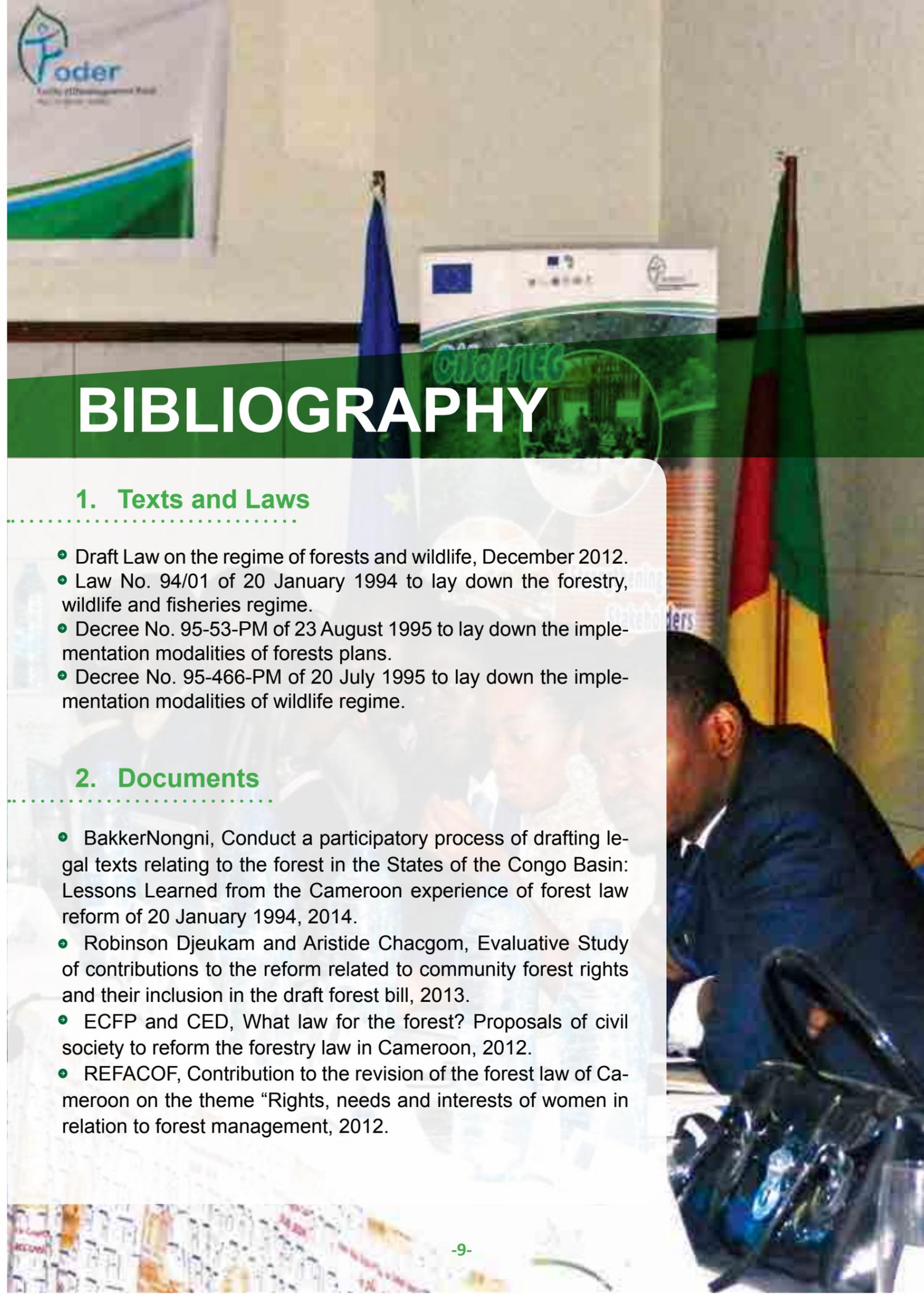
Main proposals of the civil society that should not suffer from the examination of the draft law by the Government and the parliament:

- Marketing of NTFPs as part of user rights: It is important that the implementing regulations lay down light, flexible and inexpensive procedures adapted to the socioeconomic realities of indigenous and local communities.
- Maintaining the specificity of community and communal forests when operate under local government control, including the non-liability for the requirement of approval and payment of the felling tax. The procedure for granting of authorization for artisanal logging, wood energy, NTFPs, community and communal forests (where exploitation is actually governed) should be distinct from that of industrial exploitation and be located at the most decentralized or devolved level



to facilitate access and simplify the procedure.

- Community protected areas whose terms must be specified in subsequent legislation;
- The simplification of procedures for repairing damage caused by wildlife, including the creation of a special fund;
- The payment to the communities of a part of income from revenue from the auction of wood and wildlife products seized to encourage the fight against forest and wildlife illegalities;
- The generalization of information meetings to precede the start of operations of all forests, and not just the sale of logs in the national land and the definition of their content.
- The establishment of a title deed in permanent forests owned by municipalities and communities that is exempt from all fees and taxes other than technical and incompressible taxes,
- The institution of private wood and a forester's book that devotes ownership of forest products to those who plant them on land whose use is customarily accorded to them.



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2^{ème} édition



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The mission of FODER is to create an enabling environment for sustainable development through actions to ensure justice and equity, rights and democracy, transparent, participatory and sustainable management of natural resources, preservation of biodiversity and improving the quality of life and environment.

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