



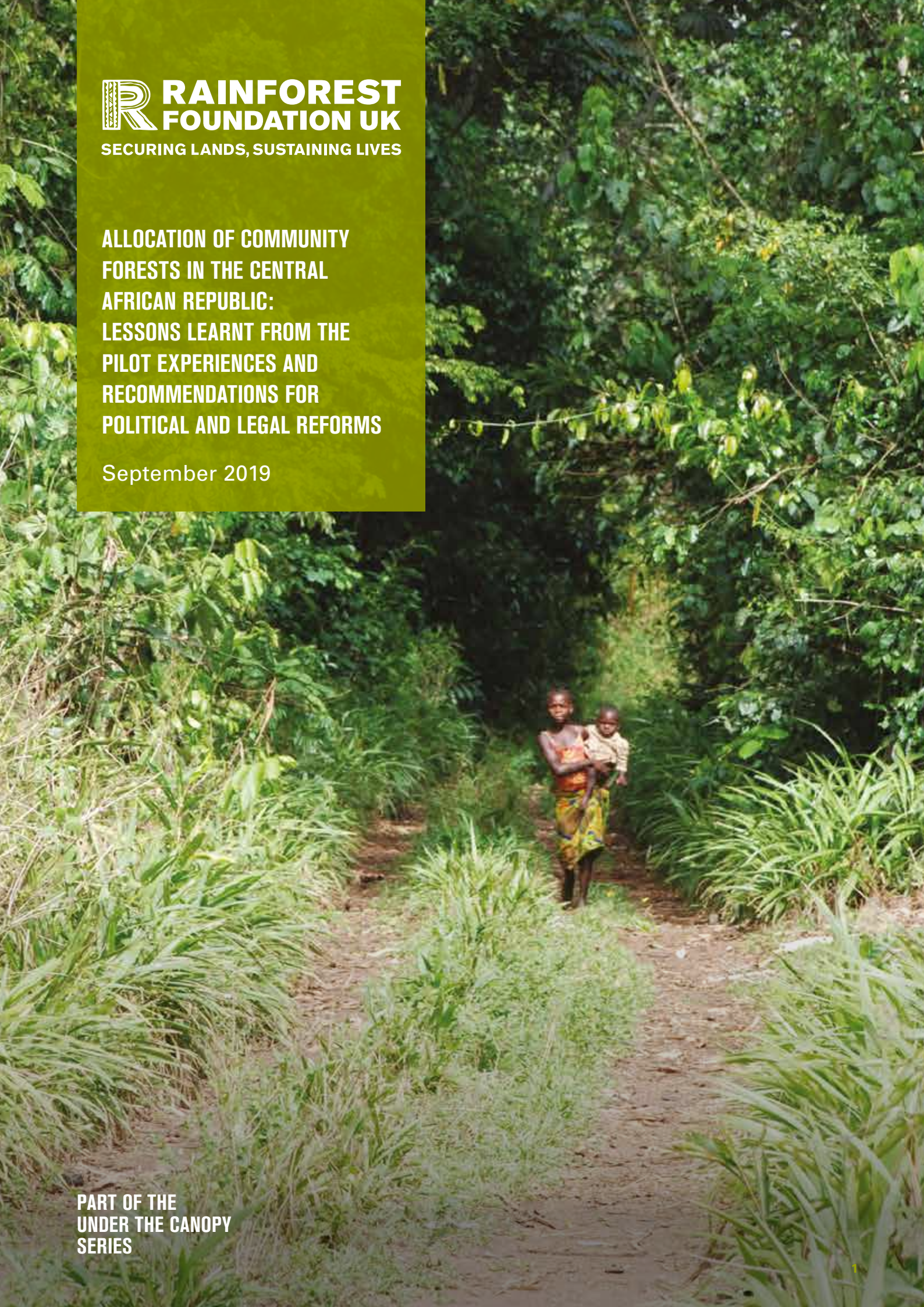
**RAINFOREST
FOUNDATION UK**

SECURING LANDS, SUSTAINING LIVES

**ALLOCATION OF COMMUNITY
FORESTS IN THE CENTRAL
AFRICAN REPUBLIC:
LESSONS LEARNT FROM THE
PILOT EXPERIENCES AND
RECOMMENDATIONS FOR
POLITICAL AND LEGAL REFORMS**

September 2019

**PART OF THE
UNDER THE CANOPY
SERIES**



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LIST OF ACRONYMS

AGDRF	Agency for Sustainable Forest Resources Management (<i>Agence de Gestion Durable des Ressources Forestières</i>)
CAR	Central African Republic
CoNGOs	'NGOs collaborating for equitable and sustainable community livelihoods in Congo Basin forests'
DfID	British Department for International Development
FPIC	Free, Prior and Informed Consent
ILO	International Labour Organization
MEFCP	Ministry of Water, Forests, Hunting and Fishing (<i>Ministère des Eaux, Forêts, Chasse et Pêche</i>)
MPA	Manual of Procedure for Allocating Community Forests in CAR (<i>Manuel de Procédure d'Attribution des forêts communautaires en RCA</i>)
NGO	Non-Governmental Organisation
NTFPs	Non-Timber Forest Products
PEA	Logging and Management Permit (<i>Permis d'Exploitation et d'Aménagement</i>)
PNMB	Mbaéré Bodingué National-Park (<i>Parc National Mbaéré-Bodingué</i>)
RFUK	Rainforest Foundation United Kingdom
ROCC	Official Consultation Meeting (<i>Réunion Officielle de Consultation et de Concertation</i>)
RPCC	Preliminary Consultation Meeting (<i>Réunion Préliminaire de Consultation et de Concertation</i>)
SAOH	Series for Agriculture and Human Settlement (<i>Série Agricole et d'Occupation Humaine</i>)
SCAD	<i>Société Centrafricaine d'Agriculture et de Déroulage</i>
SMP	Simple Management Plan (<i>Plan Simple de Gestion</i>)
VPA	Voluntary Partnership Agreement

EXECUTIVE SUMMARY

A growing number of studies¹ demonstrate that formal recognition of the customary rights of forest communities, including their land rights, is one of the best strategies to effectively protect forests, whilst also fighting poverty.

This strategy is currently being trialled in the Central African Republic (CAR) where, **in April 2019, the first “community forest” was allocated to the villages of Moloukou, Moalé and Lokombé in the south-west forest massif. This allocation recognises the communities’ management rights to roughly 15,000 hectares of the *Lomba* forest.** It sets an historic precedent not only for CAR but also for the Congo Basin as it is the first community forest in the region to have been allocated within a concession already allocated to a logging company. As a result, the company and the communities’ rights and use of the area now overlap.

Since 2015, there has been a legal framework in CAR allowing local and indigenous communities to officially obtain a community forest by submitting an allocation application to the Forest Administration. This is currently **the only legal option for the communities to secure their rights to the resources on which their livelihoods depend.** Obtaining these rights is often crucial, in particular in the south-west of the country where almost all of the rainforest is allocated to external actors for conservation and/or timber harvesting.

Since 2009, Central African civil society, with the support of the Rainforest Foundation UK (RFUK), has been assisting communities interested in the allocation of a community forest whilst also supporting government efforts to develop a legal framework adapted to local contexts. As part of this work, the stakeholders considered it necessary **to continue to support the local and indigenous communities applying for the allocation and management of the ‘pilot community forests’ in order to ‘test’ the current legislation.** Since 2016, 14 villages, brought together in two pilot sites, have been supported by RFUK and field workers from CAR’s civil society under the ‘CoNGOs’ project².

The aim of this report is to document the process developed by those communities who have applied for a community forest following the provisions of the Manual of Procedure for Allocating Community Forests in CAR (MPA). This report demonstrates that:

- a) Without the special authorisation obtained through advocacy by civil society, these communities would not have been eligible for the allocation of a community forest as a result of their customary territories falling within the logging concessions;
- b) Without the assistance of civil society, these communities would probably not have been in a position to follow the complex process to produce and submit an admissible allocation application;
- c) Political and legal reforms are vital to enable forest populations to secure their customary rights through community forestry beyond the pilots.

Part 1 of the report presents the context for the legal framework ‘test’, whilst part 2 presents the chosen pilot communities and the support methods used. Part 3 presents the lessons learnt and provides recommendations to be used as a basis for reviewing the community forest allocation process. Finally, given that it is now possible to support the pilot communities in the management phase of their community forests, part 4 of the report highlights the need to continue this test process and to plan a set of political and legal reforms to link community forestry to other processes promoting the rights of forest populations including through land reform.

¹ See: E. Ostrom (2015), *Governing the commons*, Cambridge University Press; A. Agrawal (2001), “Common property institutions and sustainable governance of resources,” *World Development* 29(10); A. Agrawal & E. Ostrom (2001), “Collective action, property rights, and decentralization in resource use in India and Nepal,” *Politics & Society* 29(4).

² The project “NGOs collaborating for equitable and sustainable community livelihoods in Congo Basin forests” (CoNGOs) is managed by a consortium of international and Central African organisations, led by the International Institute for Environment and Development (IIED) and funded the British Department for International Development (DfID).

WHY REVIEW THE MANUAL OF PROCEDURE FOR ALLOCATING COMMUNITY FORESTS IN CAR AND HOW TO DO IT?

For more than two years the pilot communities and civil society examined every provision of the Manual of Procedure for Allocating Community Forests (MPA) and its annexes to shed light on the strengths and weaknesses of the current legal framework. The main aim was to establish if the allocation process is:

- Clear and comprehensible;
- Adapted to local capacities and practices to ensure quick (less than six months) and cheap allocation of community forests;
- Of a nature to prevent discrimination and/or marginalisation of indigenous peoples;
- Of a nature to guarantee the independence of the communities in the allocation and management of community forests.

This report draws on the lessons learnt whilst supporting the pilot communities to provide concrete suggestions for reviewing the MPA and, where necessary, highlights the need to adopt appropriate policies.

Information and awareness-raising: popularising the concept of community forests and the related legal texts is essential. More specifically:

- Tailored awareness-raising campaigns are crucial to increase knowledge of the existence of the legal framework provisions. This will avoid community forests being limited to those communities that civil society has been able to approach;
- This awareness-raising should also apply to all external actors, including officials from the Forest Administration, local entrepreneurs, loggers and politicians, who play a decisive role in supporting or collaborating with communities. The awareness-raising should seek not only to prevent any obstacles that could arise due to a misunderstanding of the goals but also to facilitate the implementation of a win-win cooperation model.

Community management bodies: the MPA calls for traditional decision-making bodies to be respected and for the constitution of three bodies: a **customary council**, a **management committee** and, if appropriate, **an indigenous council**. The aim is to avoid imposing administrative structures on the communities for which there is no precedent in their local context. The pilot communities, however, wished to take additional measures to strengthen representation on the decision-making bodies by:

- Improving the participatory nature of appointing members of the management bodies to prevent any attempt to capture resources;
- Creating a women's council (see next point).

Participation of indigenous peoples and women: given the historical and social context which tends to marginalise indigenous peoples, the MPA contains a set of provisions to place them on an equal footing with Bantu communities including by giving the indigenous peoples the possibility to set up a specific decision-making body and to deliberate amongst themselves before participating in the broader community discussions. According to the terms of the MPA, the indigenous council also has the power to object to any project that does not take into account their concerns. Two issues still need to be addressed:

- Women, who also face discrimination, should be able to benefit from specific provisions in view of promoting their rights and participation in decision-making processes;
- A national strategy to support community forests and a well-funded action plan should be developed, making support for women and indigenous peoples a priority.

Consultation and co-management of forest resources: the MPA requires that several meetings are held to “ensure that the various parties who may be affected by the creation of a community forest have come to an agreement”. However, if a community forest is requested within a logging concession and the communities and the logging companies are likely to use the same territory, additional precautions should be taken including establishing a permanent consultation framework to ensure proper coordination of their respective activities and sustainable resource management.

Surface area of a community forest: the MPA limits the surface area of a community forest to 5,000 hectares despite the peoples’ customary territories often being significantly larger (in order to undertake activities such as hunting and gathering). To arbitrarily subdivide these territories would generate conflicts and reduce the viability of the community forests as a result of certain resources being excluded. This is of even greater concern when the land in question belongs to several villages. As a result this limit must be removed and the communities allowed to apply for the allocation of forests that correspond to their customary territories.

Preparation of an allocation application: the experience with the pilot sites has shown that the application remains too complicated for the communities to prepare and approve in a participatory manner.

- The template for the Simple Management Plan (SMP) should be reviewed so that it only contains essential information relevant to the decisions made by the communities (location and aims of the community forest, planned activities, management methods, etc.);
- The form for recording the socio-economic data should be simplified so that the survey is not a tiresome undertaking verging on sociological research;
- The participatory survey and a detailed inventory of all the forest resources in the SMP should not be a pre-requisite for an allocation application to be admissible. The communities should be allowed to simply describe the potential in terms of available resources which officials from the Forest Administration could check during their field visits.

Processing of an allocation application: given that allocating community forests within logging concessions is now a possibility, the fact that a requested forest overlaps an existing logging concession must not be in itself grounds for rejection. The Forest Administration should check if there is an overlap, primarily to ensure that the logging companies who may be affected by the allocation have been informed of the application and invited to the preliminary and official consultation meetings.

Management, monitoring and control of the community forests: the MPA provides that a “manual of community forest management norms will subsequently be developed drawing on lessons learnt on the ground as a result of the practical experience of managing community forests”. Any provision that should be included in the management rules should therefore be deleted from the MPA.

RECOMMENDATIONS FOR POLITICAL AND LEGAL REFORMS TO EFFECTIVELY SECURE CUSTOMARY RIGHTS

The CAR government is primarily responsible for improving the legal framework and ensuring that it is aligned with the local context and sustainability goals.

A participatory approach for all the political and legal processes: the Free, Prior and Informed Consent (FPIC) of local and indigenous communities is now an opposable principle of Central African law, in particular since the ratification in 2010 of Convention No. 169 of the International Labour Organization (ILO) on indigenous and tribal peoples. Prior to any political or legal development relating to the management of land and forest resources, the government must make sure that:

- The indigenous peoples' traditional decision-making institutions are duly recognised and consulted;
- The participatory consultation process is conducted with a representative sample of the local and indigenous communities.



A new forestry policy in CAR: a long-term vision and policy must prioritise securing the customary territories of the local and indigenous communities. If community forestry is to be implemented on a broader scale, solutions need to be found to remedy the saturation of the south-west forest massif. In particular this means:

- Commencing a national discussion on land use planning reform;
- “*Tak[ing] steps as necessary to identify the lands which the peoples concerned traditionally occupy*” notably through community mapping in line with article 14 of Convention No. 169;
- Building government, NGO and private sector capacity at the national and local levels in order to fully support the allocation and management of the community forests.

Legal reforms: the rights of the local and indigenous communities to be consulted, informed, free to make decisions and benefit from a share of the profits generated by a third party on their customary lands should be promoted within the framework of any reform. Furthermore, securing the rights of the communities to their customary territories should be included in the following processes:

- **Land reform:** notably so that the allocation of a community forest can include the process for acquiring a collective land title;
- **Revision of the MPA to make the allocation of community forests in CAR more efficient:** follow the recommendations provided by this report and, if the allocation of several community forests over the next few years shows it is necessary, undertake a new revision process;
- **Development of a manual of management norms** which: a) is adapted to the diversity of local contexts and traditional practices; b) does not force communities to undertake administrative steps to retain their rights; c) is of a nature to prevent the risk of monopolisation of resources;
- **Review of the legal framework** to make sure that the allocation of community forests is not limited to unallocated land or the Series for Agriculture and Human Settlement (SAOH – *Séries Agricoles et d’Occupation Humaine*). The peoples of the south-west should be legally eligible for the allocation of community forests in areas matching their customary territories;
- **Review of the Forest Code** drawing lessons from future experiences in order to harmonise it with the legal instruments pertaining to land.

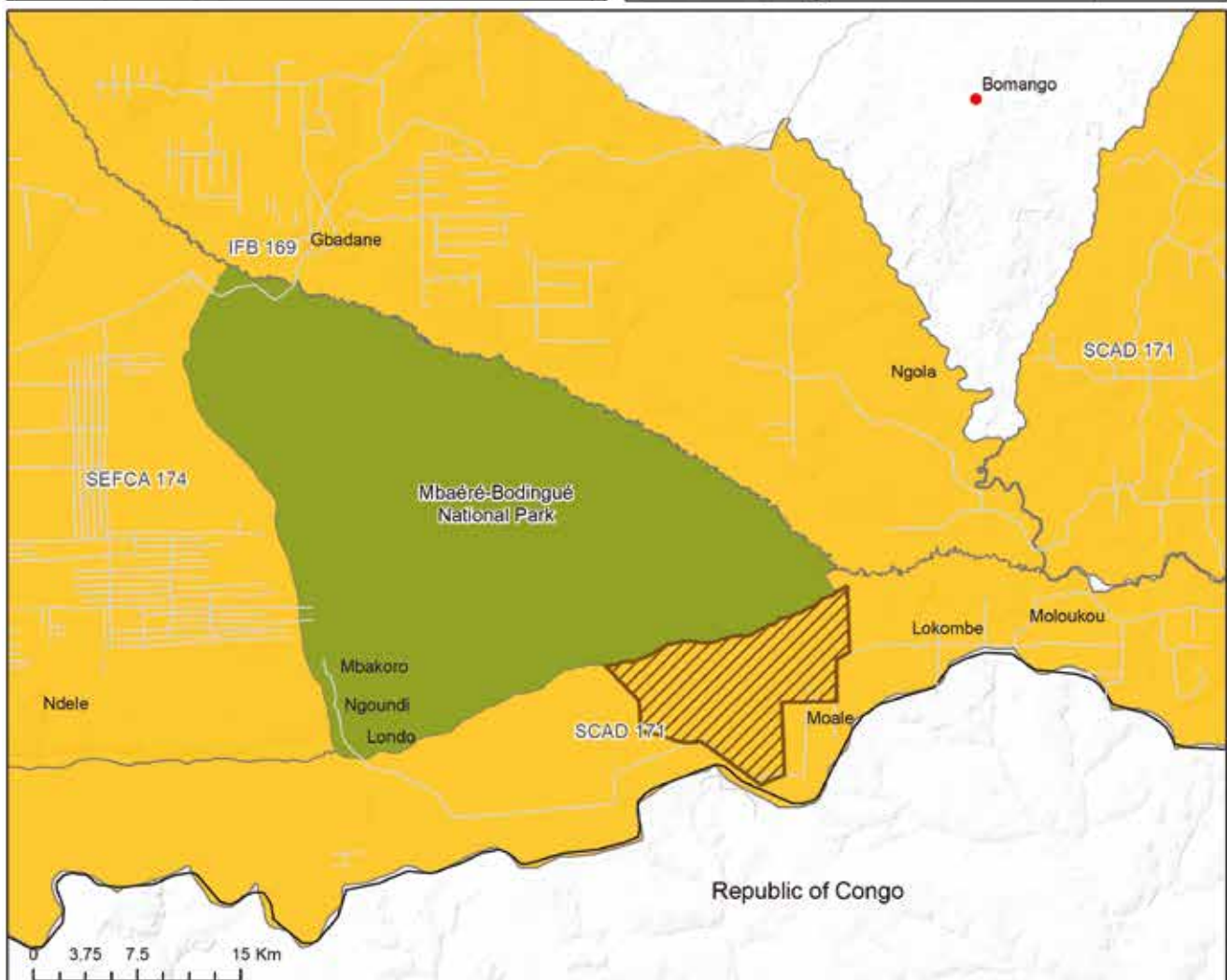
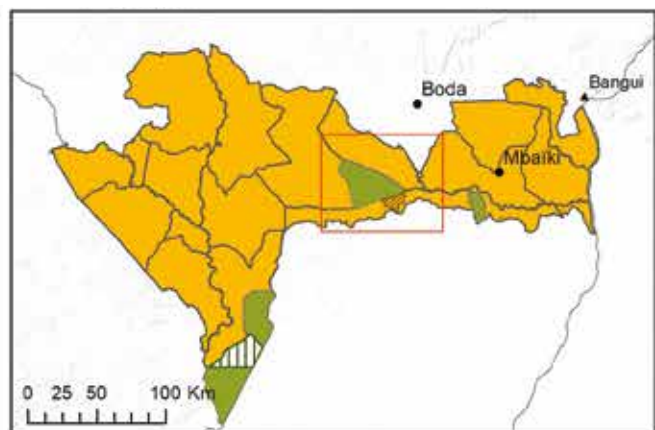
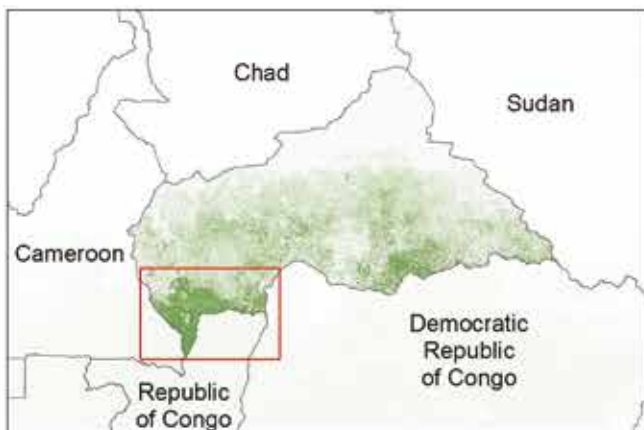
For viable and sustainable community forests: it is necessary to adopt a consensus-based approach with high levels of engagement and coordination between government agencies, NGOs and development partners. This should involve:

- **Continuing the community forests 'test'** to provide examples of best practice based on various community management models;
- **Strengthening the technical and institutional capacity of the Forest Administration** in terms of strategy, human resources and equipment, and by creating a database of community initiatives;
- **Adequately supporting community initiatives** including by making sure that: a) the specific context of each community is properly understood and taken into account; b) women and indigenous peoples are represented on an equal footing and participate in decision-making and managing the benefits; c) pressure is not exerted by certain members or external actors;
- **Planning specific measures in the case of a community forest overlapping a logging concession** for the co-management of resources including: a) accompanying the communities during their (initial) interactions with the logging companies; b) establishing permanent consultation frameworks; c) the signing of collaboration protocols to clarify the rights and obligations of each party; d) implementing measures to guarantee transparency on resources and the market, clarify cost and benefit sharing mechanisms, promote the participation of the communities in the value chain and so on.



MAP: LOCALISATION OF THE LOMBA COMMUNITY FOREST ALLOCATED WITHIN THE LOGGING PERMIT N.171, IN THE MOBOMA COMMUNE, LOBAYE PREFECTURE, CENTRAL AFRICAN REPUBLIC

- Villages
- Community forest
- Logging roads
- Forest cover
- Protected areas
- Logging concessions
- Community hunting area



INTRODUCTION

A process to test the legal framework on community forests is currently underway in CAR. For more than two years, local and indigenous communities have been supported by civil society in applying for the allocation of the pilot community forests. The process developed by those involved has been documented to provide a basis for a review of the legal framework. This report presents the context, challenges, opportunities and lessons learnt during the pilot experiences. It also provides concrete recommendations to begin reviewing the *Manual of Procedure for Allocating Community Forests in CAR*.

The report also calls for the continuation of the test process in particular for the management phase of the allocated community forests. The report encourages stakeholders to plan a set of political and legal reforms. Reforms and appropriate supporting policies are vital if community forests are to be allocated on a larger scale. They are also necessary to guarantee a better success rate in the sustainable management of forest resources and securing the customary rights of local and indigenous communities over the land and resources that they depend on for their livelihoods.



1. TESTING COMMUNITY FORESTS IN CAR: CONTEXT AND LEGAL FRAMEWORK

ORIGINS OF THE CONCEPTS IN CAR

“Community forests” were included in the Central African legal framework under the 2008 Forest Code. However, the key concepts are defined in the document *“Concepts and Vision of Community Forestry in the Central African Republic”* adopted by the government in 2010 with the support of Central African civil society and RFUK. These concepts are defined as follows:

- **Community forestry:** *“every situation in which local and /or indigenous peoples are involved in the participatory management of forest resources.”*
- **Community forests:** *“parts of the national forest estate which are subject to a management agreement between an organised and concerned village and /or indigenous community, on the one hand, and the government, represented by the Forest Administration, on the other.”*

CENTRAL AFRICAN LEGAL FRAMEWORK: TEST IT TO IMPROVE IT

Between 2009 and 2011, a national consultation process was undertaken with the support of RFUK (see the box below) which led to a preliminary draft of the allocation process and management rules for community forests. This draft was tested with 18 communities in the country’s south-east and south-west forest massifs who had received support during the participatory preparation of their allocation application.

At the end of this first phase, all of the stakeholders including the communities, Central African civil society and the Ministry of Water, Forests, Hunting and Fishing (MEFCP) agreed on a new **test strategy**:

- 1) Validate the *“Manual of Procedure for Allocating Community Forests in CAR”* (MPA) which was adopted by presidential decree No.15-463 on 3 December 2015;
- 2) Support pilot communities in the allocation application process and use the lessons learnt to review the MPA as stipulated in article 7.33. of the same;³
- 3) Support these pilot communities in the management of their allocated community forest and use lessons learnt to produce a *“manual of community forest management norms in CAR”* as stipulated in article 7.9. of the MPA;⁴
- 4) Consider broader political and legal reforms including reviewing the Central African Forest Code.



³ Article 7.33. of the MPA provides that *“the applicability of this Manual will be evaluated at the end of every three (3) year period after the signing of its regulatory text. Considering the results of this evaluation, the Manual will be revised if necessary, in collaboration with all stakeholders.”*

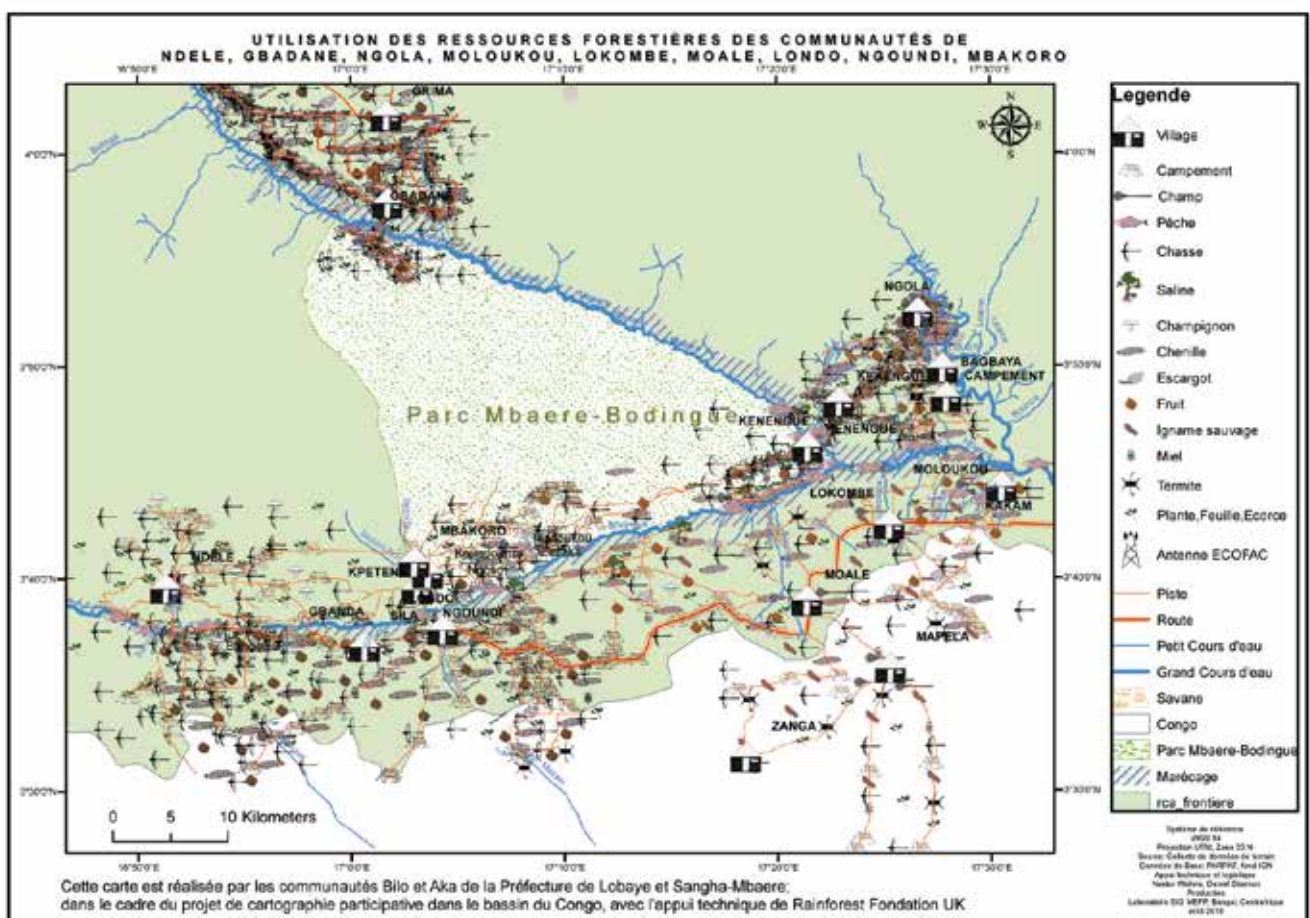
⁴ Article 7.9. of the MPA provides that a *“manual of community forest management norms will subsequently be developed drawing on lessons learnt on the ground as a result of the practical experience of managing the community forests.”*

COMMUNITY FORESTRY AND PARTICIPATORY MAPPING

The national consultation process mentioned above supported by RFUK and its Central African civil society partners led to the adoption of a legal and regulatory framework on community forests in the CAR. It was undertaken as part of the “Participatory mapping in the Congo Basin” project.⁵

More broadly, the project aimed to promote the rights of local and indigenous communities by helping them to map the forest areas that they customarily occupy and use and which are essential to their subsistence and the preservation of their way of life. The participatory maps provide a visual representation of how the communities use the forest resources. The maps have already been used by the communities as a material base to support claims made for recognition of their customary rights to the authorities (Mbaéré-Bodingué National Park) and the logging companies present in the zone.⁶

The villages of Moloukou, Moalé and Lokombé which were recently allocated the first Central African community forest were amongst those communities helped to produce their participatory maps in 2010 (see map below).



⁵ The aim of the “Participatory mapping in the Congo Basin” (2009-2011) project funded by the British Department for International Development (DfID) was to promote the access, use and control rights of forest communities in legislative, political and strategic processes in three Congo Basin countries (CAR, Gabon and the Republic of Congo).

⁶ See the report published following a workshop organised in Mbaïki in December 2010: *Maison de l’Enfant et de Femme Pygmées (2011), Mbaéré-Bodingué National Park: Contribution of local and indigenous communities and Central African civil society to the sustainable management of forest resources and the environment*, London: Rainforest Foundation UK.

EXPECTATIONS OF THE PILOT COMMUNITIES

The aim of the communities wishing to acquire and manage their community forest is often summarised as follows: *“regain control of our ancestral lands to use our resources and preserve them for our children”*. The pilot communities have also detailed what they see as the main reasons to apply for a community forest:

To secure their resources

By signing a management agreement with the minister in charge of forests, the communities can secure their ownership rights to the resources in their community forest and thus prevent any activity that does not comply with the rules they have established.

“Because we didn’t know our rights, our forest has been pillaged. But as soon as we have signed with the Government no one will be able to come and destroy this forest.”

Alphonse Gobo, Bomango village chief, member of the customary council for the Mbounza-Boffi forest.

To boost local development and rediscover their autonomy

Acquiring a community forest provides a framework for the management and collective use of resources contributing to local socio-economic development. Whilst economic opportunities are rarer in rural environments, this model is an income-generating alternative for the communities which thereby reduces their dependence on industrial logging companies or poaching networks.⁷

To preserve biodiversity and their traditional way of life

“Humans have lived in the forests of the Congo Basin for over 40,000 years, during which the forest environment was managed sustainably through customary management practices. Given that the local peoples have a direct interest in preserving their lands, they act according to a vision that is environmentalist in both its spirit and its practical effects.” Robert E. Moïse and RFUK (2019), *Making community forests work for local and indigenous communities in the Central African Republic: anthropological perspectives on strategies for intervention*, p.38.

The forests are customarily the ancestors’ property that the living use for their livelihoods whilst preserving them for future generations. Certain traditional methods aim to nourish the regeneration of animal and plant species, knowledge and know-how that the elders continue to pass on and should constitute one of the guarantees of good community forest management.

“Our ancestors took everything from the forest: their food, their stock of medicines, their traditional rituals, etc., but they left us a rich forest because they used traditional techniques. By managing the forests ourselves and training our young people in these techniques, we’ll soon be able to do the same.” Gabriel Kenzebale, President of the Management Committee for Mbounza-Boffi community forest.

⁷ *“The major reasons that poaching of endangered species continues are: (1) parks lack the resources and manpower to control the vast spaces they encompass and (2) locals are so alienated by the park’s confiscation of their lands that they are willing to let poachers operate, or even assist them in their efforts, due to their current state of impoverishment brought about by the creation of the park (this is particularly the case with IPs)”*.

Robert E. Moïse and RFUK (2019), *Making community forests work for local and indigenous communities in the Central African Republic: anthropological perspectives on strategies for intervention*, p.30. <https://www.rainforestfoundationuk.org/media/653039ba-07c8-4a71-8d48-9b73d8973930>

SPECIFIC AIMS OF A CENTRAL AFRICAN COMMUNITY FOREST: THE CASE OF THE LOMBA AND MBUNZA BOFFI FORESTS

Unlike certain trends observed in other countries where the communities are on occasions almost exclusively directed towards timber exploitation⁸, the concept of community forestry in CAR emphasises the multi-use nature of forests⁹.

The specific aims listed by the communities in the two pilot sites supported by the project can be summarised as follows:

- Regulate the hunting, fishing and harvesting of Non-Timber Forest Products (NTFPs) and carry out surveillance patrols to ensure these new regulations are respected and the resources are used sustainably;
- Develop a commercialisation chain for NTFPs to generate community income;
- Contribute to the conservation of protected wildlife by developing activities linked to ecotourism, sport hunting, photography and film-making;
- Use the benefits to support agro-sylvo-pastoral activities and develop community infrastructure.

IMPLEMENTATION CHALLENGES IN CAR

An inadequate political and institutional framework

CAR does not have a forestry policy, a gap which Central African civil society is trying to fill by leading advocacy efforts to make securing the communities' rights to the lands and resources in their forests a government priority. The MEFCP's action plans cannot be effectively implemented due to inadequate institutional capacities. In 2017 the ministry responsible for forests had a target of allocating five community forests¹⁰ but it does not have sufficient means to perform the necessary information, support and monitoring activities to achieve this goal.

Insecurity in the south-east forest massif

CAR has been affected by a civil and political conflict since 2013 and a large part of the country is currently occupied by armed groups. In May 2017 the security situation in the south-east forest massif deteriorated to such an extent that it has not been possible to build on the promising results previously achieved in Bangassou¹¹.

The activities of the CoNGOs project are therefore focused on the south-west massif where the security situation has remained relatively stable.

Problematic sharing of land in the south-west

Despite CAR only having 3,787,000 hectares of rainforest concentrated in the south-west massif, almost all of this region is now allocated to external actors in the form of concessions:

- Protected areas managed by international conservation organisations (14.8% of the massif);
- Industrial logging companies (80% of the massif);
- Artisanal logging and mining companies;
- And/or commercial hunting companies.

Given such land saturation, the only spaces legally available for the creation of community forests would be the Series for Agriculture and Human Settlement (SAOH) in other words small plots of land within logging concessions near the villages and roads and generally poor in resources. The local communities, in particular

⁸ Robert E. Moïse and RFUK (2019), Op.Cit., p.15.

⁹ See "Concept and vision for community forestry in the Central African Republic".

¹⁰ Ministry of Water, Forests, Hunting and Fishing (2015), *2016-2017 Action Plan*, Bangui.

¹¹ During the participatory mapping project (2009-2011) mentioned above, ten villages in the Zotte sector, Bangassou sub-prefecture, Mbomou prefecture, decided to jointly apply for the allocation of their customary

territory in the form of a community forest. The communities took a participatory approach to preparing their allocation application including the mapping and Simple Management Plan. They hoped to benefit from additional support to finalise and officially submit their application to the Forest Administration. However, the process was suspended as a result of recent hostilities in the area and local populations being displaced.

the indigenous peoples, would not be in a position to carry out their traditional activities such as hunting and gathering within these SAOH since these activities often take place over vast areas far from human settlements. The SAOH are therefore fundamentally incompatible with the community forest concept since they alone are not sufficient to secure the communities' livelihoods.

The review of the legal framework is therefore necessary to ensure that the communities who used and preserved the resources within these territories long before they were subject to concessions can be authorised to apply for the allocation of community forests over areas corresponding to their customary territories.

Preventing the risk of elite capture

One of the major challenges encountered by the communities wishing to prepare and submit an allocation application for a community forest is the length and complexity of the process. Due to a very low literacy rate (36.8% nationally¹²

and even lower in the remote forest areas) the process to prepare an application can be easily monopolised by a more educated elite with better knowledge of the state's administrative machinery to the detriment of the majority of community members.

For example, the experience of the community forests in Cameroon¹³ showed that when the communities do not have the means to follow the allocation process in place, they have to work with outsiders, including individuals interested in short-term gain. This is particularly the case for the production of the geo-referenced maps and the inventories which require scientific techniques and expensive equipment (GPS, compasses, etc.). Outsiders colluding with the local elites could be in a position to capture the community forests' resources and to affect the communities' means of subsistence over the long-term. Preventing the "elite capture" phenomena is therefore one of the major issues for this test process.



¹² Between 2006 and 2016 according to the United Nations Development Programme (2018), Human Development Indices and Indicators, 2018 Statistical update, table 9, p.57.

¹³ Robert E. Moïse and RFUK (2019), *Op. Cit.* chapter 2.

OPPORTUNITIES

An unprecedented agreement to test the community forests

As a result of the entire south-west forest massif having been allocated for other uses (in the form of logging or conservation concessions) and given that the SAOH cannot be considered a viable option, hardly any of the communities living in the south-west forests would be eligible for the allocation of a community forest under the current legal framework. This also means that the indigenous Aka/Bayaka peoples¹⁴ who live exclusively in these forests would be completely excluded from the process.

However, in CAR there is a framework for fruitful dialogue between the stakeholders. Following advocacy efforts led by Central African civil society, an exemption was agreed by the MEFCP authorising the allocation of pilot community forests in the south-west forest massif despite the legal restrictions in place. The administrative authorisation of 29 January 2018, signed by the minister in charge of forests, represents an unprecedented opportunity for the Congo Basin region in so far as it formally authorises testing the allocation of community forests within logging concessions subject to the signing of collaboration protocols with the actors involved.

This is how, through the signing of a ministerial order on 25 April 2019, the “Lomba” forest became the first Central African community forest. It was allocated to the villages of Moloukou, Moalé and Lokombé¹⁵.

“This decision is a very important first for the Congo Basin. Such recognition of communities’ rights to their resources is a game-changer for them and for the protection of rainforests. It is also an opportunity to test the co-management of resources where forests have already been allocated to loggers, and to inform a much needed legal reform. We hope it will pave the way for other countries in the region to adopt similar, innovative community-based approaches to forest conservation.”
Simon Counsell, Executive Director, RFUK.

An “inclusive governance” of forests?

In the current context in the south-west, the communities’ customary territories overlap concessions allocated to industrial companies who have exclusive rights to the timber as a result of a logging permit (PEA – *Permis d’Exploitation et d’Aménagement*). Whilst the Forest Code in place recognises the “**customary use rights**” of the communities traditionally using non-timber resources within the concessions, their rights are limited to domestic use which therefore excludes commercialising resources and generating income to contribute to local socio-economic development. Furthermore, the usage rights do not allow the communities concerned to be involved in the management of the resources.

By contrast, the Forest Code gives holders of community forests **ownership rights**¹⁶ and consequently **management rights** over the resources found within these territories allocated through the signing of a management convention between the minister in charge of forests and the communities concerned. This is a far more advantageous regime which authorises all types of activities provided that they are detailed in the Simple Management Plan drawn-up by the community(ies).

As described by A. Karsenty and C. Vermeulen’s concept of “Concession 2.0”¹⁷, when concessions have already been allocated to the logging companies on customary territories, one of the major components of the test process is to show how the rights of the different actors can “overlap” within the shared territories, by developing methods for co-managing resources. By jointly planning their activities, the communities and the logging companies can not only ensure that they do not hinder each other’s activities, but also that they jointly decide how best to reduce their environmental impact and guarantee forest regeneration.

The viability of this innovative concept could depend on factors linked to different implementation contexts: resource potential, relations between the stakeholders, efficiency of the consultation framework, each party respecting its commitments, etc. Furthermore,

¹⁴ The “Bayaka” peoples, also referred to as “Aka” in the Congo Basin region, are the most numerous of the three indigenous groups living in the forest areas of south-western CAR.

¹⁵ Order n.14/MEFCP/DIR.CAB/DGEFCP/ 19 available at: <https://www.rainforestfoundationuk.org/historic-first-in-the-central-african-republic-as-communities-gain-rights-over-their-local-forests> (in French)

¹⁶ See article 139 of the Forest Code of the Central African Republic.

¹⁷ Karsenty A., Vermeulen C. (2016), *Towards concessions 2.0 in central Africa. Managing overlapping rights between industrial concessions and community forestry*, Cirad, Montpellier, Perspective 38.

considering the influence that some logging companies can exercise, the adapted rules and procedures must allow communities to fully enjoy their role as manager of their forests' resources.

Article 6 of the management agreement, signed between the minister in charge of forests and the communities allocated the Lomba community forest, states that:

“The State transfers to the Communities all ownership rights to the forest and savannah resources as well as all rights to the functions/ services that the Communities are likely to supply. All kinds of forest products resulting from the use of the community forests, timber resources, animal and plant species, fish products and special products, with the exception of those that are regulated or prohibited by the law, belong entirely to the communities concerned. All benefits resulting from the management of the Lomba community forest belong to the Communities.”

Another major element of the test will therefore be to detail how the communities' ownership rights to the resources of their allocated community forest, including the timber, can co-exist alongside the logging rights of those companies holding a PEA.

Towards a national sustainable forest policy

The process to test the community forests is also an opportunity to consider the implementation of community forests on a larger scale, given that:

- a) The experience of the pilot sites may reveal what sort of rules and procedures are appropriate to ensure that the local communities and indigenous peoples can **independently** apply for and manage community forests without the support of external actors. This is essential not only because civil society will not be in a position to help every Central African community that is interested but also to avoid the phenomenon of elite capture as previously described.
- b) Community forests can also be allocated in the savannah areas¹⁸ which cover a **large swathe of the country**.

The wealth of local initiatives is of national interest given the number of objectives pursued by the communities: community income generation to contribute to combating poverty and invigorating the Central African economy; the sustainable use of resources to preserve biodiversity and fight against deforestation and climate change; and building social cohesion through securing rights.

¹⁸ Rainforest Foundation UK's (RFUK) mission is to support the communities living in the rainforests especially the Aka indigenous peoples who in CAR only live in the south-west forest massif. In order to find sustainable solutions for these communities, the pilot sites chosen for the test process are therefore located in this forest massif.

Whilst RFUK does not directly support communities living in the savannah areas, they too will benefit from the lessons learnt during this project.

2. THE “PILOT” COMMUNITY FORESTS AND TEST METHODS

The process to test the legal framework on community forests primarily focuses on supporting local and indigenous communities. At the time of writing, the test covers 14 villages grouped into two pilot sites, namely the Lomba Forest and the Mbunza Boffi Forest. The location and demographic details of the sites are given in the table below:

TABLE: LOCATION AND DEMOGRAPHIC DATA OF THE COMMUNITY FOREST PILOT SITES

		<i>Lomba Forest</i>	<i>Mbunza Boffi Forest</i>
Location	Villages concerned	Moloukou, Lokombé and Moalé	Kpongbo, Kénéngué, Bomango, Gbaguira, Géometre, Mbongolo, Bili, Manguenzo, Bagbaya, Ngola and Mbangali
	Commune	Moboma (third arrondissement)	Lobaye-Ngotto
	Sub-prefecture	Mbaïki	Boda
	Prefecture	Lobaye	Lobaye
Demographic data	Total population	2,380 *	4,440 *
	Children under the age of 10	47 % *	44 % *
	Women	31 % *	30 % *
	Men	22 % *	26 % *
	Indigenous peoples	18 % *	8 % *
	Bantou ethnic groups present	Ali, Bagandou, Bakota, Banda, Bofi, Bolemba, Bouaka, Congolese, Gbaya, Gbanou, Kaba, Mandja, Mbati, Ngbaka, Ngbaka Ngbougou, Yakoma, Zandé	Banda, Boaka, Boffi, Bolemba, Gbaya, Mbati, Ngbaka, Yakoma, Zandé
	Indigenous groups present	Bayaka	Bayaka
	Surface area of the community forest	14,975 hectares (allocated)	13,920 hectares (requested)

* The figures for the Lomba Forest come from a complete census of the three villages, whilst those for the Mbunza Boffi Forest are estimates based on a partial census of the 11 villages concerned.

SELECTING THE “PILOT SITES”

In consultation with civil society and the minister in charge of forests, three areas were pre-selected namely the forests near Berbérati, Ngotto and Moboma. Two officials from the MEFCP¹⁹ then took part in a scoping mission during which the areas were narrowed down and the two pilot forests of Lomba and Mbunza Boffi were chosen.

The main selection criteria were:

- The Free, Prior and Informed Consent (FPIC) of communities to participate in the “pilot community forest” project to test the allocation process in force;
- The customary occupation and/or use of forest lands by the interested communities;
- The presence of indigenous peoples within these communities in order to test Chapter III of the MPA on the involvement of indigenous peoples.

¹⁹ The Head of Inventory Services, Forest Planning and Community Forestry and the Head of Forest Programme at the Central African Institute for Agronomic Research (ICRA – *Institut Centrafricain de Recherche Agronomique*).

Once the pilot sites were confirmed, it was decided that it would be useful to further explore, through several field visits, the matter of the customary use of the forest by the local populations. This approach²⁰ proved to be necessary as two situations arose:

- The communities in the Lomba Forest initially wanted to form a group of five villages as that was how they had been grouped for another project²¹. However, the community discussions revealed that the people living in two of these villages did not use the Lomba Forest for their activities;
- The communities of the Mbunza Boffi Forest initially wanted to be grouped together in eight villages but it was later unanimously recognised that three other villages customarily used the forest.

In a context where several villages can use the same forest area, *all* those but *only* those with customary rights must be involved in the community forest allocation process. This is to ensure that certain rights holders are not subsequently excluded from the bodies responsible for managing their resources, and also to prevent other communities from being artificially involved in making decisions that do not affect their members. The aim is to prevent

any conflict that could arise following the implementation of a management system that is not based on local practices.

SUPPORTING THE COMMUNITIES EVERY STEP OF THE WAY

Awareness-raising, training and community organisation

The communities of the two pilot sites benefited from continuous support notably to make people familiar with the concept of a community forest and the legal framework which includes the Forest Code, the MPA, decrees and orders as well as international legislation such as Convention No. 169 of the International Labour Organization (ILO) on indigenous and tribal peoples which was ratified by CAR in 2010. A simplified guide summarising the provisions relating to the allocation process was produced in French and Sango before being distributed during several community assemblies.

75 people, including women and representatives of the indigenous peoples, were chosen by their communities to participate in four-day training workshops: 35 took part in the one in Moloukou and 40 in the one in Bomango. They learnt about the legal framework and had the opportunity to



²⁰ On the basis of a guide by anthropologist Robert Moise, the project's community field workers facilitated discussions during large public meetings and small focus groups held in each of the villages concerned.

²¹ During the implementation of the 'Bush meat' project, funded by the United Nations Food and Agriculture Organization (FAO), the villages of Bakota and Lopéké were grouped together with Moloukou, Moalé and

Lokombé, for the management of a "community area" corresponding to the Lomba Forest. The selection of the villages made administrative sense, since the five villages make up one commune. However, a community forest must be based on traditional practices rather than administrative divisions.



Photo (left to right): Mr Komba, member of the Moale Indigenous Council; Mr David Ouangando, MEFCP Focal Point for Community Forests; Mr Orsimandji Guela Patrice, Head of Inventory, Forestry Management, Promotion of the National Herbarium and Community Forests; Mr Mosseba François, President of the Lomba Customary Council.

discuss how each community would implement the next phases. Participants then provided feedback to the rest of their communities and continued these discussions within the 14 villages.

The project's field workers then supported the communities throughout the process, beginning with setting up the community management bodies in line with the MPA (see page 25). For each of the two pilot sites this meant a customary council, an indigenous council and a management committee. The women also decided to create women's councils. The reason for providing this support was to ensure that all of the communities appointed their representatives in a participatory manner and that everyone had the same understanding of the bodies' roles and duties.

Preparation and submission of allocation applications

As specified by the MPA, the preparation of the allocation applications consisted of a series of Preliminary Consultation Meetings (RPCC – *Réunions Préliminaires de Consultation et de Concertation*), especially with the elders to gather information about the history of the villages, the clans, their rules and customary management practices of resources. Neighbouring villages were also included so that they could agree on

the boundaries of the requested forest. Community members were able to participate in numerous public meetings to define the aims, boundaries and management methods for the community forests, with a view to preparing the Simple Management Plan.

Participatory mapping, which began during the RPCC, continued out in the forest to set the boundary and zoning of the requested forest and to undertake the participatory surveying of the resources (see page 31). From this, maps and inventories were drawn up which are essential elements of the allocation applications.

“The way in which these communities have mapped their forest's resources shows that we don't have anything to teach them. These communities have perfect knowledge of their forest and are able to manage it better than anyone else.”

David Ouangando, MEFCP Focal Point for Community Forests and former Director General for Water and Forests.

Following a participatory validation process for the Lomba Forest application, representatives of the communities concerned submitted two original copies to the Lobaye Prefectoral Inspectorate in Mbaïki.

FACILITATING THE MULTI-ACTOR PROCESS

Training of Forest Administration officials

Based on the observation that the concepts and legal framework related to the community forests were by and large unknown amongst the governmental and local authorities, training workshops were held in Bangui for MEFCP officials and in Mbaïki for staff from the no.1 Regional Directorate for Water and Forests. These officials were able to improve their ability to support communities during the community forest allocation process, as well as their knowledge of their respective roles in handling the applications.

Follow-up on the allocation application

At the time of writing, only one application has been submitted to the Forest Administration. This first application was handled in line with the MPA. It was initially submitted to the Prefectoral Inspectorate before being passed on to the Regional Directorate, then to the General Directorate of Water and Forests and finally to the minister in charge of forests.

A technical committee was formed by ministerial order dated 1 February 2019 to ensure the application was thoroughly examined by the main services concerned. Using the assessment grid (see Annex 12 of the MPA) the committee²² comprising 14 MEFCP managers, five civil society representatives and one representative from the logging company holding a PEA in the area, assessed the application. After several days of work, the committee issued a unanimously favourable opinion. The minister in charge of forests therefore officially allocated the first Central African community forest by signing an order and the management agreement.

"I would like to congratulate the Central African government on this unprecedented decision. I would also like to congratulate the communities who were unrelenting in the face of the legal challenges they had to overcome during the allocation process. These pioneering communities will now be able to manage their resources and make this experience a lasting success which will serve as an example for many other communities who have not yet been able to exercise their rights due to the land saturation."

Biennu Kemanda Yogo, Community Forests Focal Point for Central African Civil Society, RFUK consultant tasked with supporting the pilot sites and Deputy General Rapporteur for the Technical Committee.

Consultation of the other stakeholders

The Lomba Forest sits at the heart of PEA No. 171 allocated to the company *Société Centrafricaine d'Agriculture et de Déroulage* (SCAD).

Throughout the preparation of the allocation application, meetings were held with staff from this industrial logging company to inform them of the community undertaking and to begin the dialogue which would be necessary for joint management of the resources.

The order of 25 April 2019 which formalises the allocation of the Lomba community forest requires the signing of a collaboration protocol between the communities concerned and SCAD. The communities will therefore continue to be supported by the project during the discussion about the content of the protocol to make sure that they understand the implications of each provision, and that they give their consent freely and in a participatory manner.

²² President: Head of Mission for Water and Forests;

- Vice-president: General Director of Water, Forests, Hunting and Fishing;
- General Rapporteur: Focal Point for Community Forests in CAR;
- Deputy General Rapporteur: Representative of the national NGO supporting local and indigenous communities.

Other members:

- Permanent Technical Secretary for VPA-FLEGT;
- General Director of the Forest Development Fund;
- National Expert, Coordinator of the unit charged with implementing the VPA-FLEGT;
- General Director of the Agency for Sustainable Forest Resources Management (AGDRF);
- National Expert, Coordinator of the Forest Data Centre;
- Director of Forests; Director of Fauna and Protected Areas;
- Regional Director of Water, Forests, Hunting and Fishing;
- Director of Legal Affairs and Litigation;

- Head of Inventory Services, Forest Planning, the National Herbarium, Promotion of Community Forests and Non-Timber Forest Products;
- Prefectoral Inspector of Water, Forests, Hunting and Fishing;
- Representative of the local logging concessions;
- Representative of the Platform for Sustainable Management of Natural Resources and the Environment (GDRNE – *Plateforme pour la Gestion Durable des Ressources Naturelles et de l'Environnement*);
- Representative of the Centre for Information on the Environment and Sustainable Development (CIEDD – *Centre pour l'Information sur l'Environnement et le Développement Durable*);
- Representative from the Network for Central African Indigenous and Local Peoples (REPALCA – *Réseau des Populations Autochtones et Locales pour la gestion durable des écosystèmes forestiers de Centrafrique*);
- Representative from the *Maison de l'Enfant et de la Femme Pygmées* (MEFP).

The same process will be undertaken for the signing of a collaboration protocol between the communities and the Mbaéré-Bodingue National Park (PNMB) which borders the Lomba Forest. Such an agreement should favour far greater involvement of the communities in the management of the park, in particular to combat poaching.

TEST DOCUMENTATION

For over two years, since the scoping mission in November 2016, the test process has been documented in order to highlight the strengths and weaknesses of the legal framework in force. The pilot communities have therefore been able to give their opinion on every provision in the MPA and its annexes, including by answering the following questions. Are the procedures:

- Clear and comprehensible?
- Adapted to the local capacities and practices to allow quick (less than six months) and cheap allocation of community forests?
- Of a nature to prevent discrimination and/or marginalisation of indigenous peoples in accessing property and controlling forest resources?
- Of a nature to guarantee the independence of the communities in the allocation and management of community forests?



3. RESULTS AND LESSONS LEARNT FROM THE TEST: HOW AND WHY REVIEW THE MANUAL OF PROCEDURE FOR ALLOCATING COMMUNITY FORESTS IN CAR?

This section is a summary of the work to document the process as described in part 2. The thematic sections which follow correspond in general to the various chapters of the MPA.

The aim is to present the main results and lessons learnt from the pilot communities to provide concrete suggestions for revising the MPA or, where necessary, highlight the need to adopt appropriate supporting measures. Citizens cannot benefit from the legal framework unless it is supported by appropriate implementation policies and takes into account local realities.

INFORMATION AND AWARENESS-RAISING

Popularising the concept of a community forest and the related legal texts is a key component of any successful local initiative. The MPA therefore contains provisions, such as article 2.1, which rightfully emphasise:

- a) The aim of securing the communities, villagers and indigenous peoples' rights to the forest resources and their customary heritage;
- b) The principle of basing sustainable management methods on local knowledge and each community's customary rules.

The experience of the pilot communities has nevertheless brought to light certain points that deserve special attention.

Understanding of the community forest concept

The aims and principles of the community forests are easily understood by the local and indigenous communities as a result of the aims and principles being created in line with the communities' aspirations. However, this is often not the case for external stakeholders, including local entrepreneurs, loggers, politicians and even some Forest Administration officials, in charge of allocating and monitoring the community forests.

Adding an article to the MPA and an implementation policy: Information and awareness-raising activities should also and above all concern these influential actors who often play a crucial role in supporting or collaborating with the communities concerned. The awareness-raising should seek not only to prevent any obstacles that could arise due

to a misunderstanding of the goals but also to facilitate the implementation of a win-win cooperation model.

Popularising the legal framework

Due to the complex nature of the legislative and regulatory texts, significant awareness-raising is needed to make them common knowledge (art. 2.3.). This should take the form of training for the communities since without it they will not be able to follow the procedures in place to prepare and submit an admissible application.

Global revision of the MPA: The approach taken for the administrative procedure should be reviewed across the board. The emphasis should be placed on simplicity and accessibility so that training workshops before any community initiative are no longer necessary.

The state's responsibility

Despite the state being one of the main actors responsible for awareness-raising (art. 2.4), it does not have sufficient technical, human and financial resources to inform the communities across the country of the existence and content of the legal provisions allowing them to secure their rights to the forest resources.

Implementation policy: Capacity building for state structures and tailored awareness-raising campaigns are crucial to make knowledge of the concept and legal provisions commonplace. This would avoid community forestry being available only to those communities that civil society has been able to approach.

COMMUNITY MANAGEMENT BODIES

The MPA provides that: *"with a view to obtaining and managing a community forest, interested communities must set up an organisational structure composed of a **customary council**, a **management committee** and, if appropriate, an **indigenous council**"* (art. 2.6).

This is in line with the communities' expectations in so far as they are not forced to create an organisational structure which is alien to them nor do they have to undertake administrative steps to be recognised by the state as a community body (as is the case for creating associations or cooperatives).

These councils and committees are legal provided that the communities have appointed their representatives in a participatory manner and followed the criteria relating to legitimacy, representation, functions and independence. In this way, the communities have the possibility for their traditional decision-making bodies (which include their customary leaders) to become community forest management bodies with the names customary council or indigenous council. The management committee on the other hand is generally made up of members with locally recognised and useful technical skills.

The pilot communities wished to take additional measures to strengthen representation on the decision-making bodies, measures which should inform the revision of the MPA.

Appointment of members

Members of the management committee are to be appointed by the customary and indigenous councils once the communities have been “consulted” (art. 2.13.). However, this term was considered too vague when there was a controversial appointment.

Revision of article 2.13. of the MPA: Nominations should be “validated” during large assemblies in order for the entire community to have the power to reject a proposal. This recommendation is in line with the customary processes normally found in forest settlements where collective decisions are often made during public meetings by acclamation or non-opposition. It is a fundamentally “democratic” process which is also a way of preventing elite capture²³.

Creating a “women’s council”

The women complained of being marginalised during the decision-making processes and wanted to create a women’s council (see section “Involvement of women”).

INVOLVEMENT OF THE INDIGENOUS PEOPLES

Many reports highlight the discrimination faced by the indigenous peoples in the Congo Basin forests. The Working Group on Indigenous Populations of the African Commission on Human and Peoples’ Rights described the situation in CAR thus: *“The indigenous Aka people suffer from extreme marginalisation, they have a high level of illiteracy, [...] logging still impacts negatively on their livelihoods, the practice of servitude remains, women are often subjected to violence and sexual abuse, the HIV/AIDS epidemic has reached Aka settlements, there is a lack of access to primary health care and a lack of enjoyment of citizenship rights on a par with the rest of the population in the Central African Republic.”*²⁴

“The relationship between indigenous forest peoples and Bantu is complex and multi-faceted. [...] Bantu place a high value on the forest knowledge of indigenous peoples on whom they depend for a range of forest-related goods and services which can provide common ground for joint activity. [...] However, in other areas, the indigenous peoples are treated as social inferiors and seek to distance themselves from Bantu whenever possible. [...] In the political realm, this means that indigenous peoples are often marginalised in decision-making processes. [...] Despite some general trends], the relationship a specific Bayaka group has today with its Bantu neighbours is often the result of a unique history, and characterised by various degrees of both mutual support and domination/ submission, which need to be fully assessed and understood before any joint initiative is considered.”

Robert E. Moïse and RFUK (2019), Op. cit., p.20-22.

²³ Robert E. Moïse and RFUK (2019), Op.cit., p.27.

²⁴ Working Group on Indigenous Populations/Communities in Africa of the African Commission on Human and Peoples’ Rights (2009), Research

and Information Visit to the Central African Republic, 15-28 January 2007, ACHPR and IWGIA, pages 15-16 and 44-45.

The pilot communities considered that the provisions of Chapter III of the MPA are suitable for ensuring their effective participation in the decision-making process.

Such provisions aim to create a specific space for indigenous peoples so that they can first identify their own needs and goals for community forestry and then develop them in a participatory fashion into a coherent action programme. The *indigenous council* can therefore play a central role, particularly by facilitating these debates and representing their members in the other community bodies.

Given the social context previously described, the aim is to help place the indigenous members on a more equal footing with the Bantu, by giving them the possibility to deliberate amongst themselves before participating in broader community discussions. This process is designed to ensure that the indigenous members are in a position to present their points of view clearly and efficiently, so that they are better listened to and taken into account.

Nevertheless, the pilot communities considered that two points deserve particular attention.

Distribution of community revenue

The distribution of revenue should not be based on the demographic importance of a group, as stipulated in article 3.14., since this criteria does not take into account the actual contribution of these groups to the community initiative (productivity, etc.). This principle may for example penalise the indigenous peoples whereby even when contributing the most to income generation they receive a smaller share due to them being a smaller group.

Delete article 3.14. of the MPA: The method used to distribute revenue should be adapted to each community to reflect the way in which the revenue was generated. If the results from the management test for the pilot community forests show that some general principles should be established, these could be included in the *manual of management norms* that will be developed at a later stage.

Supporting the participation of the indigenous peoples

Article 3.16. of the MPA states that *“given their particular vulnerabilities, the indigenous peoples must benefit from the greatest attention of the Administration in charge of forests, civil society and donors for guidance on the organisational, technical and administrative aspects of the allocation process of a community forest.”*

Implementation policy: A national strategy to support community forests and a well-funded action plan should be developed, making support for indigenous peoples a priority.

INVOLVEMENT OF WOMEN

During the different activities, the women at the Lomba pilot site complained that they were not sufficiently involved in the decision-making despite women sitting on the community bodies (customary council, indigenous council and management committee). The women from the villages of Moloukou, Moalé and Lokombé therefore held a meeting and requested the creation of a *“women’s council”* which would be recognised as a fourth decision-making body. The request was approved by the three other bodies and at various community meetings. The women at the Mbunza Boffi pilot site decided to do the same.

The women’s council

At both pilot sites the women wanted to implement a strategy similar to that of the indigenous peoples, namely appointing representatives who could lead a participatory process in parallel to the one being conducted for the community as a whole. The aim is not only for the women to be able to deliberate amongst themselves and clearly present their point of view with the backing of the majority of the women but also to be able to oppose any initiatives that do not sufficiently take their views into account.

Just as for the indigenous peoples, the creation of such a council would not be compulsory if the women of the communities concerned were not in favour. Rather, *“in this case, the freedom and authenticity of this exemption should be checked during the official consultation meeting”* (art. 3.4.).



The MPA should therefore be revised as follows:

Cross-cutting changes to the MPA and its annexes: The women’s council should be mentioned whenever a reference is made to the decision-making bodies, just as is the case for the customary council and the indigenous council.

Add a chapter to the MPA: A chapter on the involvement of women should be added and contain similar provisions to those of Chapter III on the indigenous peoples.

Supporting the participation of women

Over and above the legal framework, women should also benefit from specific support.

Implementation policy: A national strategy to support community forests and a well-funded action plan should be developed, making support for women a priority.

CONSULTATION AND DIALOGUE

Chapter IV of the MPA details the compulsory procedures aimed at *“ensuring that the various parties who may be affected by the creation of a community forest have come to an agreement on: the goals of the community forest, the boundaries of the requested forest, the allocation of land and the management rules or methods for the requested forest” (art. 4.1.)*.

An Official Consultation Meeting (ROCC – *Réunion Officielle de Consultation et de Concertation*) must then be organised by the Forest Administration once the application has been submitted. The test was conducted following the process described in the MPA. It would appear that the general provisions of this chapter are sufficient to prevent any intra/inter-community conflicts or conflicts with other actors. However, it is worth pointing out the following:

In cases of overlapping users’ rights

Regarding the specific case where a community forest is requested within a logging concession,

an RPCC between the communities and the companies concerned must be held in accordance with article 4.3. in order to “*demarcate the community forest*”. When the MPA was adopted, due to the regulatory framework in place, this could only apply to lands within the Series for Agriculture and Human Settlement (SAOH). In the case of the pilot sites, however, the community forests requested are within a concession but outside the SAOH, meaning that the communities and the logging companies are likely to be using the same land. Additional precautions should therefore be taken.

Adding an article to the MPA: In case of overlap, the communities and the logging companies should agree, through preliminary meetings, on a consultation and dialogue framework to be set up to ensure proper coordination of their respective activities and sustainable management of resources.

Adequate resources for the Forest Administration

Whether to facilitate an RPCC in the above-mentioned scenario or to organise an ROCC, the Forest Administration must visit the villages concerned which are more often than not found in difficult to access areas. Consequently:

Implementation policy: One of the conditions necessary for national implementation of community forestry is allocating greater human, logistical and financial resources to the Forest Administration, in particular to the Prefectoral Inspectorates and Regional Directorates tasked with these visits.

SURFACE AREA OF A COMMUNITY FOREST

Article 5.14. of the MPA states that a community forest is allocated over “*an area of the national territory equal to or less than five thousand (5,000) hectares*”.

For the two pilot sites in question, the customary territories cover indivisible areas that are far larger (in the order of 15,000 hectares) and are occupied or customarily used by several villages. The 5,000 hectare limit would therefore have forced the communities to subdivide by village their common land. Since this would entail the artificial demarcation of several, potentially non-viable community forests, this would have been fertile ground for conflict.

In light of this strong argument and with the Forest Administration’s agreement, the applications that have been/will be submitted by the pilot communities to obtain joint allocation of areas are above this limit. The Lomba community forest, for example, has been allocated as three community forests each amounting to nearly 5,000 hectares. However, they are treated as one unit with management rules pertaining to a single territory of 14,975 hectares. In this case, the land has been divided into four zones with different purposes (conservation, regulated hunting, communal area, etc.) that all those living in the three villages can access as needs be. Such an arrangement encourages the communities to pursue the joint management of resources rather than introducing a competing system that does not correspond to local usage and customs.

Furthermore, it is highly likely that there are situations in which the inhabitants of a single village customarily occupy or use a territory which covers more than 5,000 hectares. Applying for the allocation of only a part of their customary territory may exclude certain vital resources thereby diminishing the viability of the community forest.

Revision of articles 5.14. and 7.28. of the MPA:

Given that the management of a community forest must be based on local knowledge and sustainable customary management practices (art. 2.1.) and that this knowledge and these practices are most often intrinsically linked to a specific territory, it is crucial for communities to be allowed to apply for forest areas that correspond to their customary territories.

PREPARING AN ALLOCATION APPLICATION

To be admissible, an allocation application must, according to article 5.1., include the following:

- 1) A letter addressed to the minister in charge of forests;
- 2) A Simple Management Plan prepared and approved by the whole community;
- 3) A management agreement signed by three of the community's representatives;
- 4) The minutes from the Official Consultation Meeting (ROCC) written by a local member of staff from the Forest Administration.

Although the templates for these documents (found in the annexes to the MPA) simplify to a certain extent the communities' task, the experience with the pilot sites has shown that the application remains too complicated for it to be prepared and approved in a participatory manner, in other words by the whole community. The preparation and approval of the Lomba Forest application took more than a year despite all the preparatory activities carried out beforehand (provision of information, awareness-raising, training, etc.) and the presence of civil society field workers within the villages for several months.

There are difficulties at several levels:

- a) The content of these documents is sometimes repetitive;
- b) Some of the information requested requires long and complicated drafting which is tedious for the rural communities to write by hand since they generally do not have access to computers;
- c) The whole procedure requires a time investment, for example to hold the numerous discussions and take the relevant minutes, to carry out the surveying work in the forest over several weeks, etc. This is a significant constraint for some members of the community, taking time away from their much-needed subsistence activities;
- d) The technical nature of some of the steps is such that the communities would not have been able to successfully complete them without the support they benefited from.

An annex to this report examines in detail each of the MPA's provisions and annexes and provides suggested changes (rewordings, additions and deletions). Accordingly, the following sections only offer a summary of the different aspects that should be subject to careful consideration.

The Simple Management Plan (SMP)

Chapter V of the MPA presents the contents of a SMP and Annex 6 provides a template. The Lomba community forest SMP is a typed document of over 40 pages which was prepared by the entirety of the three villages concerned. However, it was drafted and produced with the support of civil society field workers.

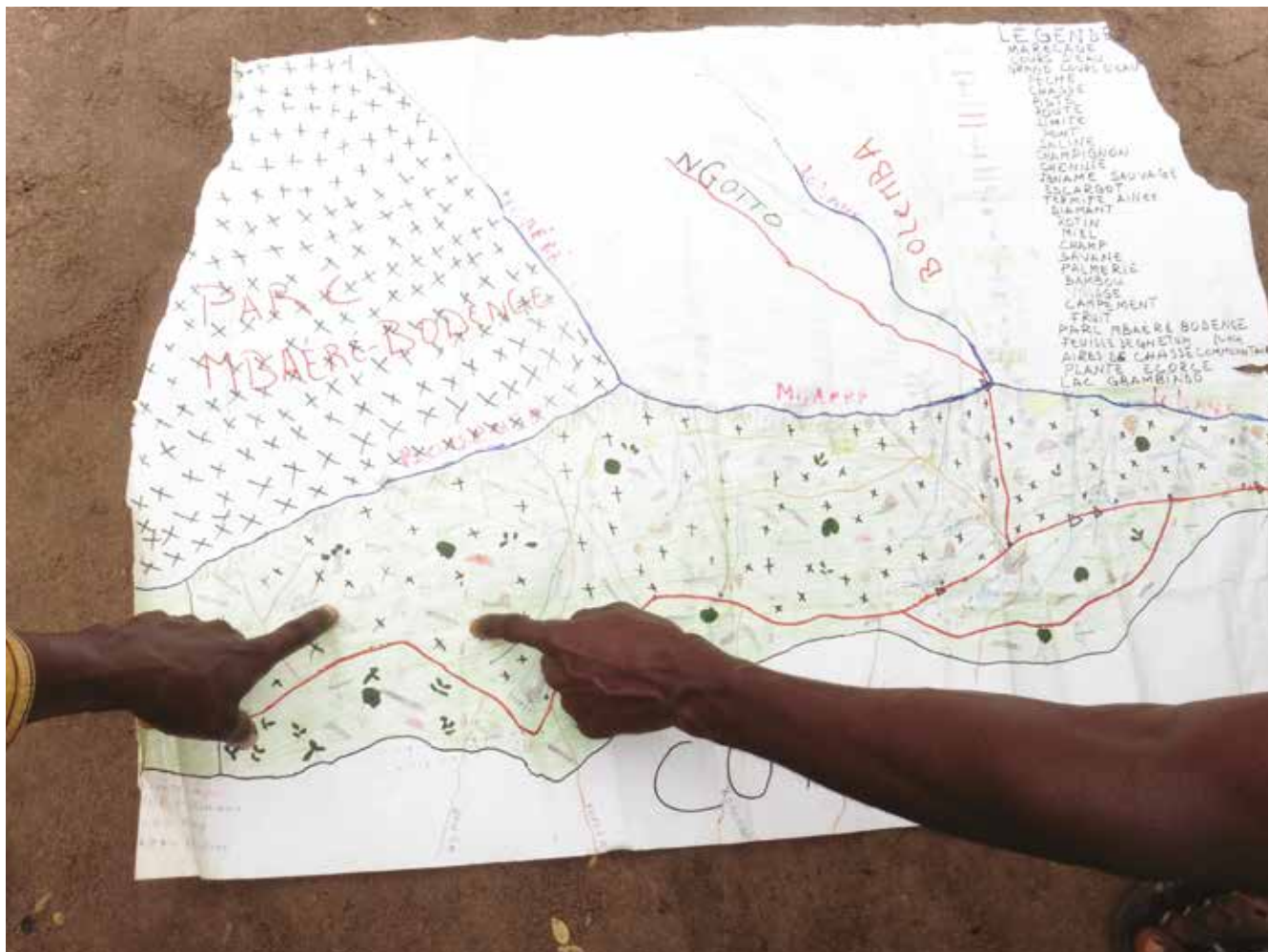
As per the template, the SMP contains several sub-sections including some which provide information for the Forest Administration but are not directly linked to the community initiative. Information on the area such as the climate, soil, vegetation and social infrastructure could be gathered by the officials during their visits rather than having to be included in the SMP.

Revision of Annex 6 of the MPA: The template for the SMP should be revised to focus on the essential information resulting from the communities' decisions (location and aims of the community forest, planned activities, management methods, etc.).

Socio-economic data

Given the lack of official data, carrying out a survey of the population during the allocation application process provides interested communities with the advantage of obtaining certain information (number of households, women, children, etc.) that could be useful to them in various instances. In the case of the Lomba communities the survey of the 2,433 inhabitants took a month and was carried out by four people including a field worker. However, some questions which may be regarded as too sensitive were not asked, such as those relating to religion and annual income. It also seems unnecessary to know all participants' ages in ten-year blocks.

Revision of Annex 7 of the MPA: The collection form for the socio-economic data should be reviewed and simplified so that the survey is not a tiresome undertaking verging on sociological research.



Participatory mapping

The participatory mapping of the customary territories is a key step in the community forest allocation process. This is even more so for the indigenous peoples who often use far larger areas of forest for their subsistence activities. In line with Annex 8 of the MPA, sketches were made on the ground and then transferred to paper which in turn were checked by a large number of people from each village. This exercise proved that the communities often have very good spatial awareness of their territory and can manually produce maps which serve as the basis for managing their forests.

As part of the work to support the pilot sites, geo-referenced maps were also produced notably to prove the precision of the hand-drawn maps and facilitate information sharing during this experimental phase. This should not however be a reference for the allocation applications that will

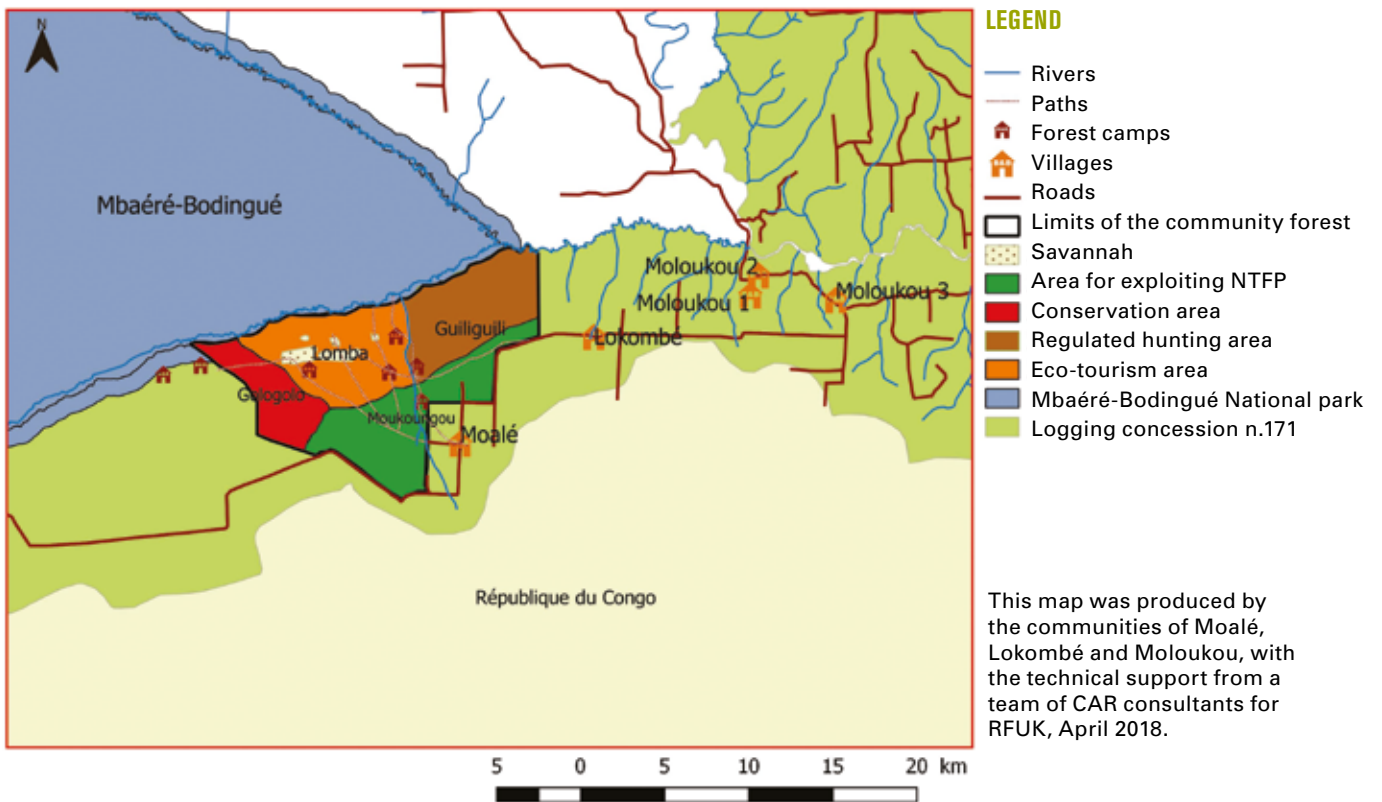
soon be submitted by other communities. The MPA does not require geo-referenced maps and the Forest Administration should accept all hand-drawn maps which have been checked during community meetings including by the women and indigenous peoples.

Participatory surveying

The participatory surveying, or multi-resource inventory, proved to be far more complicated. The technical nature of the process as outlined in Annex 8 of the MPA is such that substantial skills and resources are required. This would most likely be insurmountable for populations wishing to obtain a community forest but without access to external support.

For the two pilot sites, teams of 15 to 20 community mappers were trained over the course of two days before being sent out into the forest for three weeks. The teams, supervised by civil

MAP: ZONING OF THE LOMBA COMMUNITY FOREST



society field workers and staff from the Agency for Sustainable Forest Resources Management (AGDRF) of the ministry in charge of forests, made an inventory of the different animal, plant and wood species found in a sample of the requested forest amounting to several dozen hectares.

Defining survey blocks and counting units are two of the complex techniques required by Annex 8. These techniques are used by logging companies to conduct inventories and require expensive equipment such as measuring tapes to measure distances, circumference tape to calculate the diameter of the trees, compasses to trace tracks and clinometers to calculate the angle of slopes. Most of the communities have never

seen such tools before which are often reserved for specialists in the field because specialised technical knowledge is required to operate them. Another difficulty for the communities during this work was the use of tally sheets with scientific names of the animal and plant species often in Latin.

Revision of Annex 8 of the MPA: Undertaking a participatory survey and including a detailed inventory in the SMP should not be a pre-requisite for an application to be admissible. The communities should be allowed to simply describe the potential in terms of available resources which officials from the Forest Administration could check during their field visits.

PROCESSING AN ALLOCATION APPLICATION

Article 6.9. of the MPA states that *“the General Directorate of Water, Forests, Hunting and Fishing should make sure that the requested forest is not subject to a valid logging concession and/or does not encroach on a protected area”*. Given that allocating community forests within logging concessions is now a real possibility, the fact that a requested forest overlaps an existing concession must not be in itself grounds for rejection.

Revision of article 6.9. of the MPA: The General Directorate should check if there is any overlap. However, the check should simply be to ensure that the logging companies who may be affected have been informed of the request and invited to the preliminary and official consultation meetings, and that discussions are underway for the signing of collaboration protocols.

MANAGEMENT, MONITORING AND CONTROL OF COMMUNITY FORESTS

Article 7.9. of the MPA provides that a *“manual of community forest management norms will subsequently be developed drawing on lessons learnt on the ground as a result of the practical experience of managing the community forests.”*

Given that this manual has not yet been prepared, Chapter VII of the MPA has numerous provisions on the management, monitoring and control of community forests. These provisions can therefore be tested in the first allocated community forests and assessed to see whether or not they should be included, either as originally written or reworded, in the manual of management norms.

For example, amongst the provisions that should be tested by the pilot communities in order to assess their feasibility and compliance with local practices, are articles 7.10. and 7.15. of the MPA which compel communities to produce and submit to the Forest Administration for approval, annual activity plans as well as annual activity reports.

The same is true of the requirement that communities obtain a formal authorisation from the Forest Administration if they intend to use their forest for commercial activities (article 6.17.). This procedure would be in addition to

the community forest allocation process which includes the participatory preparation of an SMP containing information about all of the intended activities including commercialisation of forest products. Since the SMP has to be examined and approved by the Forest Administration, this additional authorisation would not only be superfluous for the communities (and represent an additional cost in terms of trips, delaying the start of activities, etc.) but also for the Administration who would have to decide the same case twice. The test for this provision will therefore determine if the allocation of a community forest can be considered as an authorisation for all of the activities outlined in the SMP.

Revision of Chapter VII of the MPA: Any provision that should be included in the manual of management norms should therefore be deleted from the MPA.

4. RECOMMENDATIONS FOR POLITICAL AND LEGAL REFORMS TO EFFECTIVELY SECURE CUSTOMARY RIGHTS

“The failures of previous community forest initiatives in the Congo Basin should not be viewed as proof that community forestry cannot work in the region and should be abandoned. Rather, critical analysis of past experiences reveals the shortcomings of previous approaches and allows new approaches to be developed that can effectively realise larger policy goals while benefiting local communities, governments, and the environment”.

Robert E. Moïse and RFUK (2019), Op. cit., p.38.

The CAR government is primarily responsible for improving the legal framework and ensuring that it is aligned with the local context and sustainability goals. In addition to the main guidelines set out above, below are some specific measures that should inform the government’s policy.

A PARTICIPATORY APPROACH FOR ALL POLITICAL AND LEGAL PROCESSES

Obtaining the Free, Prior and Informed Consent (FPIC) of local and indigenous communities in advance of any initiative concerning them has become a fundamental principle of international law and jurisprudence. Since the ratification by CAR in 2010 of Convention No. 169 of the International Labour Organization (ILO) on indigenous and tribal peoples, it is also now an opposable principle of Central African law.

The government must therefore make sure that:

- The indigenous peoples’ traditional institutions are duly recognised and consulted for any political and legal change relating to the allocation and management of forest land and resources;
- The participatory consultation process is conducted with a representative sample of the local and indigenous Central African communities prior to any political or legal change that could have an impact on their rights or means of subsistence.

A NEW FORESTRY POLICY FOR CAR ?

Securing the customary territories of the local and indigenous communities should be considered a priority of a long-term policy and vision which needs to be prepared. Solutions must therefore be envisaged to remedy the saturation of the

south-western forest massif in order to implement community forestry on a larger scale.

Notably, this policy should include:

- Performing independent analyses of the cost/opportunity and socio-economic and environmental impact of industrial logging and of strict nature conservation. The analyses should result not only in the declassification or reclassification of concessions that do not respect their management rules but also lay the groundwork for a national debate on land use planning reform;
- “Tak[ing] steps as necessary to identify the lands which the peoples concerned traditionally occupy” notably through participatory mapping and “guarantee[ing] effective protection of their rights of ownership and possession” in line with article 14 of Convention No. 169;
- Making the clarification of land rights a legal requirement of the Voluntary Partnership Agreements (VPA-FLEGT) and of the law on the REDD+ process as described in the preparation document for REDD+ in CAR;
- Adjusting the processes of defining and verifying the legality to the needs and constraints of the forest communities based on the experience of managing the pilot community forests;
- Building government, NGO and private sector capacity at the national and local levels in order to fill in the gaps to support the allocation and management of the community forests.
- Developing incentives for the private and public sectors to invest responsibly in community forests based on feasibility studies and well managed micro-credit projects for community initiatives.

LEGAL REFORMS

The rights of the local and indigenous communities to be consulted, informed, free to make decisions, and benefit from part of the profits generated by third parties on their customary lands should be promoted within the framework of any Central African legislative reform including through the integration of international norms on human rights²⁵.

With regard to securing the rights of the communities to land and resources, the following recommendations should be taken into account:

Link community forests and land reform

The vision for community forest management must go beyond the legal framework in force. Community forestry currently focuses exclusively on rights to access and use of forest resources. Meanwhile, ownership of the land on which the resources are found cannot be secured through the allocation of a community forest²⁵.

It is, however, possible to link the recognition of these two categories of rights, as requesting the allocation of a community forest is a complete administrative process that could serve as a procedure for acquiring a collective land title.

The land reform should also reconsider the classification of land beyond the simple difference between public and private land. It should include a new category for all rural lands that are not subject to land titles, so that communities can exercise ownership of their customary land as a result of long-term occupation.

Revise the Manual of Procedure for Allocating Community Forests

The recommendations in this report should be taken into account to revise the MPA. However, the revised version, even once it has been officially adopted, should not be considered the definitive version. The experience of future community forests over the next few years could highlight a need to review certain provisions of the MPA and its annexes as stipulated by article 7.33.

Develop a Manual of management norms

The preparation of the manual should follow a similar process to that described for the revision of the MPA. It should be based on lessons drawn from the test of the existing rules within the pilot community forests and the provisions should be drafted, reviewed and checked through a participatory consultation process and national workshops.

The manual of management norms should:

- Be adapted to the diversity of local contexts and traditional practices;
- Not force the communities to take administrative steps to preserve their rights;
- Primarily contain rules aimed at preventing appropriation or monopolisation of resources by third actors or by a small group of individuals.

Review of the regulatory framework

Some of the provisions of the regulatory framework, in particular the decrees and orders of 2009 and 2015²⁶, should be repealed or revised. The articles that limit allocation of community forests to unallocated land or to the Series for Agriculture and Human Settlement (SAOH) for the communities living and/or using their resources within logging concessions should be withdrawn. The aim is to enable the peoples of the south-west, including the indigenous peoples, to be legally eligible for the allocation of community forests over areas matching their customary territories.

Review of the Forest Code

The test process for the allocation of community forests has already shown the need to revise certain provisions of the Forest Code. The lessons that will be drawn from the management of the first community forests will also contribute to this discussion. A participatory process should therefore be conducted taking into account all of the recommendations formulated above.

The Central African Forest Code should also be harmonised with all of the legal instruments relating to land in order to offer complete protection of the local and indigenous communities' rights including their land rights.

²⁵ CAR has ratified several other international and regional legal instruments which strengthen the rights of the communities and indigenous peoples. These include the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention on the Rights of the Child; the African Charter on Human and Peoples' Rights; and Convention No. 169 of the ILO.

²⁶ Decree No. 15.463 of 3 December 2015 on the allocation and management of community forests in the Central African Republic.
Decree No. 09.111 of 28 April 2009 on the application of law No. 08.022 of 17 October 2008 on the Forest Code of the Central African Republic.
Order No. 09.021 of 30 April 2009 on the application of law No. 08.022 of 17 October 2008 on the Forest Code of the Central African Republic.

FOR VIABLE AND SUSTAINABLE COMMUNITY FORESTS

The implementation of a sustainable and comprehensive community forest process in CAR must benefit from substantial investment. This will only be possible with the significant commitment and the coordination of governmental agencies, NGOs and development partners. It will also depend on the use of a consensus-based approach. The initiatives mentioned above, resulting in the allocation of the first community forest, show there is willingness to cooperate in this undertaking.

Future efforts should entail:

Continuing to test the community forests

It is essential that more experimental programmes designed to test a variety of community forestry models are supported. This will provide examples of best practise with a view to achieving community forests that are better in line with customary forest management practices.

Capacity building of the Forest Administration

- a) The drafting of a national action plan on community forestry should provide guidance for all actors involved;
- b) The creation of a Community Forestry Directorate would clarify the responsibilities of the different MEFCP officials who process applications and support the communities;
- c) Appropriate resources for national and local services are necessary to ensure optimal support of the communities;
- d) A central database with all the information on community initiatives which would facilitate learning and implementation of better-suited policies.

Adequately supporting community initiatives

Any actor wishing to get involved in supporting local and indigenous communities first needs to:

- a) Seek to better understand traditional governance and how customary rights are recognised within each of the communities;
- b) Monitor the representation and fair participation of the various 'clans', women and indigenous peoples in decision-making and managing the benefits;
- c) Ensure that pressure is not exerted by certain members or external actors in order to guard against 'elite capture'.

Consider specific measures in the case of a community forest overlapping a logging concession

In the case of the co-management of forest resources between communities and logging companies, in addition to establishing consultation frameworks (see part 3), it is necessary to:

- a) Envisage the signing of collaboration protocols to define the co-management approach and clarify the rights and obligations of each party to make sure that commitments are respected;
- b) Support the communities in preparing such protocols to make sure that they understand the implications of each provision and freely give their consent in a participatory manner;
- c) Facilitate exchanges with the logging companies to offset a relationship of power and influence that is often balanced against the communities;
- d) Guarantee the principles of fairness and transparency of the value of the resources and the market, cost and benefit sharing mechanisms, and participation of the communities in the value chain.

APPENDIX: RESULTS OF THE NATIONAL WORKSHOP ORGANISED IN BANGUI IN MAY 2019

More than 60 people met on 29 and 30 May 2019 in Bangui, the capital of the Central African Republic (CAR) at the invitation of the Rainforest Foundation United Kingdom (RFUK). The aim of the workshop was to present a first draft of this report to kick-start the review of the Manual of Procedure for Allocating Community Forests in CAR.

The workshop also aimed to build consensus around the need to undertake a series of political and legal reforms to secure the local and indigenous communities' customary rights to the land and resources on which they depend for their livelihoods.

The aim of the discussions was to analyse the lessons drawn from supporting 14 villages brought together in two pilot community forests in order to suggest provisions for a political and legal framework that would a) conform to local realities and b) promote the allocation of community forests on a larger scale. This is vital to guarantee a better success rate both in terms of protecting the environment and securing the customary rights of the local communities and indigenous peoples.

During the workshop, the participants (communities, government, local authorities, Central African civil society and the private sector) approved the report and agreed on the need to:

- Review the Forest Code and relevant regulatory texts;
- Simplify the allocation process for community forests so that the communities are able to independently complete it;
- Increase the maximum size of the community forests;
- Encourage the participation of women in community decision-making, in particular by establishing Women's Councils;

- Make the allocation of community forests within concession already allocated to logging companies legal (notably through the signing of collaboration protocols);
- Create a consultation framework for the stakeholders involved in the allocation, management, support or control of community forests in the south-west of CAR.

Ten representatives of the communities supported by RFUK in the south-western region participated in the exchanges. They shared their experiences of preparing their community forest applications. Their testimonies and point of view²⁷ were the highlight of the workshop. As a result, the other stakeholders were able to appreciate the reality of the populations living in the forest, better understand what they were hoping to achieve and learn about the community management rules that they hope to implement to sustainably use and preserve their forests.

All of the stakeholders committed to remaining active and contributing to the review process of the legal framework on the allocation and management of community forests in line with the roadmap prepared during the workshop.

²⁷ Four of these testimonies are available on RFUK's website: <https://www.rainforestfoundationuk.org/car-voices>



Group photo of the participants to a national workshop organised in Bangui on 29 and 30 May 2019.

The CoNGOs project, “NGOs collaborating for equitable and sustainable community livelihoods in Congo Basin forests”, is managed by an IIED-led consortium, which aims to achieve improved governance and practice in community forestry in the Congo Basin. The geographical focus of the initiative is Cameroon, Central African Republic, Republic of Congo and Democratic Republic of Congo (DRC), with some policy and legal reform engagement work in Gabon. Dialogue, learning and advocacy activities are also carried out at the regional level. The members of the consortium are International Institute for Environment and Development (IIED), ClientEarth, Fern, Forest Peoples Program (FPP), Rainforest Foundation UK (RFUK) and Well Grounded.



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