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How to address the lack of adequate regulation of the fast growing national and regional timber markets in the Congo Basin?

Background Paper

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1. Introduction

The Congo Basin forests which forms the second largest block of rainforest in the world after the Amazon covers 300 million hectares of land and spans six countries: Cameroon, the Central African Republic (CAR), the Democratic Republic of Congo (DRC), the Republic of Congo (RoC), Equatorial Guinea (EG), and Gabon. The forests are extremely rich in flora and fauna and have the largest number of plant species per unit area in the world with a wide distribution of animal species (about 552 mammals, 300 fish), 460 reptiles and 1000 bird species). The Congo Basin forests also contain diverse natural resources (timber, minerals, fertile soils etc.). Most importantly, the forests are home to about 30 million people and support livelihoods for more than 75 million people from over 150 ethnic groups who rely on the forest ecosystems for food, nutritional health, and livelihood needs.

The formal forestry sector of Central Africa plays an important role in the economy of the sub-region. The sector does not only contribute to the gross domestic product (GDP) of the Central African states but constitutes a sector that generates direct and indirect employment and a source of incomes to local population (Bayol et al. 2012). While forests of the Congo Basin contributes to socio-economic development in the sub-region, the unsustainable exploitation of the resources therein culminates in environmental degradation and jeopardizes the role played by the forests in regulating the climate of the globe. With respect to timber, commercial and artisanal logging activities in Congo Basin countries was referenced in the readiness preparation proposal (RPP) of the Congo Basin REDD+ participating countries as a driver of forest degradation in the sub region (Enongene & Fobissie, 2016).

Improvement in forest governance is recognized as a strategy for achieving sustainable management of forests. Existing regulations in Congo Basin countries related to timber products are focused on regulating timber that is exported to the international market. A significant quantity of timber products is traded at the level of national and regional markets which is largely unregulated. According to Lescuyer et al. (2012), one-third of the total wood market in the Congo Basin is obtained from traditional woodcutting which occurs in the informal sector with domestic and regional markets as its destination. Doetinchem et al. (2013) reports that informal timber sector in the Congo Basin is fueled by booming domestic and regional markets with this sector assumed to have an economic importance that exceeds that of the formal timber sector in some countries of the sub region. The authors further attested that the informal timber sector in the sub region has long been neglected by Congo Basin member states and the international community, with their focus directed towards the formal and export oriented timber sector. Ironically, the informal sector of timber trade culminates in significant forest degradation due to overexploitation. Pacheco et al. (2016) argues that illegal logging of timber directly causes forest degradation, stimulates forest clearance/conversion to agriculture and other land uses and depletes species with great commercial value. As long as local timber production and consumption is continued to be disregarded by national and international policy makers, coupled with the continuous lack of a clear framework for the regulation of domestic timber production and trade, little prospects exists that illegal timber trade will discontinue or be curbed. There is need for initiatives at the national and regional levels geared towards regulating this informal trade of timber in the Congo Basin sub region.

2. Domestic timber market in the Congo Basin

Informal small chain saw milling in the Congo Basin is important as it does not only supplies domestic and regional markets but as well provides jobs and incomes. Pacheco et al. (2016) reported that the informal chain saw milling accounts for 23% to 87% (DRC) of total timber produced in the Congo Basin countries (**Figure 1**). The high proportion of timber production emanating from the informal sector in

DRC corroborates the country's low annual production of log in the formal sector (**Figure 2**). The proportion of contribution from Gabon and CAR is relatively lower due to lower domestic demand for timber (Gabon and CAR) and the supply of lower quality timber products to the market by formal companies. The informal chain saw milling sector as well provides thousands of jobs in Congo Basin countries: an estimated 45000 people are employed in Cameroon by the sector as opposed to an estimated 13000 people employed in the industrial timber sector; while more than 1000 people in cities of Gabon, CAR and DRC have gained employment related to the sale of small-scale timber products.

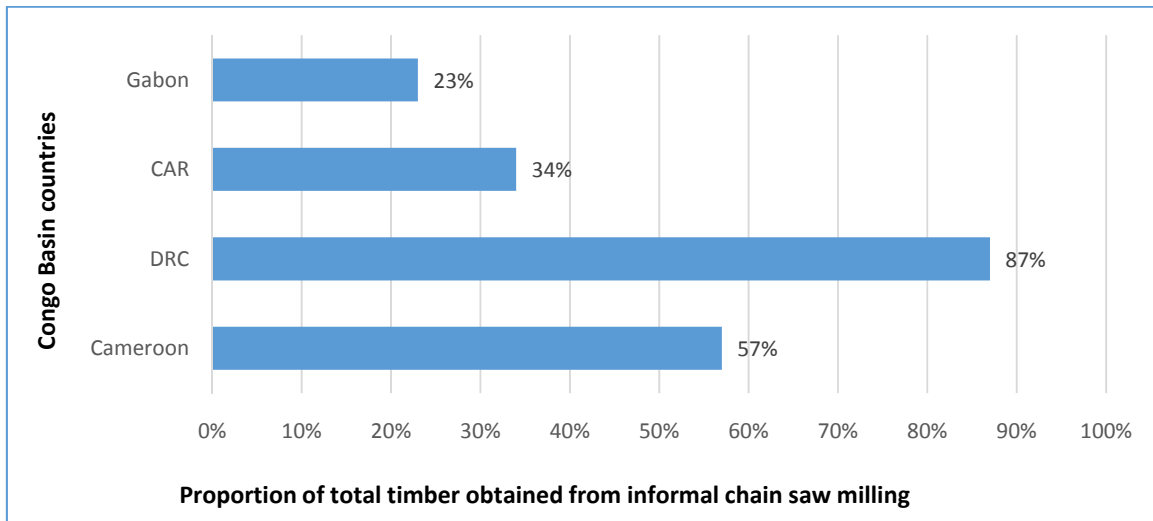


Figure 1: Figure 1: Proportion of timber originating from informal chain saw milling in the Congo Basin (Source: adapted from Pacheco et al., 2016).

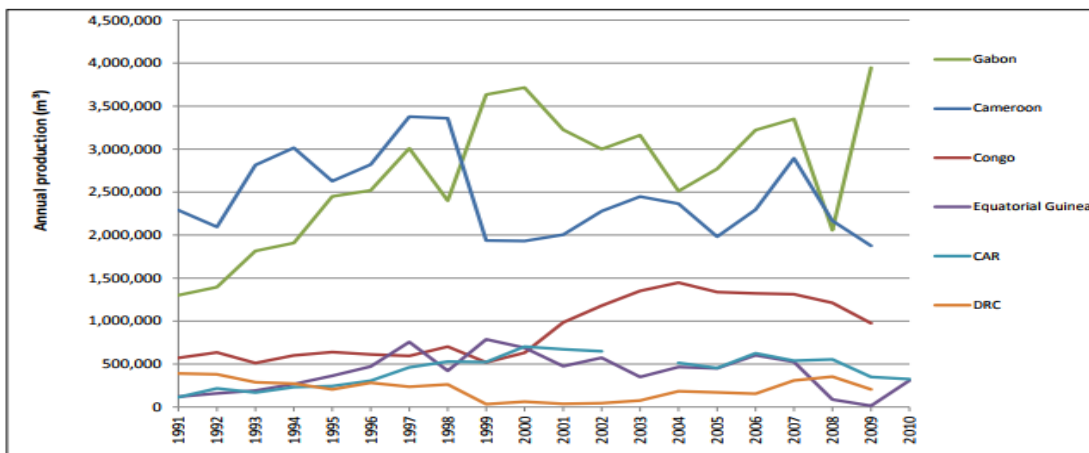


Figure 2: Evolution of annual log production by country (in m³/year) in the formal sector (Source: Bayol et al. 2010)

The sector has undergone rapid development to meet the high demand of cheap timber in the Central African States and other neighboring countries including but not limited to Nigeria and Uganda (Lescuyer & Cerutti, 2003). The success of the informal chain saw milling sector is attributed to the lower price of timber from this sector, three to four times cheaper compared to the price of industrial timber. Consequently, it is highly accepted by urban consumers. The lower price of timber from the informal

sector is attributed to the following factors: the export market requires timber products of higher quality; stricter product specification/standardization is required by the export market; timber traded on the domestic market is tax-exempt; production cost in artisanal sector is lower compared to the industrial sector; stronger competition in the domestic market compared to the export market; and rural population lack information about the real economic value of standing timber (Pacheco et al., 2016). The sector also succeeds as a result of the perception of rural stakeholders to be an important income source. The total sales value of timber in the informal sector in Cameroon is estimated at 91.8 million USD (Cerbu et al., 2016).

Industrial loggers also sell some of their timber on the national markets. In Cameroon for instance some semi-industrial loggers reported that an estimated 5% of their annual volumes are sold on the domestic market albeit this proportion represents timber of lowest quality which is unattractive for export (Cerbu et al., 2016). The same trend is experienced in DRC whereby low quality industrial timber ineligible for export is sold on the domestic market. However, the quantity of timber sold on the domestic market originating from the formal sector is lower compared to that from the informal sector except for CAR where the quantity of sawnwood on the domestic market from the formal sector is slightly higher than that originating from the informal sector as presented in **Figure 3**. In Equatorial Guinea, the annual production of informal timber in 2010 was estimated to be 86800 m³ of which half of this quantity reaches Bata and Malabo while the other half meets rural demand (Lescuyer et al., 2014).

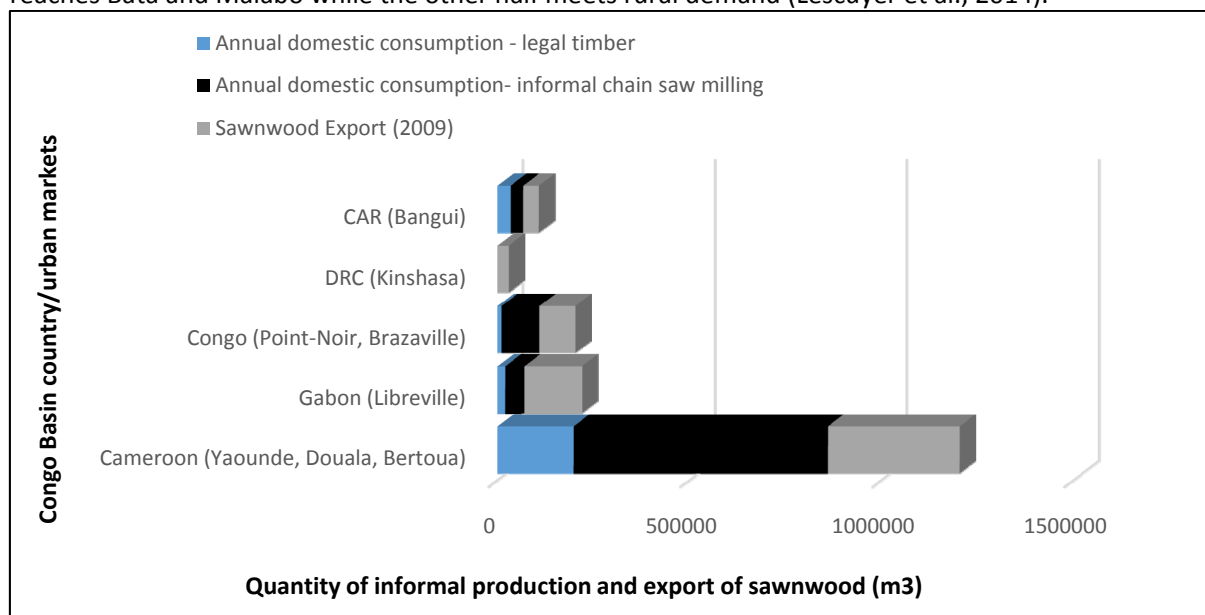


Figure 3: Timber (sawnwood) volumes on domestic and foreign markets for Congo Basin countries (Source: adapted from Lescuyer et al., 2010)

The financial gain generated by the informal sector is estimated at US\$60 M for Cameroon; US\$ 12.8 M for DR Congo; US\$ 1.3 M for CAR (Bangui area); and US\$ 5.4 M for Gabon (Libreville area only) (Lescuyer et al., 2010). The total profit of chain saw milling per cubic metre of wood ranges from 624 CFA to 25646 as presented in **Figure 4**.

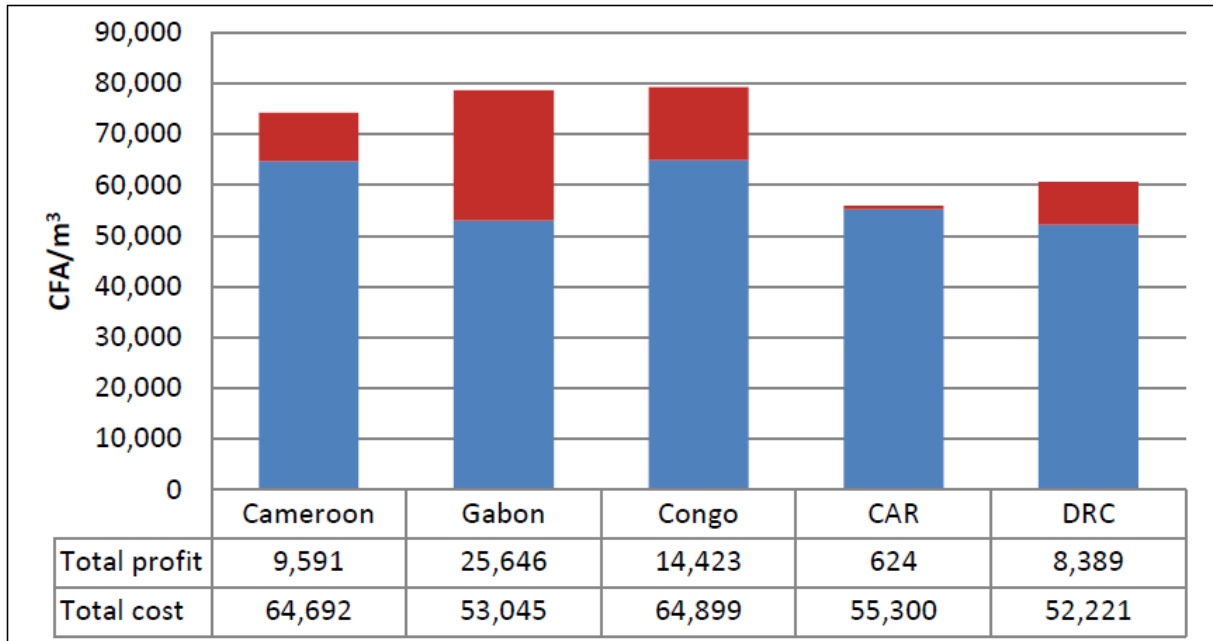


Figure 4: Cost and benefits of chain saw milling in the Congo Basin (Source: Lescuyer et al., 2010)

Concerning the type of sawnwood product sold on the domestic markets, there exists over seven types in Cameroon and six types in Gabon and DRC with plank accounting for the greatest proportion of the total traded volume for all the three countries (Figure 5 and Figure 6).

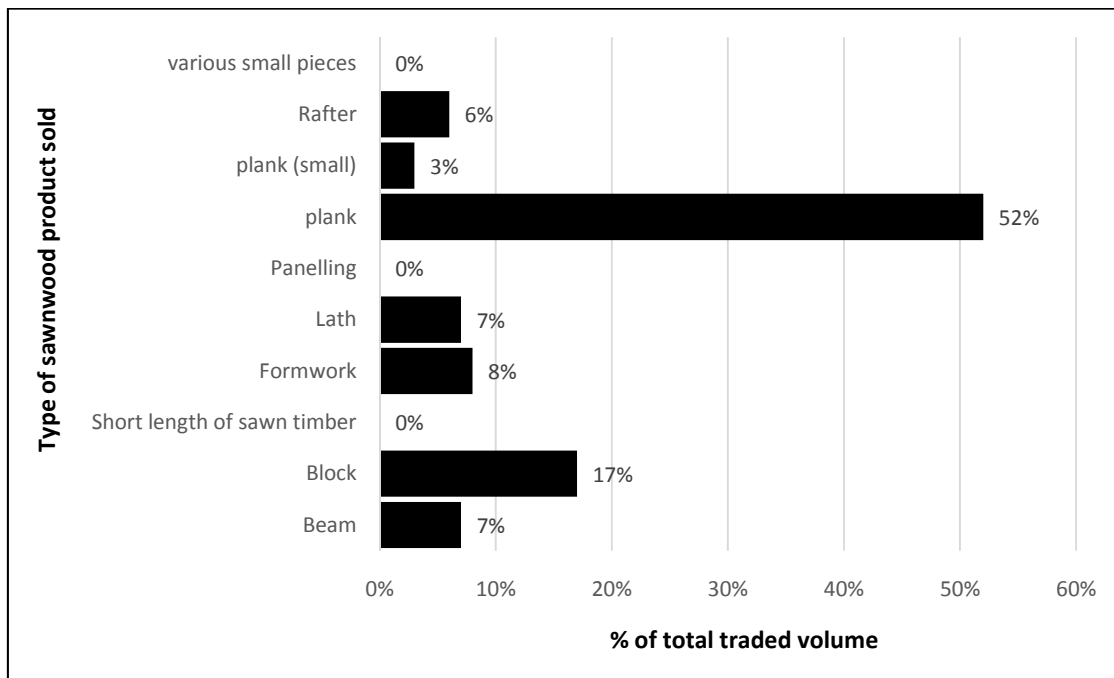


Figure 5: Trade of sawnwood in Douala and Yaounde market (Source, adapted from Cerbu et al., 2016)

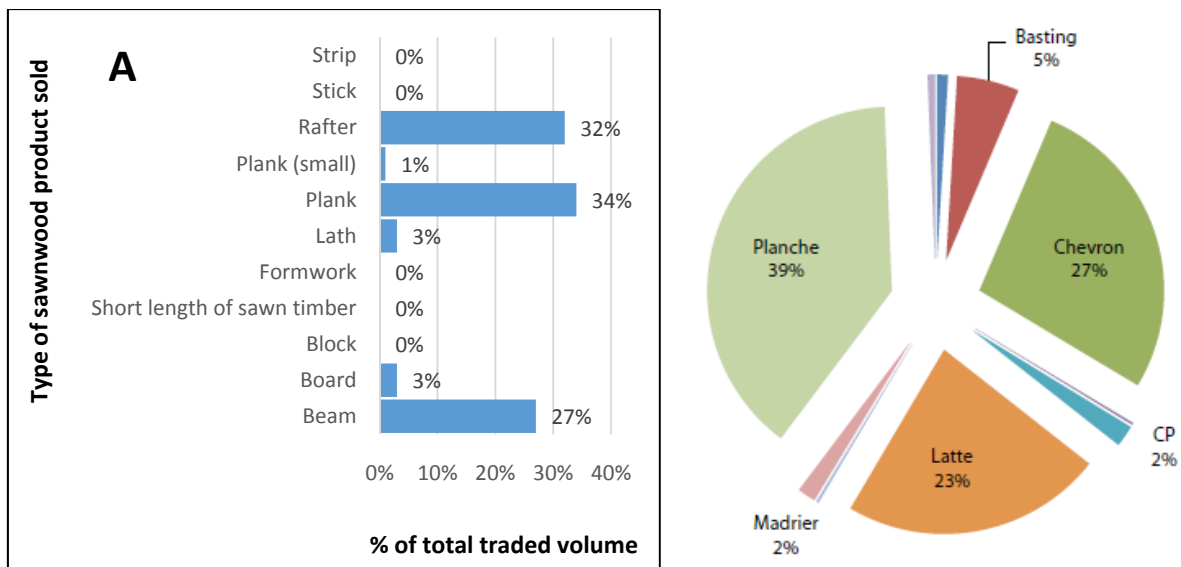


Figure 6: Proportion of types of sawnwood products traded on the Kinshasa market (A) (Source, adapted from Cerbu et al., 2016) and in urban markets in Bangui (B) (Lescuyer et al., 2014)

3. Pilot initiatives and efforts launched by some CBFP partners

Project to develop small scale forestry permits in Gabon (PAPFFG): this was a five years project (2007 to 2013) of € 15.7 million financed by the Gabonese government, the French Global Environmental Fund (FFEM) and the French Agency for Development (AFD). The project was aimed at consolidating the process of developing forest management in Gabon through supporting the integration of the use of small scale permits and national economic operators in the Gabonese timber trade (Bayol et al., 2012). The project was geared at establishing small scale permits over an area of 2.25 million hectares of forests land. It was also out to strengthen the capacity of the ministry in charge of forest resources and promoting the use of national operators in timber trade, hence registering them in the formal sector and providing them with legal status. The project as of 2010 registered 123 small scale logging permits covering a total area of 1.6 million hectares.

European Union (EU) Pro-FORMAL: Funded by the European Union and implemented by the Centre for International Forestry Research (CIFOR), the Pro-FORMAL project aimed at analyzing policy measures that could enhance the chances of success of the EU-FLEGT in better integrating the domestic timber market into the national legal framework. It was implemented in five countries including three Congo Basin countries: Cameroon, DRC and Gabon. The project assessed the different facets (be it legal or illegal, regulated or unregulated, formal or informal) of timber market in the project countries. Surveys were conducted in the project countries and data collected. The analysis of the data obtained by the project was geared at providing answers to the following questions: How can the domestic timber sector or some of its segments be better regulated and formalised?; How can policy frameworks and international trade instruments be best devised to avoid creating poverty and illegality traps for domestic timber sector?; What are the trade-offs between the formalisation of domestic timber sector and the livelihoods they currently support?; and Which instruments, systems and policy frameworks could be considered in VPA negotiations that are most appropriate to foster a sustainable and legal domestic timber market?

EU FLEGT-VPA: The European Union (EU) in 2003 launched its Forest Enforcement Law Governance and Trade (FLEGT) Action Plan with the objective of addressing illegal logging and associated international trade in illegal timber on the European market based on cooperation between producers and consumers

and a combination of demand and supply side measures. An important aspect of the Action Plan is the provision of support to timber producing countries to improve their forest governance and put in place effective mechanisms to check illegal logging. To this effect, the Action plan designed the Voluntary Partnership Agreement (VPA) which is a legally binding trade agreement signed between the EU and a timber exporting nations outside the EU. As part of the VPA, countries are committed towards the establishment of an effective verification mechanism regarding the legality of their forest products. In the Congo Basin, three countries have signed the VPA: Cameroon (October 6, 2010), Republic of Congo (May 17, 2010) and CAR (November 28, 2011) while Gabon and DRC are still in the negotiation process of the VPA.

EU/FAO FLEGT Programme: This programme is funding two projects in Cameroon related to domestic timber legality. These projects include: "Implementation of a Community Verification System for the Legality of Timber in the Community Forest of Cameroon (SVCL)" and "Strengthening Legality in the Domestic and Transboundary Market for Timber in the Forest Region of Cameroon (RELEMDOT)". SVCL is providing a tool for monitoring the use of community forests (CF), while RELEMDOT intends to facilitate and regulate access to resources and transactions in the internal timber market (MIB). Both projects are implemented by 2 local Non-Governmental Organizations (NGOs) and are geared at solving the problem of the timber illegality on the local market.

4. Domestic timber market and forestry regulations in the Congo Basin

Forestry regime in the Congo Basin countries dates from the colonial period. However, between 1990 and 2000, all the countries in the sub region elaborated and adopted new forestry codes that makes provision for forest management guidelines (Bayol et al., 2012). Congo Basin states are ill-equipped to manage the forests and for this reason, the forestry legislation allocated forest management to concession holders for parts of the forests; for long term forest concessions or other forest logging titles. However, the states takes the following responsibilities: elaboration of technical standards; ensure the implementation of management decisions; monitor implementation of management decisions; monitoring of production; and ensuring receipt of fiscal revenues. Forest legislations in Congo Basin countries provides several types of forest titles for forest production. Forest production in the sub region has predominantly been through forest titles granted to permanent forests. A limited amount of production is provided by forests belonging to other categories: community forests, communal forests or private forests (Bayol et al., 2012). Community forestry was promoted in some of the CB countries like Cameroon, Gabon, DRC and CAR. However, it has not resulted to the expected results since it is challenged by multiple regulatory constraints and does not appear to conserve forest resources substantially (Bruggeman et al., 2015).

Cameroon: Prior to 1994, the exploitation of commercial timber in Cameroon was based on a licencing system whereby licences for timber exploitation was allocated to commercial logging firms. At the beginning of the 1990s, adopted government forest policy was geared at stimulating the participation of the Cameroonian rural communities in forest management and allocating them formal access to forest resources for their needs (Cerbu et al., 2016). The Cameroon Forestry Law of 1994 proposed a new framework geared at organizing forest resources. According to the Law, small scale operators in non-permanent forests are offered a number of options: a volume of 500 m³ and logging permit for up to a year; a volume of 30m³ and personal logging permits for up to 3 months; and user rights for population of villages close to forest zones. The last two options are not meant to be used for commercial purposes. From 1999 to 2006, MINFOF suspended the use and allocation of smallll scale permits due to issues

related to corruption and illegal logging. Instead of MINFOF's action to curb illegal logging, it rather forced many actors to the informal sector (Cerutti & Tacconi, 2008). Following the lifting of the ban in 2006, MINFOF attempted to auction over 50 authorization and permits but chain saw millers did not participate in this exercise since the logging operators in the field perceived MINFOF's action as a government strategy to re-establish authority over small scale forestry operations and the informal system of payment developed by mayors and government personnels with delegated powers (Cerutti et al., 2013). Nine types of legal timber harvesting titles are recognised by the Cameroon government: forest concession rights, community forests titles, municipal forest titles, three types of small timber exploitation permits, two types of tree cutting authorizations (personal cutting authorization and timber recovery authorizations) and sales of standing volume (Atyi et al., 2013). Of these nine titles, only forest concessions, community forests and municipal forests are considered appropriate and suitable for sustainable timber production. Timber production from community forests in Cameroon is part of the informal sector and is not monitored by the administration. Timber procurement policies does not impact significantly on timber sourced from community forests since most products emanating from community forests have the domestic market as their destination and more so, community forest stakeholders express concern over the fact that the application of procurement policies will cause community forests to go out of business as a result of the high and prohibitive cost associated with legality verification and certification for sustainability (Atyi et al., 2013). Between 2008 and 2011, external stakeholders were consulted regarding the revision of the Forestry Law and in 2012, the revision process commenced under the lead of the Ministry of Forestry and Wildlife.

DRC: The elaboration of a forestry code started at the end of the 1990s during which period the country came out from the socio-political crisis. Before this period, forest resources in the country 40 years after independence was still regulated by a colonial text. The low contribution of the forestry sector to the GDP of the country (estimated at less than 1%) made the sector to be of lesser priority to the government and this could account for the reason why the sector was governed by an old colonial text (Nguingui & Batunyi, 2016). A forest code was adopted through Law No. 11/2002 of 29 August 2002 with the goal of fostering sustainable management of forest resources and to increase the contribution of the forestry sector towards economic, social and cultural development of the country. Most of the forest policy reforms and discussions was focused on the industrial sector while the importance of the informal sector is being given less attention. The law makes reference to just a single permit that can be granted to chain saw millers to harvest timber legally and such permits are meant to be granted to Congolese nationals serving the domestic timber market. In 2003, the drafting of the regulatory text of the new Forestry Law was launched and 37 of the texts came into force before 2010. A Decree that lays down the modalities for the attribution of forest concessions to local communities was signed in August 2014 (Nguingui & Batunyi, 2016).

Gabon: The Gabonese Forest Law was revised in 2001. This new code lists four types of permits: community forests, discretionarily attributed permits (PGG), Gabonese forestry associates permit and concession with a mandate for sustainable forest management (Lescuyer et al., 2014c). Like in the other countries of the Congo Basin, the legal framework of Gabon does not support the legal domestic timber market. PGG constitutes the only small scale permit included in the Gabonese Forest Law and it was suspended in 2010 and reinstated in mid-2014. Community forests which was planned as a replacement for chain saw millers were only implemented at the beginning of 2013. The community forests is

envisaged as a strategy to promote legal small scale logging that might compete with informal chain saw milling.

CAR: Before 2008, Law No. 90.003 of June 1990 was the reference text governing forest related activities in CAR. The implementation of this policy was subject to numerous illegality following the unrest that was experienced by the country in in the early 2000s (Doetinchem et al., 2013). The Forest law was revised in 2008, committing the country to a sustainable management of forest resources. The new law created community forests and public authorities forests which were classified under the non-permanent forest domain. The new law captures the domestic market and provides permits to small scale logging albeit the regulation is yet to be completed for their application (Lescuyer et al., 2014). Chain saw milling is informal and the domestic sector was excluded from the VPA and efforts to legalize the sector was postponed (Lescuyer et al., 2014). Proposal have been made to supplement and amend artisanal logging regulations. Decree No. 4 of 4 of February 2009 that specifies the conditions for the issuance of artisanal logging licence or enlargement of the list of exploitable area (initially limited to agroforestry areas of production forests) with an artificial logging permit was revised. Following the revision, formal chain saw milling could be carried out in two types of forest areas: public forest of the permanent forest estate; and community forest, local council forests and private forests which all falls under the category of non-permanent forest estate. The law defines an artisanal exploitation permit which is issued to Central African citizens or communities for a one year renewable period and covering a maximum area of 10 hectares. According to Lescuyer et al. (2010), the practical modalities for artisanal logging prescribed in the 2008 Forestry Law are close to those indicated in the old law which were unfortunately never implemented.

5. Challenges and opportunities for formalizing the domestic timber market

The formalization of the extraction and trade of a natural resource has a number of potential benefits: clarity of use rights; results to empowerment and yields financial benefits for local users; increased ability of institutions to obtain more information on the ownership and control of the resource; prevention of environmental damage; and better employment practices implementation including among others safety of workers (Putzel et al., 2013). The opportunities and challenges associated with the formalization of the domestic and regional timber markets in the Congo Basin is presented in Table 1.

Table 1: Opportunities and challenges for formalizing the domestic timber market in the Congo Basin

Opportunities
<ul style="list-style-type: none"> -Growing domestic timber market and high domestic demand for timber -High population growth concentrated in urban areas of the sub region -Ongoing VPA (FLEGT) in the region; three countries have signed the VPA already while two countries in the region are still in the negotiation phase of VPA. -Growth in GDP -Employment opportunities provided by the informal sector
Challenges
<ul style="list-style-type: none"> -High cost associated with informal loggers becoming legal -Complex administrative requirements and procedures for obtaining permits -Lack of access to bank loans for expanding or developing artisanal logging activities -Lack of access to appropriate technology for production

-Inadequate regulations for the domestic or informal timber sector
-Low legal timber demand in the domestic and regional market
-Lack of specific fiscal policy for the domestic timber sector
-Low cost of illegal timber on the domestic market compared to legal timber and consequently, higher consumer preference for illegal timber.

6. Recommendations

In order to regulate the domestic and regional timber market in the Congo Basin, the following recommendations are proposed:

Review of procedures for issuing permits: the procedure for issuing small scale logging permits in the region is complex and this serves as a disincentive for loggers in the informal sector to join the formal sector. The procedures for issuing small scale logging permits should be reviewed and made simplified in the different countries so as enable loggers in the informal sector to be able to get a permit and operate legally. Councils could be given powers to grant small scale logging titles to loggers and monitor their activities in the field while the ministry could play a supervisory role.

Improvement of governance: Development of the Timber Legality Assurance System is necessary for improving governance. A web tool could be developed for the different countries for the monitoring of permits, allocation and declaration of harvest and payment of tax. All payments should be made electronically on this system so as to reduce the possibility of government officials collecting bribes from loggers and also to make payments trackable. Public procurement policies could be established in the different countries that compels government and developmental agencies funded projects to only make use of timber from legal origin.

Civil society monitoring of logging in the informal sector: CSOs in the Congo Basin are active in the VPA FLEGT process through monitoring of cases of illegal timber exploitation and establishment of denunciations which is submitted to the administration for investigation. While such monitoring targets industrial logging, it could be extended to the informal sector. Donors should provide financial and material support to CSOs to extend their monitoring activities to the informal sector.

Congo Basin regional certification scheme: a regional certification scheme that certifies the legality of timber should be established. Such a scheme will go a long way to encourage the trade of legal timber within the regional market.

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