

Global Witness

Independent Observer in Support of the

Application of the Law in the Cameroon

Forestry Sector

Independent Report No. 004En

Location: **Kribi, Southern Province**

Date: **7-10 August 2001**

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1 Introduction

The mission was undertaken in order to observe the forest sector based on the outcome of the joint mission which was carried out in October 2000 by the independent observer and the Central Control Unit (CCU).

2 Field outcome

2.1 Logging without a title

Date of the mission: **8 July 2001**

Title: **Authorisation to salvage logs (ARB) 288**

Concession holder: **Ony-Bross**

Partner: **MMG**

The team took the road from Kribi-Akom II. Entrances to several logging roads were located at points 11, 13, 51, 75, 86 and 103 (see map). Old log ponds were seen at points 58 and 62. A number of abandoned logs found in these yards had the following inscriptions:

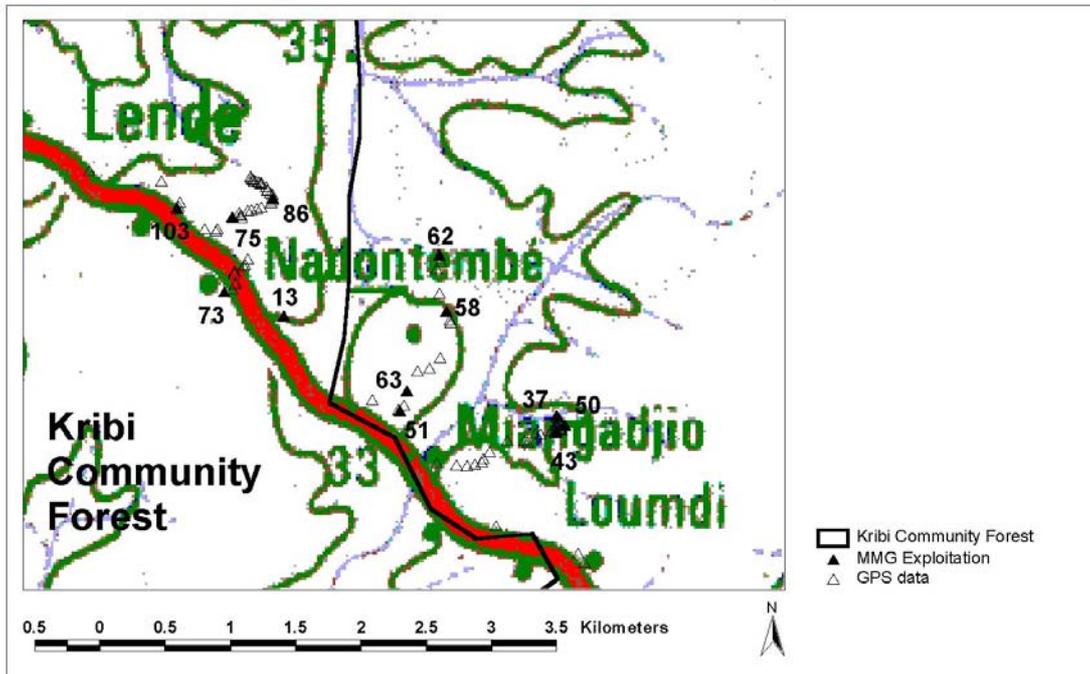
Title	Number of billet	Date inscribed on stump
ARB 288	11369	26.06.2000
ARB 288	11371	01.07.2000
ARB 288	11364	07.06.2000

At point 78, a log with the mark: Stamp of seizure *No 419 RC*. Several skid tracks were observed along the forest roads we visited, notably at points 50, 63 and 86 on the map. Several felled tree stumps were observed including:

- A Tali at points 37 and 43
- An Azobé at point 73.

The company identified as being responsible for logging by numerous villagers is the company MMG. According to the Ministry of Environment and Forests departmental delegate for the Ocean, the title used, ARB 288, dates from the end of 1999 ; it should have been transferred from Lolodorf to Kribi but the delegation neither had a transfer document nor any official document of field limits. The owner of this Authorisation to salvage logs is ONY BROSS.

Exploitation without title by MMG



MMG has logged beyond the limits of the ARB 288 using this title, thus MMG logged without a valid title.

2.1.1 Logging out of limits

Under article 156 of the law, logging has taken place in a national forest beyond the defined ARB limit.

MMG exposes itself to two types of **penalties**:

Criminal and civil judicial penalties:

- Criminal: Article 156 stipulates a fine of between 200,000 and 1,000,000 FCFA and/or imprisonment of between one and six months
- Civil: Articles 156 and 159 of the law stipulate that the victim of the infringement should be assigned damages calculated on the basis of the entire market value in force for fraudulently extracted species.

Administrative penalties

Article 65 of the law stipulates: «Any breach of the provisions of this law or regulations passed in implementation thereof [...] shall entail suspensions or, in case of a repeat offence, withdrawal of the exploitation document or approval as the case may be, following the conditions laid down by decree.». The provisions targeted by the decree are article 130 and following, which provide that the suspension is issued by the Minister of Forests, by a decision motivated and notified to the company. The act of suspension must specify the period of suspension, which must not exceed 6 months. Suspension cannot be lifted except where the action which brought it about is stopped. And where suspension is not lifted during the period indicated, the withdrawal of the approval or of the logging certificate is pronounced.

2.1.2 Fraudulent marking of wood

Article 158 of the law defines these acts of fraud in a document issued by the forest administration. This fraud allowed MMG to avoid paying taxes on the logs in question.

The law stipulates two types of **penalties**:

Criminal and civil **judicial penalties**

Article 158 stipulates a fine of between 3,000,000 and 10,000,000 FCFA and/or imprisonment of between one and three years.

At civil level, the fraudulently marked timber should be taken into account in defining the sum of damages and interest which MMG should pay to the State.

Administrative penalties

Article 65 of the law (see above).

2.1.3 Abandon of logs

In abandoning logs in the log pond, MMG has violated article 126(1) of the law: “The holders of forest logging title are obliged to salvage all logs, except those deemed unusable by the administration of forests. When a felled tree is abandoned, the grounds for abandoning it are mentioned in the field book”.

If the administration deems the logs concerned to be unusable: MMG would be guilty of abandon of logs. The law does not stipulate judicial sanctions for this breach

The administration of the penalty falls under article 65 of the law, which stipulates administrative sanctions in the case of violation of the law or of any regulatory statute.

2.1.4 Collusion in logging without a title

ONY BROS would be an accessory to MMG if it were aware of the fraudulent use of the mark ARB 288 and had not denounced it. ONY BROSS would thus be liable to the same penalties as MMG.

Article 150(2) of the law indeed stipulates that accessories or all those having participated in one manner or another to the breach are liable to the same penalties as the author of the breach.

2.1.5 Recommendations

- A new control mission should go to the field to establish the various infringements.
- The forest administration should lead an inquiry with a view to evaluating the exact volume of timber illegally cut off by MMG. This evaluation should take place as soon as possible, bearing in mind the regrowth of forest cover taking place. It should be followed by setting in motion of the various procedures which should lead to the application of the penalties stipulated under the law for MMG.

- The company ONY BROS should be punished in so far as it colluded in the fraudulent use of the title ARB 228, unless it can prove that it was not implicated.
- The forest administration should carry out an inventory of the abandoned logs, auction what is still usable and make MMG pay the equivalent in taxes for those which are not usable.

2.2 Illegal logging at the “Mont des Eléphants”

Date of the mission: **9 July 2001**

Title: **Not assigned**

Company concerned: **EJL**

On 9 August 2001 the team took the road from Nyé'été and went to the place known as “Mont des éléphants”, 9 kilometres from the village of Bidou and 22 kilometres from Kribi. In this zone we saw signs of recent logging.

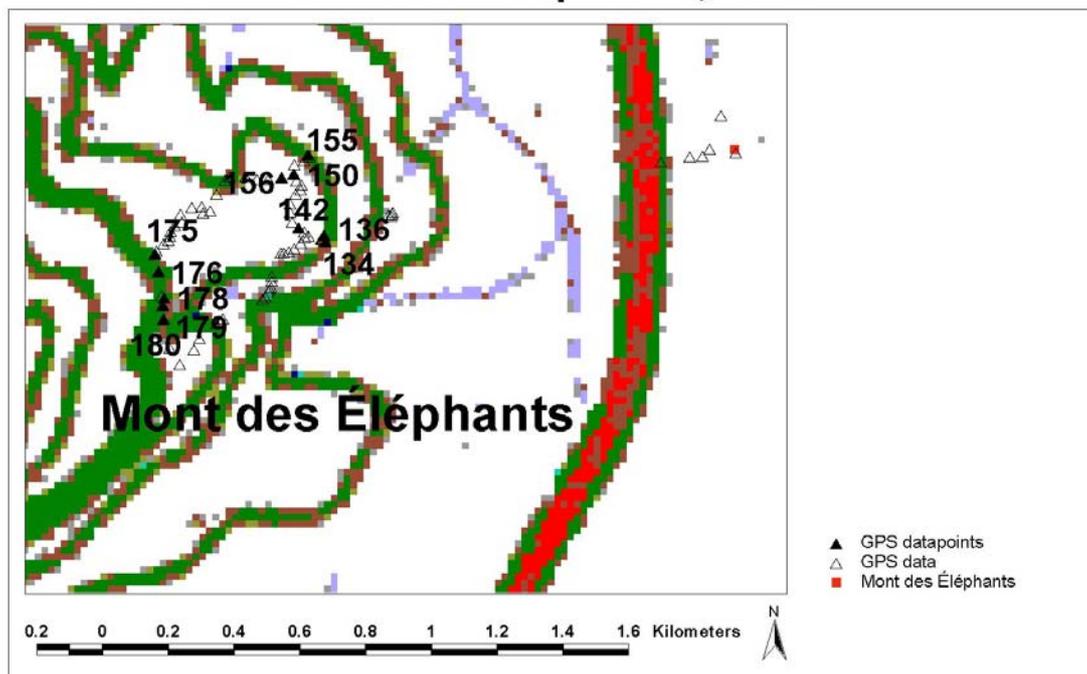
- several logging roads were observed (see photos in Appendix)
- points 134, 136, 150, 155 and 156 represent tracks for clearing.

At point 142 we saw an unmarked *azobé* stump.

A log pond was observed at point 164.

Points 175, 176, 178, 179 and 180 represent felled logs which had not been taken away. According to local people, logging took place from October 2000 to January 2001. According to the Departmental Delegate from the Ministry of Environment and Forests (MINEF) this logging was taking place on the periphery of the sale by auction corresponding to the SOCAPALM zone of timber removal. According to the delegate, the purchaser at this auction would be EJL (Etoundi Jacques Leprince), subcontracting to the F.M. company represented by Mr. Pierre Kremer. According to the locals, all the timber of this operation was bought by GWZ (Wijma).

Mont des Éléphants, Kribi



2.2.1 Infractions

EJL has logged beyond the limits of the authorisation. We noted an absence of marking on the stumps of felled trees. Some felled trees had not been cleared.

The team notes

- That EJL has extracted without a title in a national forest.
- That in a national forest, unlicensed logging and logging out of limits are subject to the same penalties.

These penalties are of two kinds:

Criminal and civil **judicial penalties:**

- Criminal: Article 156 stipulates a fine of between 200,000 and 1,000,000 FCFA and/or imprisonment for between one and six months
- Civil: Articles 156 and 159 of the law stipulate that the victim of the infringement should be assigned damages calculated on the basis of the entire market value in force for fraudulently extracted species.

Administrative penalties

Article 65 of the law stipulates: «Any breach of the provisions of this law or regulations passed in implementation thereof [...] shall entail suspensions or, in case of a repeat offence, withdrawal of the exploitation document or approval as the case may be, following the conditions laid down by decree.». The provisions targeted by the decree are article 130 and following, which provide that the suspension is issued by the Minister of Forests, by a decision motivated and notified to the company. The act of suspension must specify the period of suspension, which must not exceed 6 months.

Suspension cannot be lifted except where the action which brought it about is dropped. And where suspension is not lifted during the period indicated, the withdrawal of the approval or of the logging title is pronounced.

- That pending information which would allow the first breach to be confirmed, all conditions already exist for the following breaches to be blamed on EJL:

2.2.2 Non-marking of tree stumps

The law does not stipulate judicial sanctions for this breach. Violation of standards for logging falls under article 65 of the law, which stipulates administrative penalties for cases where the law or any applicable regulatory statute has been violated.

2.2.3 Abandon of logs

In felling these logs without clearing them, EJL has violated article 126(1) of the decree, which states: "The holders of forest logging titles are obliged to salvage all wood coming from felled trees, except those deemed unusable by the administration for forests. When a felled tree is abandoned, the grounds for abandoning it are noted in the field book".

If the administration deems the logs concerned to be unusable: EJL would be guilty of abandon of logs. The law does not stipulate judicial sanctions for this breach.

The administration of the penalty falls under article 65 of the law, which stipulates administrative sanctions in the case of violation of the law or of any regulatory statute.

2.2.4 Recommendations

- That a new control mission go to the field to establish the various breaches committed by EJL

- That the forest administration as result set in motion procedures which should lead to the application of the penalties stipulated under the law.

- That the forest administration inventory the abandoned logs, auction what is still usable and make EJL pay the equivalent in taxes for those which are not usable.

- Beside the four types of forest logging titles provided for in the law, namely the Forest Management Unit, the Sale of Standing Volume, the logging licence and the personal authorisation to cut (decree, art. 3(20)), the Authorisation to salvage wood allows a forestry extractor to cut timber in the forest. Thus by virtue of article 73(1) of the law which stipulates: "in the case of the realisation of a development project which might cause the destruction of part of a national forest, or in the case of a natural disaster with similar consequences, the forestry administration will proceed to a salvage felling, under State supervision or by Sale of Standing Volume of the timber concerned according to the clauses fixed by decree". The clauses affected by the decree are those of article 110 and following, which specify that where the administration chooses to carry out the salvation by Sale of Standing Volume, the latter must be auctioned on the basis of the stock-take. It is by virtue of these provisions that Authorisations to salvage wood must be delivered following a public call for tenders.

The administration arrangement thus presented for Authorisations to salvage timber in their strict legal definition clearly differs from that for the removal of auctioned wood. Article 112 of the decree stipulated that abandoned woods are subject to a report based on proceedings by the local authority for the administration of forests.

3 Appendix

Photos of Mont des Eléphants



