

Global Witness

**Independent Observer in support of the Application of the Law
in the Cameroon Forestry Sector**

Report No. 011Fr

*Investigatory mission in regard of the report of the UCC mission in the
Central and Eastern provinces of 20th December 2001 to 3rd February 2002.*

Location: Eastern Province
Date of mission : 8th to 15th April 2002

Global Witness Team:
Mr. Albert K. Barume, Assistant Director
Mr. Owada Jean Cyrille, Forester
Mr. Serge C Moukouri, Forester
Mr. Tangyie Ché Célestine, Driver

TABLE OF CONTENTS

1-EXECUTIVE SUMMARY	1
2- OBSTACLES	2
3- RESOURCES USED.....	2
4- RESULTS OF THE INVESTIGATION	3
4-1- The case of Vente de Coupe No. 10 02 81:.....	3
4-2- The case of UFAs 10 029, 10 022 and 10 020 being exploited by SFH.....	4
4-3- The case of the ALPICAM UFA 10 026.....	6
4-4- The case of CFC's UFAs 10-001, 10-002, 10-003 and 10-004	7
5. CONCLUSIONS AND RECOMMENDATIONS	8

1-EXECUTIVE SUMMARY

At the request of the Minister the Independent Observer carried out an investigatory mission in the Eastern province from 8th to 15th April 2002. The objective of this field visit was to confirm or invalidate the conclusions reached by the UCC team during its unaccompanied inspection mission led by Mr Bekollo in the Eastern and Central provinces from 20th December 2001 to 3rd February 2002.

The investigatory mission by the Independent Observer in the Eastern Province visited five of the six concessions at the heart of which the UCC had established infringements. The efforts made by the UCC inspection mission are commendable, but the quality of their inspection was affected by a noticeable laxity.

The conclusions of the Independent Observer are as follows:

In the case of *vente de coupe* No. 10 02 81, PALLISCO **has marginally exceeded the limits**. However, PALLISCO's guilt depends on the margin of tolerable errors set by the UCC, and on the use of the appropriate cartographic data by the inspection Unit. Moreover, the UCC agents, having carried out the inspection mission at the heart of this *vente de coupe*, had taken action that, in terms of the legislation in force in Cameroon, is only answerable to the Minister or which required the preliminary setting up of proceedings to establish an infringement. This action is: the suspension of extraction activities and the withdrawal of the *documents d'exploitation*.

In regard to the exploitation of UFAs 10 029 and 10 020 by the SFH company, the Independent Observer concluded that the measures taken by the UCC mission **have proved incomplete**. Although it established cases of sub-contracting for extraction without prior authorisation by the Minister, the UCC mission did not make an inventory of wood being illegally extracted by SFH in UFAs 10 029 and 10 020. Furthermore, SFH had no knowledge of the proceedings mentioned in the UCC report; the proceedings did not appear in the appendices of the said report, nor was there any indication there that they had been lodged with the provincial official in charge of forests.

Regarding UFA 10 022, the Independent Observer's investigations reveal that the **conclusions of the UCC mission contradict allegations made by SFH**. SFH asserts that it did not sub-contract to SFIW, to which UFA 10 022 belongs. The evidence collected and seen by the Independent Observer strongly suggests that the UCC inspection team falsely represented the facts.

As for UFA 10 026, the Independent Observer's investigations reveal that accusations against the company ALPICAM of unauthorised forestry extraction and felling of protected species are **unfounded**. The UCC mission did not take pains to verify the various documents relating to the exploitation of this UFA. On the other hand, the UCC mission could have realised that authorisation for the opening of a road at the heart of the *assiette de coupe* No.01 was granted well before extraction activities began and that the alleged protected species are amongst those listed by the authorisation of *assiette* No. 02.

Finally, in respect of the concession comprising UFAs **10 001, 10 002, 10 003 and 10 004**, allocated to the CFC company, the Independent Observer demonstrates that there this company faces a **serious charge of exceeding the limits** of *assiette de coupe* 23 in the course of extraction.

Taking account of the foregoing, the Independent Observer recommends:

- (1) The summoning of SFH, PALLISCO, the ASSENE NKOU establishment, SFDB, and the *Ingénierie Forestière* with a view to being charged on the facts lodged against them. The Independent Observer should be present at these hearings.
- (2) A joint UCC - Independent Observer mission in the Eastern province, with a view to a more meticulous inspection of all the concessions the UCC alleges it inspected on its mission.
- (3) An investigatory mission in the Central province by the Independent Observer.

2- OBSTACLES

This mission by the Independent Observer experienced two major obstacles. On the one hand, the mission had only limited space and time. On the other hand, the UCC refused to provide the Independent Observer with a detailed list of the concessions making up the object of its inspection mission.

The Independent Observer's investigatory mission carried out its work only in the Eastern Province. Indeed, the ministerial mission order, authorising the Independent Observer to carry out its investigatory mission, related only to the Eastern Province, in spite of the fact that the UCC mission extended over both the Eastern and Central provinces. Furthermore, the mission order received by the Independent Observer was only valid for a period of seven days, whilst the UCC mission had extended over a period of forty-five days.

Mr Bekollo, the UCC agent who led the mission in question, obstinately refused to provide the Independent Observer with the detailed list of certificates (UFAs, *ventes de coupe*, etc.) that was the object of inspection. He persisted in this refusal despite a written request from the Independent Observer and a personal intervention by the Minister. This refusal constituted a major handicap for the investigatory mission carried out by the Independent Observer (see appendix 1 of this report).

3- RESOURCES USED

- 1 Toyota Hilux pick-up belonging to Global Witness
- 1 Yamaha 100 motorbike belonging to Global Witness
- 2 Garmin GPS
- 2 cameras
- Maps at 1/200,000^e
- 1 Sony laptop
- Satellite images.

4- RESULTS OF THE INVESTIGATION

4-1- The case of Vente de Coupe No. 10 02 81:

a) Summary of conclusions of the UCC report:

- The sub-contracting of extraction activities to the ASENE NKOU establishment (holder of the *vente de coupe*) by PALLISCO is illegal, the prior agreement of the Minister in charge of forests not having been obtained;
- Extraction activities were extended beyond the limits of *vente de coupe* no. 10 02 81;

b) Confirmation of the UCC report:

The Independent Observer confirms that PALLISCO oversteps the limits of *vente de coupe* No. 10 02 81 by a margin which varies between sixteen and one hundred metres. Taking account of marginal errors in the GPS points and the maps, the issue of whether or not PALLISCO is guilty of extraction outside the limits depends on the margin of tolerable errors set by the UCC, and on the use of the appropriate cartographic data by the inspection Unit.

The GPS points taken in the course of an inventory (appendix 2 of the UCC report) subsequent to the UCC mission, as represented on the map below, show that PALLISCO had marginally overstepped the limits of *vente de coupe* No. 10 02 81. This is also confirmed by the GPS points taken by the Independent Observer in the course of investigations.

MAPXXX

c) Negation of the UCC report:

The Independent Observer can deny none of the conclusions of the UCC report in respect of *vente de coupe* No. 10 02 81.

d) New facts established by the Independent Observer:

- Without prior agreement from the Minister the Independent Observer was not in a position to investigate the charge of infringement of sub-contracting laid at the door of PALLISCO and ASENE NKOU by the UCC mission.
- The descriptions of the limits of this *vente de coupe* made by UCC are not in line with the evidence from the map included in the allocation order for *vente de coupe* No. 10 02 81. Furthermore, it seems that the UCC team had reached their conclusions on the basis of an inappropriate map. The Mission set up to assess wood considered to have been exploited beyond the limits indicates that

the map on the basis of which the inventory had been made was different from the one in the allocation deed of the *vente de coupe* in question. Consequently, this mission had concluded that it was "time to carry out a new investigation" [« opportun de commettre une nouvelle vérification »] (Appendix 2 of UCC report).

- Furthermore, the UCC agents, having carried out the inspection mission at the heart of this *vente de coupe*, acted in ways that, in terms of legislation in force in Cameroon, are only answerable to the Minister or require the prior establishment of proceedings to establish an infringement. These are: the suspension of extraction activities and the withdrawal of *documents d'exploitation* (a works logbook and two waybills).

Under the terms of article 130 of the Order of 23rd August 1995 fixing the conditions of the application of forest management, the suspension of a facility or of a *titre d'exploitation* is pronounced by the Minister in charge of Forests.

On the other hand, the provisional measures that the official agents of the forests administration can take in the context of pursuing an offender - especially the seizure of products, objects and machines serving or suspected of having served in committing a forestry infringement (article 135 of the Order of 23rd August 1995) - are only justifiable once an inquiry into the dispute has been opened. This can only happen when proceedings to establish the infringement are set up and closed. Not having set up proceedings the UCC agents were consequently not entitled to withdraw PALLISCO's *documents d'exploitation*.

4-2- The case of UFAs 10 029, 10 022 and 10 020 being exploited by SFH

a) Summary of conclusions of the UCC report:

In respect of UFAs 10 029, 10 022 and 10 020, the UCC report charges the beneficiaries (SFDB, SFIW and the INGENIERIE FORESTIERE) and SFH with only one infringement, namely, sub-contracting without prior agreement from the Minister in charge of forests.

b) Confirmation of the UCC report:

The Independent Observer's investigations support the conclusions of the UCC mission in terms of which SFH sub-contracts extraction activities from the beneficiaries of UFAs 10 029 and 10 020, without the prior agreement of the Minister in charge of forests. This contravenes the provisions of articles 42 of Law No. 1 of 20th January 1994 and 140 of the Order of 23rd August 1995.

Articles 152 of the law of 1994, and 140 of the order of 23rd August 1995 hold the beneficiary of the *titre d'exploitation forestière* as "solely responsible to the Administration in charge of forests for the proper discharge of its obligations" [« *unique responsable vis-à-vis de l'Administration chargée des forêts de la bonne*

exécution de ses obligations »]. Article 158 of the law of 1994 stipulates a fine of between 3,000,000 and 10,000,000 francs CFA and a prison sentence of between one and three years or one of these penalties for "the sub-contracting of *titres nominatifs d'exploitation forestières*...without the prior agreement of the Administration in charge of forests" [*« la sous-traitance des titres nominatifs d'exploitation forestières...sans l'accord préalable de l'Administration chargée des forêts... »*].

c) Negation of the UCC report:

The Independent Observer could not deny any of the conclusions made by the UCC against SFH in regard to UFAs 10 029 and 10 020.

d) New facts established by the Independent Observer:

- In the case of SFDB's UFA 10 029, sub-contracted with SFH, the Independent Observer noted a **strong suspicion of exceeding the limits** of AAC 17 currently valid, as shown on the map below. As a result SFH is liable to the penalty stipulated under article 157 of the law of 1994 (1,000,000 to 3,000,000 francs CFA and between six months and one year in prison, or either one of these penalties) for fraudulent exploitation in sub-contracting.

MAP XX

- As far as UFA 10 022 is concerned, the Independent Observer can neither confirm or deny the UCC's conclusions; they charge SFH with sub-contracting without prior authorisation from the Minister in charge. SFH alleges that its Head of Works, Mr SAMIR, co-ordinates extraction activities by SFIW at the heart of UFA 10 022 through a personal arrangement which is not binding upon it. In other words, SFH refutes the allegation that it is sub-contracting with SFIW. The copies of the machine licences, in appendix 2 of this investigatory report, and the pay slips of SFIW personnel to which the Independent Observer had access, carry the company name of SFIW. The Independent Observer has had no copy whatsoever of any work contract between the SFH Head of works and SFIW. This is why it cannot make a pronouncement on this case. As a result, the Independent Observer recommends that SFH and SFIW should be made to produce proof to the contrary of the conclusions of the UCC report relating to UFA 10 022.
- The Independent Observer further noted that the UCC mission led by Mr Bekollo in the Easter province **did not assess wood which had been exploited** fraudulently in UFAs 10 029 and 10 020. SFH clearly violated the provisions of article 157 forbidding all "fraudulent extraction by a sub-contractor in the context of a sub-contracting agreement applying to a national forest...without injury to damages and interest for the wood concerned" [*« exploitation frauduleuse par un sous-traitant dans le cadre d'un contrat de sous-traitance s'exerçant dans une forêt domaniale...sans préjudice des dommages et intérêts des bois exploités ... »*]. The assessment of illegally extracted wood is indispensable in determining the amount of damages and interest due to the State. Article 159 of law No.94-01 of 20th January 1994 indeed provides that "damages and interest relating to wood which has been

extracted fraudulently are calculated on the basis of the market rate in force for the species concerned" [« *les dommages et intérêts relatifs aux bois exploitées de façon frauduleuse sont calculés sur base de l'application de la valeur mercuriale entière en vigueur sur le essences concernées* »].

- The Independent Observer, then, cannot confirm **the existence of three proceedings mentioned in the UCC report** as having been set up to establish forestry infringements of forest exploitation by SFH. Nor had SFH any knowledge of these proceedings, which furthermore are not in the appendices of the UCC mission report. Among other mentions of proceedings, however, article 135 of the order of 23rd August 1995 demands the signature and declarations of the offender.

4-3- The case of the ALPICAM UFA 10 026

a) Summary of conclusions of the UCC report:

UFA 10 026 is allocated to the ALPICAM company which currently exploits *assiette de coupe* No. 02 there.

The UCC mission set up proceedings under the terms of which ALPICAM had committed two forestry infringements, namely, on the one hand, unauthorised exploitation of *assiette de coupe* No. 01 following the opening of a road. On the other hand ALPICAM exploited protected species at the heart of *assiette de coupe* No. 02.

Finally, the proceedings set up by the UCC show that ALPICAM is guilty of infringements covered by articles 45, 46 and 47 of law 94-01 of 23rd January 1994.

b) Confirmation of the UCC report:

The Independent Observer cannot confirm any of the conclusions of the UCC report in relation to ALPICAM.

c) Negation of the UCC report:

The Independent Observer concluded that neither of the infringements of which ALPICAM is accused by the UCC inspection mission are proved.

In relation to the first infringement, after investigating the facts the Independent Observer concluded that ALPICAM had not carried out illegal forestry exploitation following the opening of the road across *assiette de coupe* No. 01 of UFA 10 026. ALPICAM had received prior authorisation for a road in right and proper order before the start of extraction activities, as confirmed in appendix 3 of this report.

The dates on logs which litter the said road confirm the preceding assertion.

As regards the second infringement of which ALPICAM is charged by the UCC report, it appears from the investigations of the Independent Observer that the species 'Assamela' and 'Sapelli' mentioned by the said proceedings as being protected appear amongst those woods which may be legally felled by ALPICAM, as shown by the

'*Certificat d'Assiette annuelle de coupe*' valid for 2001-2002. (see appendix 4 of this report).

Finally, contrary to the rules of the proceedings the UCC instigated against ALPICAM, articles 45, 46 and 47 of the 1994 law do not deal with cases of unauthorised forestry extraction, let alone infringements of the felling of protected species. On the contrary, articles 45, 46 and 47 of law 94-01 of 20th January 1994 deal respectively with the *vente de coupe*, the *convention d'exploitation*, and the forestry concession.

d) *New facts established by the Independent Observer:*

The Independent Observer has no new evidence in the case of ALPICAM.

4-4- The case of CFC's UFAs 10-001, 10-002, 10-003 and 10-004

a) *Summary of conclusions of the UCC report:*

UFAs 10-001, 10-002, 10-003 and 10-004, which all belong to the CFC company, make up one of dozens of works visited by the UCC mission, but no infringements were established in any of them. That part of the UCC report relating to the Eastern province indicates: "a total of nineteen works were inspected... only cases where irregularities occurred (six cases in all) are examined in this report" [*« ... un total de 19 chantiers ont été contrôlés...seuls les cas d'irrégularités relevées (6 cas au total) sont développés dans ce présent rapport »*].

b) *Confirmation of the UCC report:* Not relevant because the case was not mentioned in the UCC report.

c) *Negation of the UCC report:* Not relevant because the case was not mentioned in the UCC report.

d) *New facts established by the Independent Observer:*

The investigatory mission went to *Assiette de coupe* 23 in the CFC concession comprising UFAs 10-001, 10-002, 10-003 and 10-004. The GPS points surveyed showed a 160-metre **overstepping of the limit** east of this *assiette de coupe*, as shown on the map below. *Assiette de coupe* 23 was the one being worked at the time of the UCC inspection mission took place.

The Independent Observer had furthermore established a number of unloading tracks which overshoot the last GPS point taken 160 metres beyond the limit of *assiette de coupe* 23.

MAPXXXX

On the assumption that the UCC took 160 metres as exceeding the tolerable bounds of the limits, CFC could come under the remit of criminal, civile and administrative penalties.

In criminal terms, CFC could fall under the remit of article 158 of the law of 20th January 1994 which stipulates a fine of between 3,000,000 and 10,000,000 and/or a prison term of one to three years.

In civil terms, CFC could, on the basis of articles 158 and 159 of the law of 20th January 1994, be condemned to pay the victim of the fraudulent exploitation, that is the Cameroon State, damages and interest calculated on the basis of the entire market rate in force for the species concerned.

On the administrative front, CFC incurs penalties stipulated under articles 65 of the law of 20th January 1994 and 130 to 133 of the order of 23rd August 1995. This involves either the suspension, or, in cases of recurrence, the withdrawal of the *titre d'exploitation* or, should the occasion arise, of the facility of the offender.

5. CONCLUSIONS AND RECOMMENDATIONS

Legislation in force in Cameroon lays down two safeguards for forestry inspection. The first turns on the verification of *titres d'exploitation* and the second on the exploitation itself.

The general conclusion of the Independent Observer is that the UCC mission concentrated its inspection efforts on verifying *titres d'exploitation* to the detriment of consistent inspection of exploitation activities. Of the six infringements established by the UCC, five relate to cases where the requisite formalities were not respected.

Given the preceding and taking account of the fact of the absence of proceedings to establish infringements in the majority of the cases, the Independent Observer recommends:

- That SFH be invited to show proof of the personal arrangement between its Head of Works and SFIW.
- A summons to SFH, SFIW, SFDB, the *Ingénierie Forestière*, CFC and SCTB to be charged in relation to the evidence established against them by the UCC mission. The appropriate penalties should be applied to SFH, SFDB, the *Ingénierie Forestière*, and CFC.
- A team to go to the field in order to assess the value of wood illegally felled by SFH in the heart of UFAs 10 029 and 10 020.
- A joint inspection mission by the UCC, with support from the Independent Observer, to be sent to the Eastern province with a view to making a more meticulous inspection.
- An investigatory mission by the Independent Observer to be sent to the central province.
- An instruction to the UCC team led by Mr. Bekollo to produce copies of the proceedings to which it referred in the case of SFH.