Report of the workshop on the establishment of a multi-stakeholder consultation framework in the Ogooué-Ivindo province for the effective implementation of Article 251 of the Gabonese Forestry Code

Rapport de l'atelier sur la mise en place d'un cadre de concertation multi acteurs, dans la province de l'Ogooué-Ivindo, pour une application effective de l'article 251 du Code Forestier Gabonais

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Report of the workshop on establishing a multi-stakeholder consultation framework in the Ogooué-Ivindo province for the effective implementation of Article 251 of the Gabonese Forest Code Authors: Djinang Martial (Environmental Lawyer, Project Manager) and Ntsame Ollomo Grâce Elodie (Community Lawyer, Brainforest Makokou) Collaboration: Mr. Menie Ngoua Justin, Provincial Director of Water and Forests, Ogooué-Ivindo) © April 2014

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Report of the workshop on establishing a multi-stakeholder consultation framework in the Ogooué-Ivindo province for the effective implementation of Article 251 of the Gabonese Forest Code Acronyms and Abbreviations WCTS: Wanchman timber Sarl CF: Forest Code DPEF: Provincial Directorate of Water and Forests RFUK: Rainforest Foundation United Kingdom WWF: World Wildlife Fund WCS: Wildlife Conservation Society TBNI: Transport Bois et Négoce International Xwbs: Xinwang bois Sarl

First part: Generalities 7 First part : Generalities I - Introduction The notion of the right to share benefits from the exploitation of natural resources appears in several international texts such as the Convention on Biological Diversity (CBD), ratified by the Gabonese Republic on May 13, 2011. Gabon is indeed the very first country of the Convention on Biological Diversity to have ratified the Nagoya Protocol on “Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization” (ABS). To take this principle into account at the internal level, the Gabonese legislator, in drafting law n°016/01 on the Gabonese forest code, provided in Article 251 the following: “To promote the social aspect of sustainable management policy, a contribution, notably financial, is established, funded by the holders of these concessions to support the collective interest development actions initiated by the said communities. The nature and level of this contribution are defined by the contractual specifications related to each concession. The management of this contribution is left to the discretion of the representative assemblies of the concerned communities.” Upon analysis, the wording of this provision does not facilitate its application. Indeed, in this article, the entire responsibility is a priori left to the forest operators regarding the definition of the nature and level of contribution to be paid to the communities, based on a contractual specifications document. The consultation and participation of the communities for the development and validation of this specifications document are not mentioned. This gives operators a dual status of judge and party. Similarly, beyond the obligation for communities to organize themselves into a representative assembly, no other measures are provided in terms of modalities for the return and management of this contribution. Furthermore, the concept of a representative assembly is a good thing in itself but requires more clarification on how this assembly should be constituted, whether based on governance modes that may vary from one community to another, whether the community should adopt a legal status of association to carry out this negotiation so that it is framed by the law governing associations in the Gabonese Republic? This article remains silent on these questions. Nevertheless, the aspects of representativeness and traditional governance must necessarily be taken into account in this process. Also among its shortcomings, it is noted that issues of deadlines and payment/funding deadlines do not appear anywhere. Likewise, there is a lack of control and sanction mechanisms for possible recalcitrants to the application of this provision. Despite the observed weaknesses, this article has the merit of materializing the issue of sharing benefits from natural resources in the forestry sector. And as a binding provision, it should be subject to application by the main stakeholders. Unfortunately, the current practice, particularly in the Ogooué-Ivindo province and in other forest areas in general, suggests that few forest operators comply, especially when the local administration is not vigilant or when their forest permit is not subject to certification, this process obliging them to develop social measures in favor of the communities. It is against this backdrop and especially due to the stakes related to the participation of local communities in the management of natural resources in Gabon, and following the national workshop organized last February on this theme, in partnership with the Ministry of Forests, Environment and Protection of Natural Resources, that the Provincial Directorate of Water and Forests of Ogooué-Ivindo, and Brainforest organized on April 15, 2014, a meeting on the implementation of a multi-stakeholder consultation framework for an analysis of the situation of community rights in the context of benefit sharing and an evaluation of the effective application of Article 251 of the Forest Code in the Ogooué-Ivindo Province. The objective was not only to inform about the content and stakes of this article but also to analyze the state of its application and especially to propose recommendations to remedy the shortcomings observed in this area at the local level. It is important to specify here that this meeting was part of the project “Capacity Building for the Respect and Promotion of the Rights of Forest Communities” implemented in Gabon for over 2 years by Brainforest with the technical

support of RFUK funded by DFID (Department for International Development United Kingdom). This meeting, which took place in the multipurpose room of the Town Hall of the 1st arrondissement, saw the participation of various stakeholders concerned with this issue, namely decentralized and deconcentrated local administrations, economic operators, civil society, and local communities. In the end, the consultation conducted by these different actors allowed for a diagnosis based on which recommendations were formulated:

First part: Generalities 9 Diagnosis: • The low implementation to date of this article in the Ogooué-Ivindo province for various reasons (inherent difficulties in the wording of Article 251, lack of knowledge of the law, bad faith of certain forest operators, absence of community organization, bad faith of communities, absence of an official model of contractual specifications); Recommendations: • The necessity to raise awareness among communities about the content of this article and the obligation to organize themselves into a legally recognized association that values, when the community expresses the wish, respect for their mode of representation and governance, in order to benefit from it; • The necessity to raise awareness among communities about their rights but also their duties in relation to Article 251; • The necessity to establish a local contract model between forest operators and neighboring communities pending the official adoption of the Contractual Specifications Document at the national level by the Ministry in charge of forestry issues; • The necessity for forest operators to improve their social policies by prioritizing the application of this article in the context of their activities; • The necessity to finance only collective interest projects (as specified in the article) and not individual or occasional activities for the benefit of isolated members of the concerned communities; • The necessity to set up a multi-stakeholder monitoring committee to facilitate the continuation of the process following this meeting; Regarding the monitoring committee, it was decided that it would include the following members: a representative of the local administration, a representative of the technical administration through the Provincial Directorate of Water and Forests, a representative of economic operators, a representative of the communities, and a representative of civil society. II - Objectives A- Overall Objective The overall objective of this meeting was to establish a multi-stakeholder dialogue and sustainable consultation framework that facilitates the effective implementation of Article 251 by forest operators in the city of Makokou, for the benefit of the neighboring communities of their concessions and forest permits, while ensuring the consultation and participation of local communities in decision-making and forest governance. B - Specific Objectives This multi-stakeholder consultation aimed to achieve the following specific objectives: To conduct an analysis and presentation of Article 251 of the forest code:

Report of the workshop on the establishment of a multi-stakeholder consultation framework in the province of Ogooué-Ivindo for the effective implementation of Article 251 of the Gabonese Forest Code: issues, content, planned approach, and general situation regarding the application of this article in Ogooué-Ivindo; Present the approach initiated at the national level to facilitate the application of this Article 251; Facilitate the participation of local communities alongside other stakeholders to identify solutions for the effective implementation of this article; Define a local approach or methodology for the efficient application of this provision; Establish a Monitoring Committee responsible for ensuring the implementation of the recommendations arising from this meeting; Present the Brainforest project through which this meeting was co-organized with the Provincial Directorate of Water and Forests of Ogooué-Ivindo. III- Methodology The participatory approach was favored as it leads to concerted and thus more

sustainable solutions in their implementation. Indeed, this meeting had the merit of bringing together actors from various sectors, all concerned with the issue of benefits arising from logging in the province of Ogooué-Ivindo. Based on this, representatives from decentralized and deconcentrated administration (Municipality, Departmental Council, Provincial Directorate of Water and Forests, Governorate), civil society (Brainforest, WWF, WCS, Conservation Justice, DACEFI Project), forestry companies (OLAM, SUNRY, TBNI, XINWANGBS), local communities from logging concessions (Tsenkellé, Iyoko-Ngota, Boubemda, Mbess, Ebyeng, Lascierie), and traditional leaders were involved in this reflection. During this consultation, participants were given the opportunity not only to contribute based on shared experiences but also to propose solutions for the effective application of Article 251 of the Forest Code in this province. Beyond this exchange approach, emphasis was also placed on educating stakeholders about the contours of this legal provision and the limitations that characterize it. Subsequently, the question-and-answer session and consideration of different viewpoints allowed for the gathering of final recommendations that are recorded in this report. Their implementation will be monitored by the ad hoc Committee established at the end of the proceedings.

Second part: Workshop proceedings 11 Second part: Workshop proceedings The consultation framework held in Makokou on April 15, 2014, revolved around two main axes: an introductory phase and a phase of presentations and exchanges that ultimately led to the formulation of several recommendations. I- Introductory phase A - Opening speech by the Secretary General of the Province (By Mr. GANDZIA Valentin, Secretary General of the Province) The consultation framework for the effective application of Article 251 in the province of Ogooué-Ivindo began with an opening ceremony marked by the speech of Mr. Gandzia Valentin, Secretary General of the Province. Beyond the usual courtesy and politeness formulas, the following points were particularly noted from this speech: The important role assigned to communities in forest management by Law 16/01 of December 31, 2001, on the forest code in the Gabonese Republic, to ensure their survival and effectively combat poverty in rural areas, including the right to share the benefits from logging as provided by Article 251; The interest shown by His Excellency Mr. President of the Republic, Head of State Ali Bongo Ondimba, in the situation of rural communities in general and their involvement in the management of natural resources in particular, within the framework of the social policy established through his societal program called "Gabon Emergent Strategic Plan." He noted that the objectives of the workshop align with this policy;

Report of the workshop on the establishment of a multi-stakeholder consultation framework in the province of Ogooué-Ivindo for the effective implementation of Article 251 of the Gabonese Forest Code Despite the attempts at implementation observed among some economic operators, the general observation is the ineffectiveness of this article in the province for several reasons: its current formulation and lack of awareness, as well as the absence of a Contractual Terms of Reference to facilitate its application; The purpose of the meeting is to exchange ideas to formulate concerted and concrete proposals for a more effective future application of this article in the province, in order to achieve the associated objectives, namely: to combat poverty in rural areas. B - Presentation of the different participants To allow participants to get to know each other and especially to facilitate the many upcoming exchanges, it was proposed that everyone state their identity. The entire assembly participated in this exercise. This exercise allowed for the observation of the presence and representation of all categories of actors. Despite this, the majority of participants lamented the absence of two economic operators

(WCTS and Peng Xin) who, although invited, were notably absent. This point appears to be the main weakness of this meeting. Indeed, the dynamic initiated regarding the implementation of this article can only bear fruit if all concerned actors genuinely commit to it. This absence was perceived by community representatives as a lack of willingness on their part to comply with this article. Hence their call to the authorities to ensure that all operators respect this legal provision in the future.

Second part: Workshop proceedings 13 II. Presentation and Exchange Phase A. Presentation of Article 251 of the forest code: issues, content, planned approach, and general situation regarding its application in Ogooué-Ivindo (By Mr. Justin MENIE NGOUA, Provincial Director of Water and Forests of Ogooué-Ivindo) In his presentation, the Provincial Director adopted the following outline: Introduction, Content of the Article, Planned Approach, Issues, Situation of the application of the article in the province, and Conclusion. In this section, beyond the weaknesses related to the content of this provision, it should be noted that it was established to promote social aspects among local communities. Regarding the current situation concerning the application of this article, the speaker regretted that out of the 6 companies present in the city, only one economic operator is trying, albeit with difficulty, to comply. He specifically mentioned the company Olam, which has a head start on this point compared to others. This advantage arises from the fact that it has initiated a model agreement that it will sign with the local communities of its permits. The provisional version of this contract has already been submitted for the assessment of the DPEF. Independently of this agreement, some local communities of its permits are already benefiting from this contribution. In light of this, the Director emphasized the mandatory nature of this provision and that it applies to all forestry companies operating throughout the national territory. To this end, he educated everyone about its content and especially about the steps to follow to facilitate its application. In addition to a genuine commitment sought from forestry operators, the Provincial Director stressed the need for communities to adhere to the rules of the game by forming associations. For him, without organized communities, it will be difficult, despite all good intentions, to achieve concrete results. He insisted that beyond the organizational aspect, issues of representation and functioning must also be addressed. Indeed, this entity must not only be representative of the different groups within the community, but its functioning must also rely on a traditional governance model. Regarding the efforts made at the administrative level, he spoke about the preparation and upcoming release by the Ministry of Water and Forests of a Contractual Terms of Reference that will serve as a national reference for the implementation of this article.

Report of the workshop on the establishment of a multi-stakeholder consultation framework in the province of Ogooué-Ivindo for the effective application of Article 251 of the Gabonese Forest Code. Following this presentation and especially based on a question raised regarding the methodology for preparing the Contractual Specifications currently being adopted by the Ministry, the floor was given to Mr. Djinang Martial (Project Lawyer, Brainforest) to provide clarifications. To reassure everyone, this speaker will elaborate on the context and framework in which the concerned document was prepared. He will refer to the various discussions that were held in concert with the concerned parties (Administration, Communities, Civil Society, and economic operators) to arrive at a document that takes into account the interests of all. Beyond the workshop held on February 5 and 6 on the rights of communities in the forestry sector in Gabon, which served as a framework to deepen reflections on the final content of this Contractual Specifications, the audience was informed of several other working sessions with the

Ministry on this issue. It thus appears from this brief presentation that the document that will emerge is the result of a collective reflection that involved the participation of the relevant categories of actors and which should, in principle, take into account their various interests. This clarification has indeed reassured some participants who were concerned about the effective involvement of communities in this process. However, it is important to specify that the consultation of communities in such a process should be broadened in the future and go beyond formal meetings in Libreville. Following his presentation, the Provincial Director had to answer the following questions: - Why are not all the forest operators in the area present? Here, the DPEF expressed his surprise, just like the audience, at the absence of certain forestry companies that are not in compliance with legal obligations and do not contribute in any way to the application of Article 215 of the Forest Code. He reassured the audience by providing information that invitations had been prepared and sent to all these companies through the services for which he is responsible. - What will the administration do in case of reluctance from forest operators to implement the future Contractual Specifications? In response to this question, the DPEF stated that no one is above the law and that all operators must comply. However, he mentioned that a necessary time will be taken for awareness-raising, after which the repressive phase will follow for the recalcitrant. - Will the rate of 800 FCFA for all species, on the basis of which the fee will be calculated and which is provided for in the Contractual Specifications currently being finalized, not lead to a loss for the communities knowing that the cubic meter of certain species is worth significantly more? In this regard, would it not have been easier to opt for a rate that varies according to the species? The DPEF emphasized that it is precisely to avoid imbalances that the law frames the implementation of Article 251 by proposing a fixed rate that ranges between 500 and 1,000 FCFA. It was also specified that because this point did not reach a consensus during the national workshop in Libreville on the rights of communities in the forestry sector, the administration of Water and Forests was given the opportunity to decide. This it did by retaining the amount of 800 FCFA per cubic meter, for all species, per wood cut. This appears as a compromise solution, especially with the calculation base being the volume of wood cut and not marketed. The administration aimed to adopt a rate that, while satisfying the communities, would avoid suffocating the operators given the existing charges. - When is the official adoption of this Contractual Specifications planned? In response to this question, it was stated that all efforts are being made at the central level for its imminent release. However, due to the internal validation process of this document, he encouraged everyone to be patient. - Is it possible to provide us with the provisional model of the Contractual Specifications in your possession? To this question, the Provincial Director responded negatively. For him, indeed, the responsibility to circulate this document lies with the central administration of Water and Forests, which must necessarily do so once it is finalized and officially adopted. He also specified that his refusal was guided by caution as he did not know the changes that the final version might incorporate. B. Presentation of the project lawyer and the mechanisms initiated at the local and national level in collaboration with the Ministry of Water and Forests and Civil Society to facilitate the implementation of Article 251 of the Forest Code (By Miss NTSAME OLLOMO Grâce Elodie, Community Lawyer, Brainforest, Makokou) For Miss Ntsame Ollomo Grâce Elodie (Lawyer, Brainforest Makokou), the purpose here was not to present the project, but rather to highlight the actions that have been carried out through it, in order to contribute to the implementation of this article of the Forest Code in the province of Ogooué-Ivindo. However, to achieve this, it was necessary to observe a prerequisite, namely to talk about the Community Lawyers project. Regarding the presentation of the project "Capacity building for the respect and promotion of the rights of forest communities," it was stated in terms of context that it was born following the following observations: The existence of several rights and benefits for communities in forestry legislation, the lack of awareness of the existence of these rights by the communities themselves and the procedures to follow to access them, the

shortcomings observed in forestry legislation, the low specialization of lawyers in natural resource law, and the low number of lawyers providing permanent support to local and indigenous communities to promote their various rights. Continuing her remarks, the lawyer outlined the project's objectives, which are to strengthen forest communities on the one hand in their capacity to master their forest and wildlife rights and on the other hand, to support them in their capacity to dialogue with public and private actors operating in their environment, to promote development and combat poverty. Beyond these objectives directly related to local and indigenous communities, the lawyer clarified that the project also works to produce contributions, analyses, and publications aimed at improving forestry laws and facilitating their application. As for the geographical location of the activities and the operating mode, it was stated that the 3 lawyers of the project are based in the cities of Makokou, Minvoul, and Fougamou (Ikobey) and provide legal and organizational support to a total of 35 local and indigenous communities bordering forest concessions and protected areas. It was also specified that, for efficiency reasons, the project works both at the local and national levels with other actors (central administrations, local administrations, technical services, economic operators, civil society) as well as local communities. It was also mentioned that to facilitate capacity building and activities on the ground, the lawyers are supported in their tasks by about thirty community relays/para-lawyers whose capacities are regularly strengthened by the project. As concrete actions developed within the framework of the project, the following points were presented: - the capacity building of lawyers throughout the project; - the capacity building of para-lawyers/community relays; - support for communities in the development of strategic community action plans for better promotion of their forest and civil rights; - support for communities in the knowledge and use of their forest and civil rights; - support for communities in accessing and using the benefits derived from forestry exploitation and the valorization of protected areas; - support for indigenous populations in terms of access to citizenship: information on the importance and procedure for establishing a birth certificate, support to have it established; - organizational support for communities in their structuring into associations to better promote their rights (access and management) in relation to Article 251 of the Forest Code; - the production of publications on the experiences developed by the project in relation to the promotion of the rights of local and indigenous communities; - work at the national level in partnership with other civil society organizations and the ministry regarding the reform of forestry law and the application of Article 251 of the Forest Code on benefit sharing. In terms of progress in the implementation of this project, the lawyer presented the following results: - 3 Community Lawyers have been trained and provide legal and organizational support to communities in their area of location; - 30 community relays and para-lawyers have been trained on their forest, civil rights, and the procedures to value them; and participate in the implementation of the

Second part: Workshop proceedings 17 project; • 4 associations have been established in the villages of Iyoko-Ngota, Messeb, Bombenda and Batouala. To date, only the one in Iyoko-Ngota is actually functioning and works towards benefiting its community from the profits derived from forest exploitation; • 32 indigenous children (Baka) have been assisted in the procedures for birth registration and the establishment of their birth certificates; • As part of the implementation of Article 251 of the Forestry Code and thanks to the support of the project and the involvement of the Provincial Directorate of Water and Forests of Ogooué-Ivindo, the community of Iyoko-Ngota has begun to perceive some benefits from WCTS, in terms of provision of equipment for an agricultural project. • The production of a publication that presents the support provided to the Bakas of Minvoul to help them access citizenship. This publication also addresses the challenges related to this access to citizenship and proposes solutions to remedy them; • 7 community strategic action plans are being finalized in the three

project areas. These plans outline the main rights of the communities, the challenges related to their access, and the steps to be taken to access them effectively; • More than 500 members from 35 communities have been trained on some forest rights (Article 251 of the CF, customary and economic usage rights, legitimate defense, administrative hunting, community forests, compensation for crop destruction) and civil rights (importance and procedure for establishing birth certificates) and know the procedures to follow to enjoy them. In the context of this training, emphasis was also placed on the penalties provided for those who violate the law. • Work has been conducted at the national level and has contributed alongside other actors to the organization of a national workshop on community rights in the forestry sector, to the preparation of the model of Contractual Specifications that will facilitate the application of Article 251, and to the ongoing formulation of civil society recommendations regarding the reform of the Gabonese Forestry Code. To conclude this chapter, the Lawyer will report to the assembly on the difficulties generally encountered by the project. These difficulties are summarized in the accessibility of certain remote villages but also in the communication challenges with community members who do not speak French. It will be noted here that this last obstacle is overcome thanks to the involvement of paralegals and community relays who ensure the translation of exchanges into local languages and vice versa. Throughout this presentation, it has clearly emerged that this project works at both the local and national levels to contribute to the effective implementation of Article 251 of the law 016/01 on the Forestry Code in the Gabonese Republic. The local work concerns the legal and organizational support provided to communities to form associations and present projects of collective interest to forest operators. This work also involves facilitating exchanges with forest operators and supporting the holding of workshops like the one in which this

Report of the workshop on establishing a multi-stakeholder consultation framework in the province of Ogooué-Ivindo for the effective application of Article 251 of the Gabonese Forestry Code18 report is produced. At the national level, the project has also participated alongside other actors (Administration, Civil Society, Communities, and Forest Operators) in various exchanges that have led to the production of the model of Contractual Specifications currently being finalized through the Legal Support Group established by the English NGO ClientEarth. For these different levels of contribution, it was also recalled that the work was carried out in synergy with partners. A - Presentation of the experience of the Iyoko-Ngota Community in relation to Article 251 of the Forestry Code (By Mr. NGOKOUE Fabrice, member of the Iyoko-Ngota association) Through this presentation, the representative of this community aimed to share their experience in relation to the main issue on the agenda. In his introductory remarks, he emphasized "the need for communities to be informed of their different rights and the steps to follow to enjoy them." For him, indeed, without prior knowledge, they will continue to remain in a state of total ignorance. It was after this statement that he sought to encourage Brainforest and all other organizations, like it, that work to support communities for better access to natural resources and the benefits derived from them. Regarding their actual experience, he mentioned the approach that was undertaken with Brainforest as part of the Project: "Capacity Building for the Respect and Promotion of the Rights of Forest Communities." For him, it is indeed through this project that his community was informed of the existence of this provision 251 of the CF and the obligation to form an association to benefit from it. It is also in this context that support was provided for the creation and functioning of their association, in identifying and developing projects of collective interest, and in submitting these to the forest operator WCTS. He also highlighted that the involvement of the supervisory authority, the Provincial Directorate of Water and Forests, was decisive in the negotiation phase with the forest operator for the financing of

the submitted collective interest projects.

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Second part: Workshop proceedings 19 In appreciation of the approach initiated in this context, the representative of the Iyoko-Ngota community will especially regret the delays of the forest operator in respecting the commitments made. He will say that to date, his community has only received a minimal contribution in agricultural equipment, with the most important projects not yet being financed despite the long waiting period. This is why Mr. Ngokoué will conclude his presentation by making a passionate appeal to all provincial authorities to intervene to resolve this ongoing problem that is not conducive to facilitating coexistence with the forest operator in question. In the follow-up discussions, Mr. Ngokoué returned to the mobilization of the DPEF in the initial steps taken with the economic operator, specifying that it was thanks to this that the community was able to benefit from the donation of equipment from WCTS. The Provincial Director of Water and Forests was also saddened to learn that the situation between this community and the economic operator in question had not improved despite the good foundations laid following a quadripartite meeting (DPEF, Brainforest, WCTS, and the Association representing the Iyoko-Ngota community). As encouragement to the present communities, Mr. Ngokoué emphasized the need to be united and to speak with one voice despite the lack of associative culture in the area. He also shared all the obstacles encountered within their community when it came to initiating the process of creating an association. However, he pointed out that other members would not hesitate to join the process as soon as they grasped its importance. In the section of exchanges that followed this presentation, the representative of WCS mentioned that the absence of sanctions against forest operators resistant to the implementation of Article 251 was a considerable obstacle to communities obtaining forest royalties. He encouraged the authorities to explore the avenue of sanctions as part of this new start being taken in the province. Still in the context of the exchanges, participants reiterated the need to manage the issue of forest royalties on a common basis, with the foundation being the pursuit of collective interest rather than individual interests. This individualistic practice has shown its limits. A representative of a forestry company condemned the dishonest attitude of certain communities who, despite having benefited from donations and other actions in this context, refuse to acknowledge it. The behavior of members of a community, who immediately sold the sheets received in the context of the application of this article, was also criticized. In light of this type of behavior, it was unanimously recognized that awareness-raising should also concern both communities and forest operators in the area.

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Report of the workshop on establishing a multi-stakeholder consultation framework in the province of Ogooué-Ivindo for the effective application of Article 251 of the Gabonese Forestry Code20 III. Main Recommendations and Conclusion A - Main recommendations At this stage of the meeting, it was a matter of proposing immediate solutions while waiting for the validation and release of the model of contractual specifications by the ministry in charge of forestry issues. Based on the contributions of members to this consultation framework, the following recommendations were made: Immediate application recommendations: 1. Increase awareness among communities to facilitate the establishment of associations; 2. Increase awareness among forest operators and their collaborators so that they can comply with Article 251 of the Forestry Code; 3. Encourage and support the establishment of community associations; 4. Assist communities in formulating collective interest projects to be submitted to forest operators; 5. Establish a local/transitional contractual specifications document applicable to all forest operators in the province while waiting for the adoption of a national model;

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Second part: Workshop proceedings 21 Recommendations for subsequent application, following the adoption of a national contractual specifications model, by the ministry: 1. Encourage communities to understand the methods of calculating the volumes of wood harvested by loggers in order to better control the amounts that will be returned to them to fund local development; 2. Identify representatives of community associations to work with the logging company and the DPEF to know the production volumes; 3. Involve communities in monitoring illegal logging and reporting; 4. Delimit production areas in village territories through mapping to determine their potential; 5. Facilitate knowledge and ownership of the future contractual specifications; 6. Promote regular monitoring and the use of sanctions for logging operators resistant to complying with the provisions of the CF and the upcoming contractual specifications. At the end of the discussions, it was proposed to establish a monitoring committee that would ensure the implementation of all the recommendations made at the local level. Unanimously, the present members wished for this committee to be representative and thus constituted as follows: a representative from the territorial administration, a representative from the local Water and Forests administration, a representative from the concerned communities, a representative from civil society, and a representative from logging operators in the province. B - Conclusion Despite the absence of some logging operators, it should be noted that this consultation saw the participation of all categories of actors whose involvement is necessary to promote the application of this social provision in favor of the communities living near the logging concessions in Ogooué-Ivindo. The atmosphere of consultation and especially the participatory aspect allowed for an objective assessment of the implementation of this article 251 in this province. At the end of this, it appears that a synergy and better involvement of the concerned parties is necessary to reverse the current trend where very few logging companies comply with this legal requirement. The consultation framework that has been established is a source of hope in that, beyond the diagnosis made, some recommendations have been formulated to effectively contribute to a good application of this article both before and after the adoption of an official model of contractual specifications by the Ministry. It is on this note of hope, and especially with an invitation for each category of actors to play their part, that Mr. the Provincial Secretary General will address the audience in these terms in his closing speech: "... It is now up to all of us, each according to our role, to ensure its application".

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Report of the workshop on the establishment of a multi-stakeholder consultation framework in the province of Ogooué-Ivindo for the effective application of article 251 of the Gabonese Forest Code22 Annexes Annex 1: Terms of Reference and Program Terms of reference for contributing to the establishment of a multi-stakeholder consultation framework, in the province of Ogooué-Ivindo, for the effective application of article 251 of the Gabonese forest code. I. Context The notion of the right to share the benefits derived from the exploitation of natural resources appears in several international texts such as the Convention on Biological Diversity (CBD), ratified by the Gabonese Republic on May 13, 2011. Gabon is indeed the very first country of the Convention on biological diversity that ratified the Nagoya Protocol on "Access to genetic resources and the fair and equitable sharing of benefits arising from their utilization" (ABS). To take this principle into account at the internal level, the Gabonese legislator in its drafting of law n°016/01 on the Gabonese forest code provided the following in article 251: "To promote the social aspect of sustainable management policy, a contribution is established, notably financial, funded by the holders of these concessions to support the collective interest development actions initiated by said communities. The nature and level of this contribution are defined by

the contractual specifications related to each concession. The management of this contribution is left to the discretion of the representative assemblies of the concerned communities." As can be seen, the current content of this provision does not facilitate its application. Indeed, in this article, it is left entirely to the logging operator to define the nature and level of contribution to be returned to the communities in a contractual specifications. This gives them a dual status of judge and party. Similarly, aside from the obligation for

Annexes 23 communities to organize themselves into a representative assembly, no other measures are provided on the modalities of retrocession and management of this contribution. Also among its shortcomings, it is noted that issues of deadlines and timing of payments/ funding are nowhere to be found. Despite its few weaknesses, this text has the merit of materializing the issue of sharing benefits derived from natural resources, particularly in the forestry sector. And as a binding provision, it must be applied by the main stakeholders. Unfortunately, current practice suggests that few logging operators comply with this provision, especially in the absence of administrative control or when the latter is not certified, the certification requirements obliging them to comply and sometimes to go beyond. The theme of sharing benefits derived from the exploitation of natural resources is an important axis of activities to be implemented within the framework of the "Capacity Building for Respect and Promotion of the Rights of Forest Communities" Project, implemented since October 2011 by the Gabonese NGO Brainforest and the English organization the Rainforest Foundation United Kingdom. It should be noted that this is a project that aims, on the one hand, to strengthen the capacities of local communities on the knowledge of their forest rights and, on the other hand, to support them in efforts to use and value these rights to promote their development and thus fight against poverty. The contribution to the establishment of consultation frameworks is indeed one of the approaches. Within the framework of the Project, actions aimed at facilitating the appropriation of article 251 of the Forest Code and its application for the benefit of forest populations have been developed in the Makokou area with the communities of Iyoko-Ngota, Bombenda, Messeb, and Batouala. These activities have indeed seen some progress thanks to the mobilization and involvement of the Provincial Delegation of Water and Forests of Ogooué-Ivindo. Based on this collaboration and the exchanges that followed, it was decided to extend this approach (with a view to the application of article 251) to the entire city of Makokou with the involvement of all logging operators located in this city. Hence the idea of establishing a sustainable multi-stakeholder consultation framework that will include all actors interested in the application of article 251 and whose purpose will be to effectively facilitate its implementation in a concerted manner and under the control of the administration in charge of Water and Forests, which ensures oversight in this sector. Thus, the present consultation framework is a joint initiative of the Provincial Directorate of Water and Forests of Ogooué-Ivindo and Brainforest, which combine their efforts for the effective implementation of article 251. February 15 has been chosen for the organization of this important meeting, which is also in line with the Forest Code and the Gabon Emergent Strategic Plan developed by the President of the Republic, His Excellency Ali Bongo Ondimba, which promotes participatory management of natural resources based on the consultation and participation of local communities. II. Overall objective The overall objective is to establish a sustainable dialogue and consultation framework that facilitates the effective implementation of article 251 by logging operators in the city of Makokou for the benefit of the communities living near their concessions and forest permits, while ensuring the participation of local communities in forest governance. III. Specific objectives 1. Present the Jurist Project and the objectives attached to it; 2. Analyze and present article 251 of the forest code: stakes, content, planned approach, and general situation

regarding the application of this article in Ogooué- Ivindo; 3. Report the results of the national workshop organized in February 2014 and present the

Report of the workshop on the establishment of a multi-stakeholder consultation framework in the province of Ogooué-Ivindo for the effective implementation of Article 251 of the Gabonese Forest Code. This initiative is being launched at the national level to facilitate the application of this Article 251; 4. Ensure the active participation of communities alongside other stakeholders regarding the sharing of benefits and the application of Article 251; 5. Facilitate consultation among different stakeholders to identify avenues and solutions for the implementation of this Article at the local level; 6. Establish common recommendations and a roadmap for this implementation; 7. Define the responsibilities of each party in the application of the solutions and processes that will be retained; 8. Define a timeline for the implementation of the solutions; 9. Set up a monitoring and evaluation process for the actions developed within this framework. IV. Expected Results 1. The various participants are informed about the stakes, content, and current situation of the Juriste project in Gabon; 2. An analysis and presentation of Article 251 of the forest code are made regarding the stakes, content, planned approach, and general situation concerning the application of this Article in Ogooué-Ivindo; 3. A presentation of the approach initiated at the national level to facilitate the application of Article 251 is made; 4. Some representatives of the affected communities are invited and participate in this consultation framework; 5. Based on exchanges between the different parties, solutions are identified, and recommendations are made for the implementation of this Article; 6. The responsibilities of the parties (Administration, NGOs, Economic Operators, and Local Communities) are defined regarding the application of the solutions and processes that will be retained; 7. A timeline for the implementation of the solutions is developed; 8. A Monitoring Committee for the actions developed within this framework is established. V. Methodology The participatory approach will be favored as it allows for sustainable solutions. Based on this, the opportunity will be given to everyone not only to contribute in terms of sharing experiences but also to propose solutions to follow. Beyond this exchange approach, emphasis will also be placed on educating everyone about the current content of the laws and the weaknesses that characterize them. Taking into account the different points of view will allow for gathering final recommendations to be recorded in a report or a document serving as a framework for local application of the provision while waiting for the national adoption of a model of contractual specifications. The establishment of a monitoring committee will ensure the sustainability of the dynamics developed through this consultation framework. VI. Partners and Participants For the organization of this consultation framework, the Provincial Directorate of Water and Forests of Ogooué-Ivindo and the NGO Brainforest have partnered by providing technical, logistical, and financial support for the success of this event. The participants here are those who are concerned either directly or indirectly by the application of this provision and come from the following categories: Representatives of the territorial administration: Governorate and Prefecture Representatives of the municipal and departmental administration: Town Hall and Departmental Council. Economic operators: WCTS, SUNRY, XWBS, TBNI, OLAM, PENG XIN Representatives of the affected communities: Ebieng, Mbes, Ntsengkele, Bombenda, Scierie, and Iyoko-Ngota. Representatives of NGOs and Development Projects: Brainforest, DACEFI Project, WWF, and WCS.

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Program Time Sessions Speakers Moderator 08H-08H30 Welcome-Registration of participants Session Secretariat Martial Djinang 08H30-8h40 Speech by the Secretary General of the province of Ogooué-Ivindo SG Governorate 8h40-09H20 Presentation of Article 251 of the forest code: stakes, content, planned approach, and general situation regarding the application of this Article in Ogooué-Ivindo DPEF 09H20-09H45 Questions/Answers Participants 09H45-10H15 Presentation of the Juriste project and the mechanisms initiated at the national level in collaboration with the Ministry of Water and Forests and civil society to facilitate the implementation of Article 251 Grace Ntsame Ollomo 10H15-10H45 Questions/Answers Participants 10H45-11H30 Presentation of the experience of the Iyoko-Ngota Community regarding Article 251 of the CF Representative Iyoko-Ngota 11H30-12h Coffee break 12h-14H30 Exchanges: Identification and definition of solutions to facilitate the application of Article 251 and definition of a timeline for implementation with the establishment of different responsibilities Development of common recommendations Participants 14H30-15H30 Establishment of a Monitoring Committee, Definition of its Terms of Reference and the continuation of the process with a timeline Participants 15h30-16h00 Closing remarks by the Secretary General of the Province of Ogooué Ivindo SG-Governorate 16H30-17H30 End of the meeting and Closing Cocktail

Annexes 27 Annex 2: Speech by the Secretary General of the Province Opening Speech Madam President of the Departmental Council of Ivindo; Mr. Mayor of the Municipality of Makokou; Mr. Provincial Director of Water and Forests of the Province of Ogooué-Ivindo; Ladies and gentlemen, Development Partners; Ladies and gentlemen, economic operators; Ladies and gentlemen, representatives of local communities; Dear participants; As the Secretary General of the Province, representing Mr. Governor who is unable to attend, I would like to welcome everyone to this meeting on "The establishment of a multi-stakeholder consultation framework in the province of Ogooué-Ivindo for the effective implementation of Article 251 of the Gabonese Forest Code." While doing so, I would like to express my sincere thanks to the Provincial Delegation of Water and Forests of Ogooué-Ivindo and to the NGO Brainforest whose combined efforts have made this meeting possible. Ladies and gentlemen, Law 16/01 of December 31, 2001, concerning the forest code in the Gabonese Republic, recognizes an important place for communities in forest management. Indeed, this law grants them several rights to ensure their survival and effectively combat poverty in rural areas. One of these rights relates to the sharing of benefits from forest exploitation. In its Article 251, this law has provided provisions aimed at promoting the social aspect of sustainable management policy, through the establishment of a contribution, particularly financial, from holders of forest concessions, to support collective interest development actions for the benefit of the affected communities. Several economic operators have anticipated the application of these provisions, and they should be commended for it. However, the overall observation is that this Article has not yet seen effective application, not only due to its current formulation and lack of awareness but also due to the absence of documents that should facilitate its application. Ladies and gentlemen, This meeting, which aims to be multi-stakeholder (Administration, Communities, Development Partners, and Economic Operators), will allow for a better understanding of the provisions of Article 251, to evaluate its application in the Province of Ogooué-Ivindo, and to propose solutions to ensure better implementation in the future. At the end of this workshop, a monitoring committee for the recommendations also appears as a crucial step for the sustainability of this project. Ladies and gentlemen, If I may remind you, I would say that the situation of rural communities in general and their involvement in the management of natural resources in particular hold a prominent place in the social policy established by His Excellency Mr. President of the Republic, Head of

State Ali Bongo Ondimba, through his societal program called "Gabon Emergent Strategic Plan." And today's work fully fits within this framework.

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Report of the workshop on the establishment of a multi-stakeholder consultation framework in the province of Ogooué-Ivindo for the effective implementation of Article 251 of the Gabonese Forest Code. Ladies and gentlemen, While wishing you great success, I am already convinced that the discussions will be enriching and will thus allow us to achieve the intended objectives. I thank you for your kind attention and declare the present work open. Closing Speech Madam President of the Departmental Council of Ivindo; Mr. Mayor of the Municipality of Makokou; Mr. Provincial Director of Water and Forests of the Province of Ogooué-Ivindo; Ladies and gentlemen, Development Partners; Ladies and gentlemen, economic operators; Ladies and gentlemen, representatives of local communities; Dear participants; Since this morning, we have all gathered in this room to address the issue of the effective application of Article 251 of the Gabonese Forest Code, which provides for benefits from forest exploitation to the riparian communities. As we can see, the work has been quite fruitful as real exchanges of knowledge and experience have taken place not only on what is provided by this Article 251 but also on the measures to be taken for its proper implementation in our province. It is now up to all of us, each according to our role, to ensure its application. Your mobilization and the quality of your contributions despite the limited time testify to your interest in this subject. Allow me to take this opportunity to congratulate you on the work accomplished at the end of this meeting. I would also like to express my sincere thanks to the various presenters who have enlightened us on the agenda items. I cannot conclude these thanks without expressing my gratitude to the Provincial Delegation of Water and Forests of Ogooué-Ivindo, to Brainforest, the Rainforest Foundation United Kingdom, and DFID, thanks to whom this meeting has been made possible. Ladies and gentlemen, Dear Participants, With that, I declare the workshop on the establishment of a multi-stakeholder consultation framework in the province of Ogooué-Ivindo for the effective implementation of Article 251 of the Gabonese Forest Code closed. Thank you.

Annexes 29 Annex 3: Various Presentations 28/05/2014 1 ARTICLE 251 OF THE GABONESE FORESTRY CODE Provincial Directorate of Water and Forests of Ogooué Ivindo April 13, 2014 28/05/2014 2 Plan I/ Introduction II/ Content of the Article III/ Proposed Approach IV/ Issues V/ Situation of the application of the article in the province VI/ Conclusion 28/05/2014 2 Plan I/ Introduction II/ Content of the Article III/ Proposed Approach IV/ Issues V/ Situation of the application of the article in the province VI/ Conclusion 28/05/2014 2 Plan I/ Introduction II/ Content of the Article III/ Proposed Approach IV/ Issues V/ Situation of the application of the article in the province VI/ Conclusion

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Report of the workshop on establishing a multi-stakeholder consultation framework in the province of Ogooué-Ivindo for the effective application of Article 251 of the Gabonese Forestry Code30 28/05/2014 5 III/ Proposed Approach • By the administration: 1. Finalize the drafting framework for the contractual specifications to make Article 251 more operational; 2. Validate the amount of the financial contribution to be paid, which is 800 FCFA/m^3, for all exploited species (Ok/BD); 3. The timeline for project financing will also be defined in the Contractual Specifications Document (CSD). • By the Concessionaires: Less visible, only Olam will finalize the drafting of an agreement for the management of sustainable development funds with the local populations of its concessions, Somivab plans to assist the populations of Biliba in creating associations. 28/05/2014 6 IV/ Issues of Article 251 • Political Fight against poverty and precariousness, contained in the social pact, • Economic Promote job creation and the creation

of added value, namely: The establishment of small agricultural, fishing, and livestock units, examples: Village rubber, Cocoa cultivation or banana plantation, etc., The establishment of small processing units, examples: Artisan sawmill, carpentry, cassava mill, Development of local SMEs by granting them contracts (construction of health huts, schools, village hydraulics, etc.) • Social Settle populations and reduce rural exodus, Improve living conditions and increase local incomes, Make villages dynamic and develop rural housing. 28/05/2014 7 V/ Situation of the application of the article in the province • Very weakly applied, • The companies that are trying to apply this article number five (5) and only apply 10%, namely: • OLAM, ROG, RFM, TBNI, and SOMIVAB. • However, this application is not in accordance with Article 251, as they do not have contractual specifications documents where all contractual clauses linking them to the populations are defined, and it is even noted that there are no representative associations of the villagers; • For the most part, these are ad-hoc actions they undertake that often do not align with the requirements of the article, namely, supporting collective interest development actions initiated by local communities. • In principle, these ad-hoc supports can be requested, but they should not exceed 5% of the budget allocated to the local community (cf. CSD). 28/05/2014 8 VI/ Conclusion • The effective application of Article 251 will undoubtedly improve the living conditions of the populations and increase their incomes, • However, this seems possible if everyone plays their part: The State must therefore finalize the CSD framework within a relatively short time to make Article 251 operational, All operators must comply with the spirit of Article 251 to respond to the social pact policy of the President of the Republic, which is to reduce poverty and precariousness.

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