



global witness

Making the Forest Sector Transparent

Annual Transparency Report

Country: Ghana

Partner: Centre for Indigenous Knowledge and Organisational Development (CIKOD)

Year: 2009

Language: English

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Making the Forest Sector Transparent

Making the Forest Sector Transparent is a four-year programme supporting civil society groups in forest-rich countries to advocate for greater transparency and good governance. An important part of the programme is the production of annual report cards by independent NGO partners to monitor the forest sector in their countries. The number of NGO partners has increased year-on-year, starting in Cameroon, Ghana, Liberia and Peru in 2009, to including Ecuador in 2010 and Guatemala and the Democratic Republic of Congo (DRC) in 2011.

The 2011 Report Card consists of 20 key indicators on important provisions of the legal and regulatory framework that applies to the forest sector governance. The partners collected data between July 2011 and August 2011. Each indicator includes an 'objective' assessment of whether clear provisions exist and information on them is publicly available, resulting in a 'yes', 'partial', or 'no' overall. This is combined with a more 'subjective' assessment of whether there is evidence of change in the last year (where a report card was produced in 2010) and analysis of whether the provision enables transparent access to information and/or decision-making. Data collection was largely carried out through office-based research, for example by searching the websites of government institutions and other official sources of information, supplemented where appropriate by contacting key informants and requesting specific information. The data presented on each indicator is organised as shown in the Table below.

Indicator assessment

Does it exist?	Is it available?	Indicator	
Yes – specific provision in current laws and norms that have been passed by state and applies to the forest sector	Yes – available to public from official sources (websites, publications, media)	Yes	
	Partial – some information provided but not complete (e.g. only parts of manuals)	Partial	
	No – although evidence that exists, it is not available (includes when only unofficial sources)	No	
Partial – process underway to develop it, but not yet established in law; or limited provision or relevance to forest sector	Partial – some information provided but not complete (e.g. only parts of manuals)	Yes	
	Partial – some information provided but not complete (e.g. only parts of manuals)	Partial	
	No – although evidence that exists, it is not available (includes when only unofficial sources)	No	
No – no current provision or plans to establish (even though needed)		No	
Not applicable - not relevant to the country-specific context		N/A	

Specific questions guided the determination of the existence and availability of the provisions for each indicator. In order to receive a 'yes', the provision needed to both exist in the legal and regulatory framework and information needs to be publicly available on it, whereas a 'partial' or 'no' indicator reflected that either one or the other criteria (or both) was partially or not met.

The change in the last year was assessed against the following scale:

-  Significantly Improved - major development such as new law or information system
-  Improved - steps forward such as initiatives with potential to improve transparency
-  No Change - no evidence of major change in the conditions for transparency
-  Worsened - steps backward such as activities taking place without transparent processes
-  Significantly Worsened - major deterioration such as termination of laws or systems

Specific information was provided on the full titles of the applicable laws or other norms, the names of the authorities or institutions responsible for them, the dates when they were passed, and the website or other official sources where they can be accessed.

For further information please go to www.foresttransparency.info.

Is there a Freedom of Information Act?

A Freedom of Information Bill has been just approved by Cabinet (3 Nov. 2009) but is yet to be laid in Parliament. The Cabinet approved document is not yet a public one (even though some CSOs through informal sources have copies). It only becomes public when it is ready to be laid in parliament. The Bill has been in discussion for almost 10 years. It remains to be seen how long it will take for the Bill to be finally be laid in parliament and passed into law. The process required for the bill to be passed into law is an elaborate one. There is actually a Civil Society coalition advocating for the passage of the Bill. The Coalition on the Right to Information, Ghana, spearheaded by the Commonwealth Human Rights Initiative Africa Office and various influential civil society organisations and interest groups. The Coalition comprises a host of different organisations from media rights specialists to religious societies, to legal interest groups.

What other rules provide for transparency?

In addition to any specific freedom of information laws, are there references to transparency in the Constitution, general laws, regulations, decrees etc. that all public institutions must adhere to (the next indicator is specifically about the forest sector)

The Constitution of Ghana guarantees the right to information to all citizens. Article 21 (1) of the constitution states that "all persons shall have the right to information, subject to such qualifications and laws as are necessary in a democratic society."

The Whistleblower Act, 2006 (Act 720) is an important supportive legislation for transparency. This law was passed by Parliament and given assent on 20th October 2006. However, not too long after its passage there have been concerns as to whether the act will be able to provide an adequate environment for an effective whistle blowing. Coupled with this is the fact that whistle blowing is a new concept and there is the need to work with the general populace to understand and take advantage of the opportunity it offers to report cases of impropriety.

Title:	Article 21 (1) of The Constitution of Ghana; Whistleblower Act, 2006 (Act 720).
Date:	1992 Constitution; Whistleblower Act, 2006.
Source:	www.ghanareview.com/Gconst.html Publisher - Assembly Press Copies of the constitution can be obtained in all accredited bookshops in the country as well as the bookshops of the country's universities.
Language:	Versions are underway but not yet completed.
Completeness:	There are concerns as to whether the act will be able to provide an adequate environment for an effective whistle blowing.

Are there any forest sector specific laws / rules / statements that provide for transparency?

Are there any forest-specific written laws and regulations, key announcements or speeches that develop the right to access public information on the sector, for example a Service Charter.

The Forestry Commission New Service Charter provides for customers' right to information from the Forestry Commission. The earlier service charter was also translated into local languages but the current version is only in English.

It is obvious that the current service charter of the Forestry Commission has lost a great deal of the detail that was in the previous charter as a result of the governments' quest to have a uniform charter across the various state enterprises. In the event some of the specific disclosure and reporting requirements included in the previous charter are missing in the new one.

Title: Forestry Commission New Service Charter

Date: 2008

Source: www.fcghana.com/
Tel. +233.21.221315, +233.21.675736
Fax. +233.21.220818

Language: An earlier service charter was also translated into local languages but the current version is only in English.

Completeness: A great deal of the detail that was in the previous charter was lost.

Is there any settlement process for disputes regarding access to information?

Are there clear, documented, and understood steps for resolving conflicts between transparency and confidentiality norms, or where / when authorities fail or refuse to provide information?

If so, is this dispute-settlement process well-advertised, not prohibitively costly and therefore realistically accessible to most people?

Given that there is no freedom of information law yet, no dispute settlement process is available now. The Coalition on Right to Information, in a critique of the draft FOI Bill has indicated that the dispute resolution process as contained in the draft bill, currently is inadequate and requires a more independent arbiter. The Coalition notes that Section 39(2) states that appeals should be addressed to the Minister; negative decisions issued by the offices of the President, Vice President or Cabinet should be able to be appealed to an independent administrative body. The Coalition suggested that the Minister is not the appropriate person to handle the reviews as this will result in him/her being over-burdened. They indicate that the Bill should promote a collaborative approach to making information available. Where there is refusal, there should be an internal procedure for review .

The new FC Service Charter does not give any dispute settlement except to say that "wherever possible we shall place complaint forms and boxes at vantage locations in our offices to facilitate customer feedback".

Do communities have legal standing?

Does any part of the codified law recognise 'a community' as 'a legal person', for example able to hold property titles or sue and be sued?

The definition of a community is not very clear. However, the recognition of the constitution of Ghana guarantees for the basic freedoms of association and allows for different constellations of groupings. Nonetheless the chieftaincy institution, which divides people into traditional councils and traditional areas is guaranteed and allows for the definition of communities along traditional/costmary lines (Act. 270 (1) of the constitution). It is on the basis of this that revenue from forest resources are distributed also along traditional chieftaincy boundaries. Similarly, the districts are also recognized in law as legitimate entities (Act. 240 and 241 of the constitution).

Title: The Constitution of Ghana

Date: 1992

Source: www.ghanareview.com/Gconst.html
Publisher - Assembly Press
Copies of the constitution can be obtained in all accredited bookshops in the country as well as the bookshops of the country's universities.

Language: Versions are underway but not yet completed.

Do NGOs have legal standing?

Does any part of the codified law recognise NGOs as 'a legal person', for example able to hold property titles or sue and be sued?

NGOs are recognized as legitimate organizations to as part of freedom of association guaranteed under the Constitution. NGOs/CBOs are registered with the Registrar General's Department as organizations limited by Guarantee.

Title: The Companies Code, Act 179

Date: 1963

Source: www.rgd.gov.gh/

Is there a national forest policy document? Is it available?

It there an explicit current document described as the national forest policy? If so, has it been used to inform the forest law and other norms (or has it been produced after the forest law)? Is it up-to-date or does it require revisions in the light of REDD, mining, or other threats and opportunities?

Policy framework, as contained in the 1994 Forest and Wildlife Policy, is available and recognizes the right of citizens participation in forest resources management but this is not translated into law.

Title: Ghana Forest and Wildlife Policy

Date: 1994

Source: www.fcghana.com/publications/laws

Is the forest law available?

There is no single forest law but a number of legislation that governs forestry. There is a current review process on-going as part of the VPA implementation aimed at consolidating the laws. The Forestry Commission website contains several of the parent and subsidiary legislation that regulate forestry in Ghana.

Most stakeholders responded yes to whether they were aware of the laws relating to the management and exploitation of forests.

Title: Act 547, Timber Resource Management Act, 1997 (amended by Act 617 2002);
Legislative Instrument 1649, 1998 (amended by LI 1721 (2002));
Timber Resource Management Act, 1998 (amended by Act 617 2002);
Legislative Instrument 1649, 1998 (amended by LI 1721 (2003));
Forest Protection Decree 1974 NRCD 243 As Amended by The Protection Amendment Act 2002, Act 624.

Date: Last amended 2002.

Source: www.fcghana.com/publications/laws

Are all forest regulations, procedures, decrees, etc. available?

Are all lower level norms (regulations, procedures, decrees, technical directives etc) that make the forest laws operative available? (This indicator refers to rules directly related to forest operations. See next indicator for rules related to other operations affecting forests).

If the operative word is ALL, then the response is NO. However, several manuals of procedures have been prepared and available at FC offices and also on the website.

Title: Act 547, Timber Resource Management Act, 1997 (amended by Act 617 2002);
Legislative Instrument 1649, 1998 (amended by LI 1721 (2002));
Timber Resource Management Act, 1998 (amended by Act 617 2002);
Legislative Instrument 1649, 1998 (amended by LI 1721 (2003));
Forest Protection Decree 1974 NRCD 243 As Amended by The Protection Amendment Act 2002, Act 624.

Source: www.fcghana.com/publications/laws

Are forest-related policies, laws, agreements etc public?

Are all other significant regulations, procedures, decrees, technical directives etc. that affect forests available (for example norms related to carbon and REDD; agriculture and biofuels; conservation and national parks; roads, energy and other infrastructure)?

The VPA is in the public domain, but not on a Government of Ghana website.
REDD is still being developed but neither the R-PIN nor the R-PLAN is readily available.
Most community stakeholders and district assemblies expressed their lack of knowledge of the various agreements signed by government. It was interesting that some FC personnel also expressed their lack of knowledge of the processes going on especially with REDD.

Title: Voluntary Partnership Agreement as ratified by Ghana and the EU Parliament 2009

The GNPC Law of 1983 (PNDC Law 64);,
The Petroleum (Exploration and Production) Law of 1984 (PNDC Law 84);,
Petroleum Income Tax Law of 1987 (PNDC Law 188);,
Minerals and Mining Law, 1986;,
PNDCL 153 (Law 153) as amended by the Minerals and Mining Amendment Act 1993;,
Act 475 (Act 475).

Source: http://www.vpa-livelihoods.org/vpa_ghana.aspx
www.ghanamining.org/ghweb/en/geologymining/policy/legislation.html

Has the country signed up to international agreements?

Which forest-related international agreements or processes has the country signed up to? (See www.foresttransparency.info/report-card/downloads/ for the list of agreements monitored.)

Ghana has signed several international agreements related to forestry and biodiversity conservation. A list of the various international agreements and conventions to which Ghana is signatory can be found in various publications including the National Biodiversity Strategy for Ghana (2002) (is this a GoG or donor publications), and World Bank Ghana Country Environmental Analysis (2007).

Title: UN Declaration on the Rights of Indigenous People (UNDRIP);
Kyoto Protocol;
WB Forest Carbon Partnership Facility;
UNREDD Programme;
UN Convention Against Corruption (UNCAC);
Convention on Biological Diversity;
Forest Stewardship Council (working group);
International Labour Organisation (Standards);
CITES;
Convention to Combat Desertification;
Voluntary Partnership Agreement with EU;
Millenium Development Goals.

Source: www.cbd.int/doc/world/gh/gh-nbsap-01-en.pdf; www.wds.worldbank.org; www.un.org/esa/socdev/unpfii/en/declaration.html; <http://maindb.unfccc.int/public/country.pl?group=kyoto>;
www.forestcarbonpartnership.org/fcp/node/203; www.un-redd.org/; www.unodc.org/unodc/en/treaties/CAC/index.html;

www.fsc.org/facts-figures.html; www.ilo.org/dyn/natlex/country_profiles.home?p_lang=en;
www.cites.org/eng/disc/parties/alphabet.shtml; www.unccd.int/php/countryinfo.php?country=CMR;
www.illegal-logging.info/uploads/Falconer0609.pdf; www.mdgmonitor.org/factsheets.cfm

Is there a national forest forum?

Is there any form of government-recognised national level roundtable dialogue which meets regularly (annually or more often) to allow citizens to raise issues of concern with the national forest authorities? If so, what is the status of any discussions or decisions made (are they documented; are they legally binding in any way)?

There is an emerging national forest forum comprising representation of members from various forums at the district level. It is not yet very national in character especially because only a few districts have forest forums (30+ to date) and also because the processes for representation requires streamlining

Title: National Forest Forum

Date: August 2008 and April 2009

Source: There is no website but the National Forest Forum can be contacted through the Forestry Commission who sponsors their meetings.

Timeliness: Their meetings and activities depends largely on availability of funding.

Completeness: There are Regional Forest Forums in all the regions.

Are there local forest forums?

Are there any government-recognised local roundtable dialogue forums which meets regularly (annually or more often) to allow citizens to raise issues of concern with the forest authorities? If so, what is the status of any discussions or decisions made (are they documented; are they legally binding in any way)?

There are at least 35 District Forums facilitated by the Forestry Commission and also by NGOs.

The first one started in 2003 and it was organized by Forestry Commission. CARE International through its FOREST Project in the Western Region organized 6 in 2004. Forest Watch Ghana organized 17 between 2005-2006. DFF and Tropenbos and others have also facilitated some forest forums.

Title: District and Regional Forest Forums

Date: 2003 onwards.

Source: Offices of Local NGOs in the forest sector and District Forest Offices.

Language: Discussions are mostly in local languages plus English.

Timeliness: Averagely on time and depends to a large extent on funding.

Completeness: Projects by FWG and Resource Management Support Centres ensure that the Forest Forums cover all forest districts.

Is there an established, government-recognised list of stakeholders?

Is there an official list of individual stakeholders or stakeholder types whom the government is obliged to consult or to share information with?

Forest Watch Ghana led the consultation process on the VPA and developed a list of consultative groups that broadly involved larger civil society beyond CSOs. The process was also facilitated by IUCN. These form the main thrust of the stakeholder consultative group. But the process is not yet formalized and is not embedded in the government and so remains completely informal.

Title: Concessions Act, 1963

Are reports on consultation processes public?

Does government publish the results of any forest-related consultation processes?

No.

Is there a procedure for consultation on new norms?

Are there any documented procedures (in the form of regulations, official guidance notes etc) that lay out the methodology for consultations that should take place regarding new forest-related policies, laws, regulations etc? If so, is it implemented?

There is no established procedure for consultation.

Is there a published policy on forest tenure?

Is there an explicit current document which defines or describes land and forest tenure policy? If so, has it been used to inform the forest law and other norms (or has it been produced after the forest law)? Is it

up-to-date or does it require revisions in the light of REDD, mining, tenure conflicts, or other threats and opportunities?

Responses to this were mixed. The indications in the laws and policies about restriction on access to forest and wildlife reserves were indicated by officials as constituting published information on forest tenure. However, other stakeholders were clear that no published policy exists.

Is there a register of private forestland owners? Is it accessible to the public?

Where private forestland ownership is possible within the Constitution and legal framework, can the ownership of each area of forest be publically accessed?

No. There are attempts at registering the private plantations developed outside forest reserves but these are tree registration and not forest ownership registration.

Is there a difference in law between ownership and use?

Does the law make a clear difference between owners and users of forests / forest products? If so, please explain it.

Yes, in general there is recognition in law of the custodianship of land by traditional authorities (stool chiefs) who hold the land in trust for the people. Those who have usufruct rights to the land are also to a large extent identifiable by a combination of constitutional provisions, common law principles and customary law. However, there is plethora of land laws in Ghana which tend to confuse the issues on land ownership and use. It should be noted though that the concept of ownership of land (and forest land) for that matter in Ghana is quite complicated. Custodianship of land (which is vested in stool chiefs) is gradually being interpreted to mean private ownership and this causing a lot of confusion in several communities.

Title: The Constitution of Ghana
(and approximately 166 other laws)

Date: 1992

Source: www.ghanareview.com/Gconst.html

Is the ownership of different forest products clear?

Is it codified and understood who has rights to timber, minerals, non-timber forest products, wildlife, water, carbon etc? Are all these types of product available to all, or is there some form of differentiation (for example, private forest owners can issue the right to log, but only the state can issue the right to mine; or only the state can issue the right to log, but local communities who own the land can issue the right to collect non-timber forest products).

Yes. There is a clear vestiture by law of timber, wildlife and mineral resources in the President. However, for other products there is less clarity on ownership. During the period of forest reservation, elaborate processes were developed to identify what the rights of communities and land owners were in relation to the forest reserves were and various access rights noted. However, these rights were poorly defined and with time what the right holders can or cannot do have become even fussier. Nonetheless, discretionary power is exercised by the forest authorities at the local level in allocation of forest (especially non-timber) resources.

With the emergence of REDD as an important climate change mitigation measure as well as carbon trading, the ownership carbon has come up for discussion within the Ghanaian civil society, but there is clearly no basis in law currently for who actually owns the carbon in forest areas.

Can you provide examples of forest tenure disputes?

What information can you provide on the extent of disputes over either (i) the right to land, (ii) the right to forest use or products, or (iii) the ways in which these rights are administered?

There are several forest tenure related disputes between the state and communities, communities and timber companies, among timber companies over concessions, etc but perhaps a more classical example of forest tenure dispute is to be found in the disagreement between chiefs in some parts of Western region, where, in the 1970s the military regime converted areas that were considered protected timber land (PTL) into forest reserves. The PTLs were forest lands that were declared protected in the early 1950s with the intention that they would be released for farming once the timber was removed from them. However, a military decree in 1974 declared all those areas as statutory forest reserves. The chiefs of the area, who disagreed with the decision, sold off these lands to migrant farmers for cocoa cultivation. In the event those reserves are currently denuded of any trees apart from them becoming individual cocoa farms. This is in spite of several military/police operation aimed at destroying these farms, some of which have turned violent.

Source: Marfo, E. 2008 Security of tenure reforms and community benefits under collaborative forest management arrangements in Ghana. CIFOR, Accra, Ghana.;
Marfo, E. & H. Schanz (2009) Managing logging compensation payment conflicts in Ghana: Understanding actor-empowerment and implications for policy intervention; http://www.sciencedirect.com/science?_ob

Unique FM News @ 6 am Date: November 20, 2009
Headline: Timber Companies Destroying Cocoa & Food Crop

Medium: Daily Graphic, Page: 30 Date: November 11, 2009
Headline: Assin Districts Declares war on Chainsaw Operators

Is there a dispute-settlement process for tenure conflicts?

Are there clear, documented, understood and accessible steps for resolving tenure conflicts?

The service charter of the FC indicates a dispute settlement procedure but at the community level many people prefer to use traditional chieftaincy system for dispute settlement even on tenure issues.

Title: Forestry Commission New Service Charter

Date: 2008

Source: www.fcghana.com/forestry_commission/charter

Language: Earlier service charter (2002) was also translated into local languages but current version is only in English.

Are ownership and forest land use maps available?

It is possible, at national or sub-national level, to view or obtain maps indicating forest ownership and current permit-holders for different forest use? So, for example, it is possible to calculate what proportion of forest land has documented title, or what proportion is under logging concessions? Are such maps digitised?

No. There are no ownership and forest land use maps. Several localized disputes exist in various communities between different claimants to piece of land most of who usually have site plans and maps of various kinds which are not necessarily codified. Publications on disputes arising from unclear tenurial arrangements abound.

Do permits exist for all uses / services?

In addition to logging permits, are there any permits for conservation activities, environmental services (e.g. water conservation, or carbon storage), or eco-tourism services provided by forests?

Permits for timber resources and some NTFPs are clearly indicated but for other NTFPs and environmental services there is no clarity on the permit regime.

Title: The Timber Resource Management Act 1998 (LI 1649) As Amended by the Timber Resource Management Amendment Act, 2003 (LI 1721)
Bushmeat and Wildlife Trade Regulation related to hunting permit (wildlife LI 710)

Source: www.fcghana.com/publications

Is information on any forest land unallocated or not under any type of concession published?

Is there a 'pool' of forest, owned by the state or others, for which permits or user-rights are potentially available?

Not all lands especially in the forest reserves are under TUC or concessions.

Is it clear how the decision to start a round of permit allocation is made?

The first step in the allocation of permits is to decide where: Are there clear, documented, and understood steps for deciding to allocate permits, for example when to allocate which parts of the state forest to logging, mining, carbon, ecotourism or other concessions?

For timber resources specified FC officials are identified within limits what permits they can and cannot give on behalf of the Chief Executive of the FC. But for the NTFPs a lot of discretionary power is given the district Forest Manager.

Communities were adamant in the field survey that permits are given only to those who can pay officials.

Title: Act 547, Timber Resource Management Act, 1997 (amended by Act 617 2002);
Legislative Instrument 1649, 1998 (amended by LI 1721 (2002));
Timber Resource Management Act, 1998 (amended by Act 617 2002);
Legislative Instrument 1649, 1998 (amended by LI 1721 (2003));
Operation Director, Regional Manager, District Managers.

Is there a stakeholder consultation process prior to permit allocation?

At the time an area of forest is identified for allocation to any sort of concessionaire, are stakeholders (other than the forest owner) consulted, for example on any conditions to be attached to the permit?

There is a process defined in law for the allocation of timber permits but this is hardly followed. Farmers are particularly ignored in the consultation process.

Title: The Timber Resource Management Act 1998 (LI 1649) As Amended by the Timber Resource Management Amendment Act, 2003 (LI 1721)

Source: www.fcghana.com/publications

Are the areas assigned for each round of permit allocation advertised?

When an area of forest is identified for allocation to any sort of concessionaire, is this publicly advertised so that the opportunity for new permits / user rights is open to anyone?

The areas available for allocation through competitive bidding are usually (and by law) advertised in the national newspapers. However, those areas that are administratively allocated are not advertised.

Title: The Timber Resource Management Act 1998 (LI 1649). As Amended by the Timber Resource Management Amendment Act, 2003 (LI 1721) Timber Resource Regulation LI 1740

Is there transparent independent verification (due diligence) of the eligibility of any applicants for forest permits?

Prior to the final allocation of any area of state forest to logging, mining, carbon, ecotourism or other concessions are there "due diligence" checks on the eligibility, suitability, or (technical and/or financial) capability of applicants, and is this analysis made public?

For timber, a Timber Rights Evaluation committee (TREC) is established but this is not independent - the Ministry and Forestry Commission largely controls the TREC. The results of the process are usually published in the national dailies.

Title: Timber Resources Management Act (Act 547); Timber Resources Management Act 617 (Amendment) 2002

Date: 18-March1998;
8th April 2002.

Source: www.fcghana.com/publications/laws

Timeliness: Last TREC process took place in 2008.

Is the final permit allocation decision-making process transparent?

Is the final decision to allocate any permit made in way which allows citizens to assure themselves that the correct process has been followed? – is the process documented and published?

Where there is a public competitive bidding process it is open to the public. But the responses from the survey were emphatic that the allocation process is not transparent. This is apparently because there are only a few TUCs allocated through the competitive bidding process.

Title: Timber Resource Management Act, 1998 (amended by Act 617 2002);
Legislative Instrument 1649, 1998 (amended by LI 1721 (2003).

Source: www.fcghana.com/publications/index.htm

Timeliness: Last competitive bidding took place in 2008.

Has the permit allocation system improved?

Have there been recent attempts to make improvements to the permit allocation system? Have there been recent changes to the system to accommodate 'newer' forms of permits such as conservation, carbon storage, or ecotourism? If so please give details. Were these successful?

The timber resource allocation system was reformed under Act 547, Timber Resource Management Act, 1997 (amended by Act 617 2002). Under this Act, the timber resource is allocated competitively and the contract

holder enters into a contract with the Government to utilize and manage the timber resource on stated Terms and Conditions. The regulations to guide the implementation of Act 547 are contained in Legislative Instrument, 1649, (amended by LI 1721 (2002).

These provisions notwithstanding, there has been little compliance in the implementation of the law, such that the allocation of timber resources have continued to be through administrative and ministerial directives. With the ratification of the VPA by Ghana and the EU and its requirements for legality assurance and licensing, it is hoped that the VPA will become a useful instrument in ensuring adherence to the allocation procedure elaborated in law.

Title: Act 547, Timber Resource Management Act, 1997 (amended by Act 617 2002)

Date: 1997

Source: www.fcghana.com/publications/laws

Are the final permit / contract documents made public?

Are all contracts / concession agreements / permits in the public domain? If so, which law or regulation specifies that they should be? Are they entirely in the public domain or are certain 'commercially confidential' clauses hidden?

The final contracts are ratified by parliament but the contract document is usually not available to the general public. Responses from the field, including the district level forestry staff, were that the specific contracts of individual TUC holders are not public.

Are any environmental / social impact assessments for forest operations available to the public?

Where an EIA or similar is a requirement for any concession, is it published? Is there any public consultation during the EIA, or any public presentation of the conclusions and recommendations?

For logging operations, environmental and social assessments are incorporated in the logging manuals and the Environmental Protection Agency (EPA) has waived its mandate to the FC. For mining operations however, EIAs are placed in the public domain and public hearings are conducted on these. However, these are usually publicised under short notice and in a format that is unfriendly to the local communities.

Title: Newmont & Adamus Resources Face Opposition From Mining Coalition

Date: 18 Mar 2009

Source: www.twnafrica.org/index.php?

Language: Format is often unfriendly to the local communities.

Timeliness: Usually publicised under short notice.

Is information on logging locations given to the public?

Are local people informed of where permits holders will be / are operating, so that they are aware operations should be happening in their area, and to give them the opportunity to know if loggers are legally in that location?

Before TUCs are awarded, the locations and size of the area is published in the newspapers, but in the many instances of administrative allocation no such information is made public.

Title: LI 1649 Timber Resources Management Regulations

Date: 1998

Source: www.fcghana.com/publications/laws

Timeliness: A 40 year cycle is indicated in competitive bidding for natural timber, however plantation timber is less than 40.

Is there a stakeholder consultation process on individual logging locations?

In addition to any consultation on the general location, timing and allocations of logging concessions (these were covered in the previous 'permits' Theme), are stakeholders subsequently given a chance to comment on the location / impact / mitigation of logging at the local level, for example as part of developing a forest management plan?

By law farmers are consulted and their approval sought before an area is given out as TUC for logging operations, but in practice this process is by passed. It is only when farmers raise issues that they are roped in.

Title: LI 1649 Timber Resources Management Regulations

Date: 1998

Source: www.fcghana.com/publications/laws

Is information on permitted logging volumes (quotas) public?

Once all preparations and forest management plans are completed and logging operations start, can local people find out how much timber is permitted to be extracted (for example on an annual basis from a specific area)?

No such information is available to the general public even though district officers have that information.

Is information on locations for other forest products given to the public?

Are local people informed of where permits holders for non-timber forest products, or wildlife hunting, will be / are operating, so that they are aware operations should be happening in their area, and to give them the opportunity to know if permit holders are legally in that location?

No current information is held, so cannot be disseminated

Is there a stakeholder consultation process on non-timber permit locations?

In addition to any consultation on the general location, timing and allocations of permits (these were covered in the previous 'permits' Theme), are stakeholders subsequently given a chance to comment on the location / impact / mitigation of the extraction of non-timber forest products at the local level, for example as part of developing a forest management plan?

Even for those NTFPs where permits are issued, no consultation process is deemed necessary.

Is information on permitted quotas of non-timber products made public?

Once all preparations and permits are completed and extraction non-timber forest products starts, can local people find out how much of a product (for example wildlife hunting) is permitted to be extracted (for example on an annual basis from a specific area)?

No quotas are assessed, so cannot be disseminated.

Is information on locations of environmental services permits given to the public?

Are local people informed of where permits holders for environmental services, will be / are operating, so that they are aware operations should be happening in their area, and to give them the opportunity to know if permit holders are legally in that location?

No information is available in the public domain on availability and allocation of environmental services.

Is there a stakeholder consultation process on environmental services locations?

In addition to any consultation on the general location, timing and allocations of permits (these were covered in the previous 'permits' Theme), are stakeholders subsequently given a chance to comment on the location / impact / mitigation of the environmental services permits at the local level, for example as part of developing a forest management plan?

There is no stakeholder consultation process.

Is information on the quality / quantity of environmental services made public?

Once all preparations and permits are completed and a provision of environmental services contract starts, can local people find out about the size / value / or limits on these services?

No public data is available on the quantity and quality of environmental services.

Is information on locations of (eco)tourism or other cultural services permits given to the public?

Are local people informed of where permits holders for tourism, ecotourism, or other cultural services, will be / are operating, so that they are aware operations should be happening in their area, and to give them the opportunity to know if permit holders are legally in that location?

Yes to a very limited extent. A few maps are available to the public on the locations of various sites of ecotourism value. These are usually published by the Ghana Tourist Board. But such information is mainly targeted at the tourists and not the local communities.

Title: Ghana Tourist Board : Eco-Tourism Maps/Sites

Date: 2008

Source: www.touringghana.com

Is there a stakeholder consultation process on (eco)tourism locations?

In addition to any consultation on the general location, timing and allocations of permits (these were covered in the previous 'permits' Theme), are stakeholders subsequently given a chance to comment on the location / impact / mitigation of the tourism or ecotourism concessions at the local level, for example as part of developing a forest management plan?

No, there is no consultation process with the stakeholders.

Is information on the quality / quantity of (eco)tourism services made public?

Once all preparations and permits are completed and a provision of tourism or ecotourism services contract starts, can local people find out about the size / value / or limits on these services?

No.

Is there a strategic process to assess priorities between development options?

Is there a Strategic Environmental Assessment to identify and resolve conflicting land uses between forests, mining, large-scale agriculture and infrastructure development? Does the National Forest Policy document seek to address this? Do any policy documents from the other sectors?

There is no strategic determination of what is priority, neither is the decision making informed by any particular procedure.

Is it clear who decides if / when to make decisions between development options?

Are there clear, documented, and understood steps for making decisions over the use or conversion of forest lands for other purposes such as mining, large-scale agriculture or infrastructure development?

It is not clear how decisions on these are made.

Is there a stakeholder consultation process on decisions between different development options?

At the time an area of forest is identified for allocation to any sort of non-forest purpose, are stakeholders consulted, for example on any conditions or mitigation commitments?

No stakeholder consultation exists on allocation. However, clear procedures on the Environmental Impact Assessments (EIA) are elaborated by the EPA and approval of areas for implementation to start is preceded by public hearings on the EIAs. In most instances though, the public notification on these processes (mostly in the national dailies and also on the notice boards of the District Assemblies) is quite short, and inadequate to get full participation of the local communities that are affected by the operations of the companies. From this I conclude that EIAs are to some extent applied for specific plans but there is no process for consultation on trade-offs or comparisons between eg mining and forestry.

Is the final decision-making process on different development options transparent?

Is the final decision to allocate any forest to non-forest use made in way which allows citizens to assure themselves that the correct process has been followed? – is the process documented and published?

There is no transparency on the decisions on permits, locations and the nature of operations for which permits are given.

Is information on implementation of non-forest use / conversion given to the public?

Once the final decision has been made, are local people informed of where mining, large-scale agriculture or infrastructure development in forests will be / is occurring, so that they are aware operations should be happening in their area, and to give them the opportunity to know if operations are legally in that location?

Information on implementation is not made public. Civil society groups such as the National Coalition on Mining and WACAM that find out about these issues usually obtain such information unofficially.

Is there a system of tax / royalties redistribution?

Does the law provide for a portion of the taxes or royalties collected from permit holders to be redistributed to affected communities? If so, please give details.

Distribution of land revenue including forest revenue is enshrined in the 1992 constitution.

Title: The Constitution of Ghana, Art 266 Clause 2 (a- e)

Date: 1992

Source: www.ghanareview.com/Gconst.html
- Assembly Press
Copies of the constitution can be obtained in all accredited bookshops in the country as well as the bookshops of the country's universities.

Language: It is underway but not completed.

Is the system of tax / royalties redistribution effective in meeting any legal obligations?

Does any tax / royalties redistribution system work in practice?

The forest agencies are particular in adhering to the legal obligation in relation to the distribution of revenue. However, there are issues in determining what constitutes revenue and whether or not it is gross or net amounts that are involved. Whereas the constitution indicates that all land revenue should be shared to stakeholders according to a prescribed proportion, the Forestry Commission insists that revenue should be considered as the net amount after deduction of management cost. In the circumstance, the Commission deducts between 40% and 60% of the

stumpage as management cost before the “revenue” is shared. This position of the Commission is challenged often by civil society and traditional authorities (who are direct beneficiaries of the revenue) even though no one has challenged this in court. Notwithstanding, even when the shares of different stakeholders are in arrears, the FC is consistent in acknowledging the share of each party and paying it.

Is there a stakeholder consultation process regarding the use of community funds?

Are stakeholders aware of the tax redistribution system and are they given a chance to influence the use of any funds dedicated for their use?

There is no consultation on this process. The formula for calculating the royalties is set in law and the percentages for distribution is also fixed in law. The only snag though is that apart from the technical officials none of the stakeholders know how to calculate the appropriate revenue due.

Are figures for collection and distribution published?

Does the relevant authority regularly publish the taxes collected from each forest area and the amount redistributed to those communities entitled to receive a share? If so, how often do they publish this information?

These figures are published in quite a detail and contain the right and accurate information. The only difficulty is that it is usually way behind scheduled. For instance the latest publication actually covers the first half year of 2008.

Title: Payment of royalties and rents

Date: November 2009

Source: www.fcghana.com/publications/forestry_issues/index.htm

Accuracy: It is quite detailed and contains the right information.

Timeliness: Always behind schedule. The last publication covers first half year of 2008.

Completeness: When published it is fairly complete.

Is there a system of social obligations, where concession holders have to provide benefits directly to affected communities?

In addition to taxes, are there any obligations for permit holders to provide benefits to affected communities, in cash or in kind? Does the social obligations system work in practice?

Social responsibility agreements are included by law in the allocation of timber resources to timber companies. Even though some respondents were not aware of the specific legal obligation on this, it was generally accepted that in practice legal timber operators are required to (and do) fulfil some social obligations to communities in which they operate.

It is interesting note that there were varying levels of awareness on the social responsibilities of the timber operators among the different stakeholder groupings. Timber Companies and Forestry Commission Officials interviewed know Timber Royalties, SRA and compensations with the exception of District OASL who does not know SRA.

The DA, TAs and community level stakeholders interviewed also knew of Royalties and compensation but few did not know SRAs and apart from Forestry Commission Officials and few Timber Companies (loggers) the other respondents did not know how Timber Royalties are calculated.

Title: Timber Resources Management Act 547 Art 3 €

Date: 1998

Source: www.fcghana.com/publications/laws

In practice does the social obligations system meet any legal obligations?

Does the social obligations system work in practice?

The law provides for the signing of a social responsibility agreement by timber firms with forest fringe communities. Currently the rate for SRA is 5% of the stumpage fees. In practice though various payments made on social responsibilities tend to be even more than the 5% stipulated in law.

Title: Social Responsibility in Ghana's Forest Sector by Dominic Ayine

Date: 2008

Source: www.landcoalition.org/pdf/08_IIED_legal_tools_ghana.pdf

Is there a stakeholder consultation process?

Are stakeholders aware of the social obligation system and are they given a chance to influence the projects or use of any funds provided directly to them by the concessionaire?

For the SRA there is largely a consultation with at least the local chief (and often with the paramount chief as well) in deciding what the SRA should be used for. These consultations are held before the timber companies start operations and are usually one-off events. However, in the many instances the companies are involved in some annual events such as festivals at which new pledges on social responsibility obligations are made.

Title: Headline: 2 Sefwi communities reject compensation by Chirano Mines

Date: November 2009

Source: Medium: The Ghanaian Times Page: 21 Date: November 23, 2009

Is information on social obligations published?

Is the social obligation agreement publicly available? Are there regular reports on its implementation? If so, who is responsible for producing these?

Social responsibility requirements and their payment are not published. This sometimes leaves even communities who are recipients of SRAs in the dark as to who has received how much on their behalf.

Are there opportunities for citizens to discuss law enforcement issues as they arise?

Do any forest forums include representatives from the police or judiciary for example? Or are there other formal mechanisms to discuss law enforcement issues with officials from other (non-forest) agencies?

The general democratic environment in the country including the freedom of the press and the liberalised air waves provides useful opportunities to, in general, talk about all issues including forestry. Where forest forums exist these are also used as opportunities for citizens' participation.

Title: a) Unique FM News @ 6 am Date: November 20, 2009
b) Headline: Timber Companies Destroying Cocoa & Food Crop
c) Medium: Financial Intelligence Page: 16 Date: November 23, 2009
d) Headline: Oil-Rich Communities Want Tullow ELA revoked
e) Medium: The Ghanaian Times Page: 21 Date: November 23, 2009 Headline: 2 Sefwi communities reject compensation by Chirano Mines
f) Medium: The National Times Page: 1 Date: November 19, 2009 Headline: Ahanta West cry for help – as Newmont, Others Claim Lands

Date: November 2009

Source: Varying media items

Are citizens actively participating in control operations?

Is there any form of joint operations including citizens and forest law enforcement (e.g "vigilancia verde" or forest monitoring)?

Not quite. However in many places there are community resource management groups, such as community forest committees (CFCs), Community Based Advocacy Groups (CBAGs), etc, that undertake supportive activities such as

patrols in their communities. These groups normally participate in the District forest forums and so their activities are fed into the forum activities.

Title: Community Forest Committees
Community based advocacy groups

Do (some) forest communities condone some 'illegal' activities?

Do any communities regard some laws as inequitable and so argue that they are justified in supporting or participate in illegal activities?

There is a general perception of community condoning of illegality especially chain sawing. Responses from communities confirm this perception. This phenomenon is underpinned by a general believe of inequity in forest resource allocation and benefit sharing among forest fringe community members.

Title: Daily Graphic
Date: November 11, 2009
Headline: Assin Districts Declares war on Chainsaw Operators

Date: August 2009

Source: Responses from field surveys

Is there an Independent Forest Monitor?

Is there any organisation contracted to conduct Independent Forest Monitoring (IFM) to monitor forest governance and operations? For how long has this existed? What, if any, benefits does this bring?

Whereas there is no official IFM, many respondents, including FC officials considered Forest Watch Ghana as an independent monitor of the operations of the forest agencies.

Does the government publish lists of infractors?

Does any authority regularly publish a list of infractors of the forest law? Is it obliged to do so under any law or other norm? Does such a list show the progress of each case through the legal system, and the amount of any fines paid?

There is no official publication of forest offenders.
Some of those are arrested and/or prosecuted appear in the newspapers.
In the publication of the revenue disbursements the OASL/FC do indicate how much is owed by contractors but fall short of naming who these contractors are.

Does the government publish lists of debarred / suspended operators?

Does any authority regularly publish a list of individuals or companies barred or temporarily suspended from holding forest-related permits (perhaps as a penalty for a previous infraction)? Is it obliged to do so under any law or other norm?

None of this happens.

Do parts of any law affecting forests limit transparency?

Are there any norms that prohibit or limit transparency in the forest sector? Or are there caveats or exclusions to transparency laws, for example 'commercial confidentialities' or 'national security'? What exactly do they exclude?

Yes, the oath of secrecy required to be sworn and subscribed to by public and civil servants as contained in art 286 (6 j) and 286 (7) of the 1992 Constitution, has quite often been used by public officials as a refuge to limit the level of transparency on issues including forestry information.

Do any extra-sectoral operations overrule forest laws?

Do mining, road building, large-scale agriculture, hydropower or other infrastructure development have automatic veto over forest laws, thereby eliminating transparent access to decision-making?

Yes, the lure of mining (especially gold mining) and the revenue streams they provide to government is a major activity that overrides forest policies. Mining in forest reserves contravenes various national policies and the principles underlining the establishment of forest reserves in Ghana. Section 4.4 Sub-section (b) of the National Land Policy 1999 states "All lands declared as forest reserves, strict nature reserves, national parks, wildlife sanctuaries and similar land categories constitute Ghana's permanent forest and wildlife estates, and are "fully protected" for ecosystem maintenance, biodiversity conservation and sustainable timber production". Sub-section (c) of the policy went on to state that "Fully protected areas as well as timber and wildlife protected areas may be used for the purposes of education, research, recreation and tourism, provided that such uses are compatible with the conservation of the environment. The 1994 Forest and Wildlife Policy puts as its primary aim the 'conservation and sustainable development of the nation's forest and wildlife resources for the maintenance of environmental quality and perpetual flow of optimum benefits to all segments of society'. Nevertheless, thirty-four prospecting licenses were granted to both Ghanaian and foreign-controlled companies, and valid exploration licenses stood at 152 at the end of 2003. Five of the 17 companies permitted to conduct mineral exploration in forest reserves applied for mining leases and received government approval to proceed with the process of securing the necessary permits for mining. Currently the National Coalition on Mining is waging a campaign against mining in forest reserves but Newmont has received a permit to mine part of the Ajenua Forest Reserve.

Title: National Land Policy 1999;
Forest and Wildlife Policy;
The Ghanaian Times, pg16, Oct 5, 2009.

Date: Since 2003

Is it commonplace for authorities to ignore obligations?

Has it become normal operating procedure for any public institution to avoid obligations to transparency? If so, please give examples.

Yes. The classic case of the continuous allocation of timber resources administratively in spite of the legal requirement for competitive allocation (Act 547), is a clear demonstration of the disregard for the statutes on forestry. Similarly, the FC constantly grants of Timber Utilization Permits for commercial purposes whereas these are only meant for local community projects. (LI 1649)

Are there any reforms to improve transparency or reduce confidentiality?

In particular, are there any 'quick wins' - issues where transparency could be improved, or where caveats and exclusions could be reduced, and no significant vested interests are against this? If so, please list any ongoing reforms.

The Freedom of Information Bill is eagerly awaited as one instrument that will improve transparency in the sector. Specifically to the forest sector, the implementation of the VPA will also assist disclosure of information since that is required for the chain of custody and licensing process.

Title: Legislation to implement the VPA.

Date: No deadline for implementation of VPA. Ghana is to start exportation of legal timber by the end of 2010.

Source: www.vpa-livelihoods.org/vpa_ghana.aspx

Does the forest authority publish an Annual Report?

Is there an annual summary of activity by the forest authority and others they regulate? If so, how long after the year-end is it published? How comprehensive is it? Is it debated, for example by a 'forestry commission board' or by the legislature?

FC is required by law to publish an annual report and present it to parliament through the Minister. But these reports are hardly published regularly or on time.

Title: Forestry Commission Act 1999

Date: Most recent Annual Report is for 2007.

Source: Act 571 Sec 28 (1) & (2); www.fcghana.com/publications/forestry_issues/index.htm

Timeliness: The Annual Report is ever on time; the last annual report is for 2007.

Completeness: It does not contain for instance the list of firms and their concessions.

Does the forest authority have a central point of information?

Is there a person or office advertised and functioning as the source of public information? Is there any written statement (for example a regulation) about its roles and responsibilities? Is it committed to respond to enquiries with a certain amount of time?

In districts where there is a Customer Services Officer copies of the publications are kept in the offices but these are not publicly displayed and not many people know about the publication.

Title: Forestry Commission Service Charter (revised)

Date: August 2009

Source: http://www.fcghana.com/publications/service_charter/2008_charter/index.asp

The Human Resource Directorate and the internal job description manual of the Forestry Commission provide details of the role of the Customer Services Officers.

Language: Customer Services Officers are posted to districts based on their ability to communicate in the local languages.
