



**global witness**

# Making the Forest Sector Transparent

## Annual Transparency Report

**Country: Ghana**

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

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**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	
<b>Yes</b> – specific provision in current laws and norms that have been passed by state and applies to the forest sector	<b>Yes</b> – available to public from official sources (websites, publications, media)	Yes	
	<b>Partial</b> – some information provided but not complete (e.g. only parts of manuals)	Partial	
	<b>No</b> – although evidence that exists, it is not available (includes when only unofficial sources)	No	
<b>Partial</b> – process underway to develop it, but not yet established in law; or limited provision or relevance to forest sector	<b>Partial</b> – some information provided but not complete (e.g. only parts of manuals)	Yes	
	<b>Partial</b> – some information provided but not complete (e.g. only parts of manuals)	Partial	
	<b>No</b> – although evidence that exists, it is not available (includes when only unofficial sources)	No	
<b>No</b> – no current provision or plans to establish (even though needed)		No	
<b>Not applicable</b> - 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](http://www.foresttransparency.info).

## Freedom of Information Legislation

 Is there Freedom of Information legislation in the public domain?

Since the Right to Information Bill was first tabled before Parliament in February 2010, little progress has been made. The Coalition on the Right to Information, spearheaded by the Commonwealth Human Rights Initiative (Africa Office), representing various influential civil society organisations and interest groups has maintained pressure on the government to introduce key amendments and pass the Bill into law.

The Coalition of the Right to Information has lobbied the Parliamentary Select Joint Committee responsible for the review of the bill on several issues raised during the regional consultations held in 2011, including exemptions, fees, timelines, appeal processes and the Independent Information Commission, but at the time of this assessment it was still not clear whether they had been addressed in the revised draft of the Bill. There are concerns that restrictive clauses will not facilitate the disclosure of information.

Currently, the absence of Freedom of Information legislation makes it impossible for people to demand information and compel public office holders to disclose information. Institutions such as the Commission on Human Rights and Administrative Justice have called for a robust ethics structure to check corruption in public service agencies. The Alliance for Accountable Governance monitors the fight against corruption and called for the government to meet its promises to pass the Right to Information bill into law, but it did not do so before the general elections in December 2012.

Title: Right To Information Bill

Organisation: Attorney-General and Ministry of Justice

Date: 2009

Source: Copies of the bill can be obtained from the Office of the Clerk of Parliament

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## National Forest Policy

 Is there a current national forest policy in the public domain?

The policy framework, as contained in the 1994 Forest and Wildlife Policy, is publicly available. In light of current operational challenges and demands for improvement in the sector, this policy was subjected to a review process that started in 2007 and was completed at the end of 2011. The final draft document was laid before Cabinet and has been approved.

The policy review followed a participatory drafting process with key stakeholders in the sector, including civil society organisations. A civil society analysis in 2010 of the previous policy, based on four core themes (biodiversity conservation, fair access, fair benefit sharing, and participation in decision-making) was key to the revision process. The final policy addresses key issues such as reform of community tenure, management and enterprises, including clarification of tree tenure and associated benefit sharing arrangements. The review also captured current trends such as the development of REDD+, and addressed initiatives like the protection and preservation of natural sacred sites. The iterative and consultative revision process was regarded as positive by civil society. As a result, the draft new policy has stronger wording to commit Ghana to passing the kind of implementing legislation that has so far been lacking.

The previous policy was not widely circulated, and the new policy had not yet been published online at the time of this assessment, but it is hoped that it will be made available to communities and translated into community languages. Civil society organisations and other stakeholders should press for copies to be available at the District Forest offices so that it is easily accessible.

As part of the process, a 10 year plan is to be developed that will set out concrete actions for implementation of the policy. There are still discussions as to whether to call it the Forest Development Master Plan or the Strategic Plan in view of the need to make the document operational so that it meets the desired results and impacts.

**Title:** a. The Forest and Wildlife Policy  
b. 2011 Forest and Wildlife Policy

**Organisation:** Ministry of Lands and Forestry, Forestry Commission

**Date:** a. 1994  
b. October 2011

**Source:** [http://www.fcghana.com/publications/laws/forestry\\_wildlife\\_policy/index.html](http://www.fcghana.com/publications/laws/forestry_wildlife_policy/index.html)  
b. Not officially published yet, but copy available from [http://www.pdaghana.com/images/stories/ReferenceMaterials/forest\\_policy\\_october\\_27\\_2011.pdf](http://www.pdaghana.com/images/stories/ReferenceMaterials/forest_policy_october_27_2011.pdf)

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### **Codified Forest Law and Supporting Norms**

 Is there a codified forest law with supporting norms to fully implement it?

There is no single forest law but a range of legislation governs the sector. The main laws and instruments were passed in 1997-98 and amended in 2002-03, which are available on the Forestry Commission (FC) website. There is a general knowledge of the forestry related laws among most stakeholders, even though hard copies of the laws are not readily available in the districts. The law and norms have not been translated into local languages, but have been summarised by FC and Friends of the Earth into a 20 page document which is used in workshops, community meetings and stakeholder engagements. This summary has also been translated into posters in some local languages (but neither the summary document nor posters are available on any website for others to make use of). Hard copies are available at the offices of Friends of the Earth.

Important provisions of the amended legal and regulatory framework have not been applied. Since 2003, it has been necessary for all large-scale logging operations to be managed under Timber Utilisation Contracts. A conversion process was intended to review older contracts, but this has not taken place. The Voluntary Partnership Agreement (VPA) with the European Union was ratified in 2010, which includes a legality definition that all older contracts are inconsistent with.

As part of the implementation of the Voluntary Partnership Agreement (VPA) with the European Union, there has been a two-stage legislative revision process. The first part is completed, with the passing of LI 2184. This creates the Timber Validation Council, a multi-stakeholder group that oversees the Timber Validation Department (TVD) of the Forestry Commission, to “ensure that the TVD functions in a transparent and independent manner” (according to the VPA). This important LI was passed in July 2012, and although it not yet published there is information that the two civil society representatives in the Council will be from the Trades Unions and the Traditional Authorities. These groups have not traditionally been at the heart of discussion on forest governance, so they will have to work closely with others to ensure that they represent the breadth of civil society concerns about the sector.

The second stage is a consolidation process of all the forest laws, not least to address community management of forests. An inclusive review process was led by a consultant. At the time of this assessment, the revised document was said to be with the Attorney General, but it had not yet been laid before Parliament. It remains to be seen how this process is taken forward after the elections in December 2012.

**Title:** a. Act 547, Timber Resource Management Act, 1997 (amended by Act 617 2002)  
b. Legislative Instrument 1649, 1998 (amended by LI 1721 (2003))  
c. Timber Resource Management Act, 1998 (amended by Act 617 2002)  
d. Legislative Instrument 1649, 1998 (amended by LI 1721 (2003)).  
e. Forest Protection Decree 1974 NRCD 243 As Amended by The Protection Amendment Act 2002, Act 624  
f. Wildlife Preservation Act 1961, Act 43  
Legislative Instrument 2184, 2012, Subsidiary Legislation on the Timber Resources (Legality Licensing) Regulations

**Organisation:** Forestry Commission

**Source:** [www.fcghana.com/library.php?id=15](http://www.fcghana.com/library.php?id=15) (LI 2184 has not yet been published on the FC website)

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### **Signed VPAs and Other Agreements on Forest Products**

 Has the country signed an international agreement(s) that relates to forest products?

As part of the Forest Law Enforcement Governance and Trade (FLEGT) programme, a Voluntary Partnership Agreement (VPA) with the European Union was ratified in March 2010. The processes leading to the signing of the VPA enhanced the level of government and civil society engagement. Civil society served on the steering committee of the VPA, and it is represented on the Multi-Stakeholder Implementation Committee.

During the negotiations, Ghana insisted on making the VPA process cover both the foreign and domestic markets, which as a result has led to discussion of domestic lumber procurement in the policy review and consolidation of the forest laws.

Licenses for timber products under FLEGT have not yet been issued and in general progress has been slow to implement the VPA. An annual report for 2009-10 was not published until May 2012 and there is little in it to highlight completed legislative, fiscal, institutional or legal compliance actions. Nonetheless, the timber validation bodies have been established and the Forestry Commission, in collaboration with civil society organisations and the National Forestry Forum, has developed procedures to integrate community civil society organisations into the wood tracking systems. The aide memoire on the fourth mission of the Joint Monitoring and Reporting Mechanism anticipated that the Wood Tracking System and the system to verify compliance with the legality definition will be finalised by the end of 2012, but it remains to be seen whether momentum is maintained so that the first FLEGT licences can be issued in 2013.

**Title:** a. Voluntary Partnership Agreement with the European Union  
b. Annual Progress Report: VPA Implementation Ghana-EU 2009-10  
c. Joint Monitoring and Reporting Mechanism, Aide Memoire of the Fourth Mission, 13-16 March 2012

**Organisation:** a. Government of Ghana and European Union  
b. Government of Ghana and European Union

**Date:** a. 2010  
b. 2012  
c. 2012

**Source:** [http://www.fcghana.com/VPA\\_2/assets/file/Downloads/Signed\\_Agreement\\_EC-Ghana\\_FLEGT\\_EN%5B1%5D.pdf](http://www.fcghana.com/VPA_2/assets/file/Downloads/Signed_Agreement_EC-Ghana_FLEGT_EN%5B1%5D.pdf)

- b. [http://www.euflegt.efi.int/files/attachments/euflegt/ghana\\_annualprogressreport\\_vpimplementation\\_09-10\\_lores.pdf](http://www.euflegt.efi.int/files/attachments/euflegt/ghana_annualprogressreport_vpimplementation_09-10_lores.pdf)
  - c. <http://www.fcghana.org/vpa/assets/file/JMRM%20Mission%204.pdf>
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### Provisions for Transparency in Forest Laws and Norms

-  Are there any provisions in forest-specific laws and/or supporting norms that develop the right to access public information on the forest sector?

The Forestry Commission (FC) New Service Charter 2008 includes commitments to information transparency under its core function and sets out service standards for public correspondence and reports. Through the Customer Services Officers in some Forest Districts, the FC has made efforts to improve education and awareness amongst communities. In these areas, the Customer Services Officers have provided community members with relevant answers and clarified issues with regard to their queries on forests. There are cases where requests for forest information have been made by communities and individuals, and the FC has provided this information, but it is difficult to assess how consistently this is done. When it is eventually passed into law, it is hoped that the Right to Information Bill will compel the FC to regularly publish information and respond to requests.

The Voluntary Partnership Agreement (VPA) with the European Union (EU) highlights transparency as an important principle of the legality assurance system (LAS), but unlike other agreements it does not include a specific annex on public information to be regularly published. Global Witness with the Rural Environmental Care Association conducted a VPA transparency gap assessment, which found that although much of the information that underpins the LAS may be made available on request, this would depend on the discretion of the authority and could be difficult for communities to negotiate without capacity building and support (1). Despite some improvements, the assessment found that key documents and data were not published online or proactively made available through local offices and media, which seriously limits transparency and accountability. The VPA Joint Monitoring and Reporting Mechanism also reported that the FC committed to develop a communication strategy by September 2012; civil society has had some input into this but the deadline was missed.

(1) Rural Environmental Care Association and Global Witness (2012) Ghana VPA Transparency Gap Assessment. Available at <http://www.foresttransparency.info/report-card/updates/750/african-timber-exporting-countries-failing-to-meet-access-to-information-commitments/>

Title: a. FC New Service Charter  
Voluntary Partnership Agreement with the European Union

Organisation: Forestry Commission  
b. Government of Ghana and European Union

Date: a. 2008  
b. 2010

Source: a. <http://www.fcghana.com/page.php?page=199&section=22&typ=1>  
b. [http://www.fcghana.com/VPA\\_2/assets/file/Downloads/Signed\\_Agreement\\_EC-Ghana\\_FLEGT\\_EN%5B1%5D.pdf](http://www.fcghana.com/VPA_2/assets/file/Downloads/Signed_Agreement_EC-Ghana_FLEGT_EN%5B1%5D.pdf)

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### Recognition of Customary Rights in Forest Laws and Norms

-  Are customary and traditional rights recognised in codified forest law and supporting norms?

In the Constitution, stool lands are vested in accordance with customary law and usage and the institution of chieftaincy together with its traditional councils is guaranteed. Customary law is respected and even where rights are not fully documented (as it is in most instances), orally transmitted rules and traditions are respected by citizens, forest authorities and timber operators. However, the state exercises control over all forest resources and few people in local communities are aware of their rights in practice. The 1994 Forest Policy included a commitment to enable community rights to manage trees or forests, but implementing legislation has not been formulated. The new Forest Policy places a firmer obligation on the authorities to pass such norms.

The Forestry Commission and its partners are expected to respect the taboos and sacred forest norms in their operations and there are terms governing that in the regulations. When timber is felled in those sacred areas, usually the responsible chiefs are involved. Their consent is sought before any activity is carried out. However, in some cases, there are clashes between companies and community members over the authenticity of their permits and rights to exploit resources from the forest.

Through the Making The Forest Sector Transparent Project, the Wassa Amenfi East District Assembly has been supported to develop bye laws on natural resources management. These bylaws include provisions that support community interest and concerns on how natural resources should be managed at the district level. It is hoped that other districts will follow soon and gazette bylaws that regard and respect community and traditional protocols.

**Title:** a. The Constitution of the Republic of Ghana  
Timber Resource Management Regulation LI 1649 and Amendment LI 1721

**Date:** a. 1992  
b. 2003

**Source:** a. [www.ghanareview.com/Gconst.html](http://www.ghanareview.com/Gconst.html)  
Copies of the constitution, published by Assembly Press, can be obtained in all accredited bookshops in the country as well as the bookshops of the country's universities  
b. <http://www.fcghana.org/library.php?id=15>

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### **Formal Procedures for Consultation on New Forest Norms**

 Is there a legally recognised procedure that specifies the methodology for consultation on the development of new forest-related norms?

There is no legally enshrined procedure for consultation on new norms. However, the manual of procedures contains directives for community consultation on some specific issues, such as management planning of forest reserves. Furthermore, even though there are no formal legally-binding procedures, there has been a lot of consultation on new initiatives such as Voluntary Partnership Agreement with the EU.

In 2010, Forest Watch Ghana carried out an analysis of the old Forest Policy and identified a number of issues with regard to improving public participation in forest management issues. Among these was a call by civil society organisations that participation and consultation should be backed by legislation. The concerns also touched on community resource management, local level management and issues around tree tenure, which were incorporated into the guiding principles of the new policy. The new policy also recognizes multi-stakeholder interests in forests and wildlife and forges a common vision to protect, manage and use the resources. It also encourages collaborative resource management among communities, government and other stakeholders. There is however still a need for explicit requirements for consultation in the development of new norms to be enshrined in legislation.

**Title:** Manual of Procedures B

Organisation: Resource Management Support Centre (RMSC) of the Forestry Commission

Date: 1994

Source: Printed copies at RMSC

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### Legal Right to Free Prior and Informed Consent

 Is the right to free prior informed consent of indigenous peoples and forest-dependent communities recognised in forest law and supporting norms?

The Timber Resource Management Regulations Legislative Instrument 1649 indicates that before an off-reserve area is given out for timber rights, written consent and agreement of the owners is required. Procedures for obtaining consent and processes for resolving conflicting interests over the land are established in the regulations. In forest reserve areas, consultation is only carried out with them to sign a social responsibility agreement with the company, which is a pre-requisite for the issuing of timber utilization contracts.

In practice, the provisions in the regulations for consent are sometimes not followed and not enough notice is given in newspapers or District Assembly notice boards of plans to grant timber rights. Concerns have been raised by Forest Watch Ghana (FWG) over the granting of administrative permits between 2009 and 2011 on forested land without prior consent of communities or any public information on the planned activities. FWG wrote a memorandum to the parliamentary select committee on environment and natural resources, which highlighted the negative impact of such practices. It is hoped that the new forest policy will support greater participation in decisions about who owns the forest and decides to cut it down. The legality definition in the Voluntary Partnership Agreement with the European Union also requires open tendering for all timber rights, which would go some way towards raising awareness of planned activities.

Title: Timber Resource Management Regulations

Organisation: Forestry Commission

Date: 1998

Source: [http://www.fcghana.org/library\\_info.php?doc=46&publication:L.I.%201649%20-%20Timber%20Resources%20Management%20Regulations,%201998&id=15](http://www.fcghana.org/library_info.php?doc=46&publication:L.I.%201649%20-%20Timber%20Resources%20Management%20Regulations,%201998&id=15)

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### National Land Tenure Policy

 Is the national policy on land tenure, including forest tenure, set out in a current document?

There is a land policy from 1999, which led to the establishment of the Land Administration Project and then the Lands Commission charged with addressing issues of insecure tenure, but on-going disputes have not been resolved and the policy has not been updated. There is not much debate at the national level about land tenure and there is little impetus to deal with the fundamental issues of ownership, custodianship and usufruct rights. The 1999 Land Policy also state that no mining activities or plantations will be permitted on land with primary forest cover, but cases of mining in forest reserves have been reported in recent years.

A complicated hierarchy of land ownership arrangements exist. The ownership of forest reserves by traditional authorities is clarified in the gazette, but it is usually not covered with title (and documentation) and the state exercises control of the resources. Outside forest reserves, trees on private or community lands are also nominally owned by the state. The Ministry of Lands and Natural Resources has engaged Civic Response to carry out a national consultation process on the issue of tree tenure in off-reserves, which has so far prepared an initial review and is expected to conduct a consultation process. As it currently stands, planted trees are owned by the planter, but civil society organisations have advocated that this arrangement should be extended to cover natural saplings that are nurtured by landowners. They have also encouraged a sensitive approach to address ownership of older trees as well as recognise local ownership of all trees on farms. Although these questions of tree tenure still need to be clarified, there are signs that the government has started to acknowledge their importance. For example, Ghana's Investment Plan for the World Bank Forest Investment Programme recognises that the de facto prohibition on farmers to harvest any naturally occurring trees is "at the core of the deforestation problem" (1).

(1) Ministry of Lands and Natural Resources (2012) Ghana Investment Plan for the Forest Investment Programme. Submitted to Climate Investment Funds, October 2012. Available at [www.climateinvestmentfunds.org/cif/sites/climateinvestmentfunds.org/files/FIP\\_5\\_Ghana.pdf](http://www.climateinvestmentfunds.org/cif/sites/climateinvestmentfunds.org/files/FIP_5_Ghana.pdf)

**Title:** National Land Policy

**Organisation:** Ministry of Lands and Natural Resources

**Date:** June 1999

**Source:** [http://new.uneca.org/Portals/lpi/CrossArticle/1/Land%20Policy%20Documents/GHANA\\_NATIONAL\\_LAND\\_POLICY.pdf](http://new.uneca.org/Portals/lpi/CrossArticle/1/Land%20Policy%20Documents/GHANA_NATIONAL_LAND_POLICY.pdf)

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### Consultation before Commercial Logging Allocation

 Is there a legal requirement for stakeholder consultation to take place prior to the allocation of commercial forestry operations?

Section 4 of the Timber Resource Management Act, sub-section (2) states that "no timber rights shall be granted in respect of: (a) land with forest plantations; (b) land with timber grown or owned by any individual group; (c) land subject to alienation holding; or (d) lands with farms, without the authorization in writing of the individual, group or owner concerned", which indicates that consultation must be undertaken. The Timber Resource Management Regulations set out a list of stakeholders, including District Assembly members, traditional council representatives and local landowners and farmers, to participate in the field inspection to determine the suitability of the land for the granting of timber rights.

In practice, these legal requirements are often not adhered to. They have not been promoted publicly and therefore some local stakeholders – especially farmers – are unaware of their rights. When forested areas are proposed for allocation of timber rights, it also tends to be assumed that representatives of traditional authorities (chiefs mostly) will have consulted their people. There is little or no public discussion or real consultation on whether an area should be allocated or not – it remains a purely technical discussion. In addition, there are no requirements for consultation on timber utilisation permits, which are meant to apply to harvesting a specified number of trees for social or community uses, but have been granted to companies on large tracts of forests.

**Title:** a. Timber Resources Management Regulations, 1998 (LI 1649)  
Timber Resources Management Act, 1997

**Organisation:** Forestry Commission

Date: 1998

Source: a. [http://www.fcghana.org/library\\_info.php?doc=46&publication:L.I.%201649%20-%20Timber%20Resources%20Management%20Regulations,%201998&id=15](http://www.fcghana.org/library_info.php?doc=46&publication:L.I.%201649%20-%20Timber%20Resources%20Management%20Regulations,%201998&id=15)  
[http://www.fcghana.org/library\\_info.php?doc=45&publication:Timber%20Resource%20Management%20Act,%201997%20-%20Act%20%20547&id=15](http://www.fcghana.org/library_info.php?doc=45&publication:Timber%20Resource%20Management%20Act,%201997%20-%20Act%20%20547&id=15)

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### Regulation of Environmental Services

 Are there national laws and other norms that regulate the use of key environmental services of forests?

The Environmental Protection Agency (EPA) is working on plans for regulating environmental services, but no formal system has been proposed yet. With the emergence of REDD as an important climate change mitigation measure, as well as the development of carbon trading, the ownership of carbon in forest areas has come up for discussion within Ghanaian civil society, but there is currently no clear basis. This should be an area of focus for legislative reform.

In July 2010 Ghana was approved as a pilot country for the Forest Investment Program (FIP) as part of the Strategic Climate Investment Funds. The Forestry Commission anticipates that million will be allocated to fund carbon projects. The final draft of the FIP plan was published in April 2012. It refers to improving forest governance and recognises that underlying factors, such as tree tenure, carbon rights and benefit sharing, directly relate to policy and legislation, but it does not set out a process or make a commitment to specific reforms in the legal and regulatory framework on carbon rights.

Different institutions other than the forest authorities are responsible for different services provided, but there is no coordination of efforts. For instance, the Water Resources Commission has responsibility for water resource allocation and charges fees for water abstraction but there is no collaboration with the Forestry Commission on the management and protection of the water sources.

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### Strategic Environmental Assessment

 Is there a formal strategic environmental assessment and planning process to determine the priorities for land use between forests, mining, large-scale agriculture, infrastructure development and other demands?

The Environmental Protection Agency (EPA) in collaboration with the National Development Planning Commission developed a Strategic Environmental Assessment (SEA) manual that aims to ensure that the principles and methodologies of SEA are applied in the formulation, analysis and refinement of policies, plans and programmes at both sectoral and district levels. The manual provide broad guidelines on issues to assess and outputs to produce, but the legal status of these SEAs and their application to decision-making is unclear.

Copies of the district level SEAs for 2010-2013 were uploaded to the EPA website in 2012, together with copies of SEAs for the energy and transport policies. To date the Ministry of Lands and Natural Resources (MLNR) has not published a SEA on land use priorities and demands. In practice, there is no transparency in the process for decision making on competing priorities for development, for instance permits are sometimes given for mining prospecting in forest reserves against the better judgment of the Forestry Commission (and contrary to the National Land Policy), even though the MLNR is the parent ministry that oversees both these sectors.

Title: a. SEA Manual

b. List of published District SEAs

**Organisation:** Ministry of Lands and Forestry (Ministry of Lands and Natural Resources)  
b. Environmental Protection Agency

**Date:** a. No specific date of publication but produced mid-2000s  
b. 2010

**Source:** a. [http://www.epa.gov.gh/index.php?option=com\\_docman&task=doc\\_download&gid=68&Itemid=73](http://www.epa.gov.gh/index.php?option=com_docman&task=doc_download&gid=68&Itemid=73)  
b. [http://www.epa.gov.gh/index.php?option=com\\_docman&task=cat\\_view&gid=136&Itemid=73](http://www.epa.gov.gh/index.php?option=com_docman&task=cat_view&gid=136&Itemid=73)

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### **Forest Ownership and Resource Use Maps**

 Are there publicly available official maps showing current types of forest ownership and forest resource use?

There are no maps showing ownership of forest land and resource rights, such as the areas of timber utilisation contracts (TUCs). There are maps of gazetted forest reserves with plotted coordinates, which can be obtained in hard copy from district Forest Services Division offices. Some digital maps of the reserves can also be obtained from the Resource Management Support Centre in Kumasi. These maps do not show ownership of the lands, but some indicate the names of the TUC holders.

In practice, ownership of forest reserves is notional and there are local disputes in various communities between different claimants to a piece of land, most of who usually have site plans and maps of various kinds which are not necessarily codified. There are frequent newspaper reports on disputes arising from unclear tenure arrangements.

In 2011 it was reported that the Forestry Commission had received grants from Japan to conduct detailed land use maps and also develop a map for all the forest areas in Ghana. They conducted an aerial mapping leading to a complete view of all the forest areas. At the time of this assessment, the information was being analysed and a ground inventory was also being undertaken. It is expected that the report would be completed by April 2013.

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### **Legal Documents for Commercial Logging Operations**

 Are legal documents for commercial logging operations regularly published?

All contracts for the use of natural resources including timber are supposed to be ratified by Parliament according to Article 268(1) of the Constitution, which would place them in the public domain. In principle, this is an important safeguard to strengthen the legitimacy of the allocation process over 'public goods' such as forests; however, no timber contracts have been ratified in several years even though timber rights have been allocated during this period.

The legal documents for timber utilisation contracts, timber utilisation permits (TUPs) and other permits are theoretically public documents. There are examples where such documents have been successfully obtained by civil society groups and communities following a request to a Forest Services Division office; however it is difficult to judge their wider accessibility. In some areas, NGOs have played a key role in supporting communities to find out what timber rights have been granted in their forests. Contract and permit documents are not published online and it is difficult to gather comprehensive data on all existing timber rights. For example, a study found that the authorities

apparently have no such central database, and it had to construct one from secondary data and other material to show that some 3.2 million hectares of forests were under various forms of timber rights in the reference year 2005 (1). This revealed that TUPs had been allocated to timber companies on fairly large tracts of forests, even though the regulations indicate that such permits are for non-commercial harvesting of specified numbers of trees.

In 2010 and 2011, exposés by civil society revealed that the Forestry Commission (FC) had issued over 100 administrative salvage felling permits at its discretion without following any transparent auction and verification procedures. Such permits are intended for small areas undergoing development (e.g. road construction) but had seemingly been allocated to companies for felling larger areas. Condemnation by civil society organisations led to a series of meetings with forest authorities and the Parliamentary Select Committee on Lands and Natural Resources. As a result, the Forestry Commission (FC) implicitly accepted that this method of permit allocation was incompatible with the legality definition in the VPA and the Ministry of Lands and Natural Resources took steps to resolve concerns.

(1) Hansen, C.P. and Lund, J.F. (2011) "The Political Economy of Timber Taxation: The Case of Ghana", *Forest Policy and Economics*, 13 (2011) pp.630-641

**Title:** a. The Constitution of the Republic of Ghana  
b. Timber Utilisation Contracts and Permits

**Date:** 1992

**Source:** www.ghanareview.com/Gconst.html  
b. Available on request from the Forestry Commission

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### **Reports on the Verification Process of Eligibility of Commercial Operators**

 Are the reports published from a formal “due diligence” process on the eligibility, suitability and capability of applicants for contracts or licences to conduct commercial forestry operations?

The Timber Resource Management Amendment in 2003 established that "competitive bidding shall be the basis of allocation of timber rights, and shall be conducted serially through two stages, namely, a pre-qualification process and bidding for timber rights process". The Timber Rights Evaluation Committee (TREC) has responsibility to validate pre-qualification and bids of companies involved. It meets when there are applications to be considered and the result of the process is usually published in the national dailies. Some summary reports are available online and documents on the winners of the auctions can be accessed on request, but in practice due processes have not been consistently followed.

However, in practice the TREC is not independent and due processes have not been consistently followed. For example, Timber Utilisation Contracts have been granted administratively since 2003 without being subject to competitive bidding. These shortcuts may enable corruption.

The Forestry Commission (FC) has also set up the Timber Validation Department (TVD) as set out in the Voluntary Partnership Agreement with the European Union. It will become fully operational when the Legality Assurance System procedures have been agreed. The Timber Validation Committee with civil society representation has also been set out to oversee the transparency and independence of the TVD and deal with complaints. While these arrangements have the potential to improve the verification of timber rights, it remains to be seen how effectively they are implemented.

**Title:** a. Timber Resources Management Act (Act 547)  
b. Timber Resources Management Act 617 (Amendment)  
c. Legislative Instrument 1721 Timber Resources Management (Amendment)  
TREC summary reports on bidding rounds in 2003 and 2004

Date: a. 1997  
b. 2002  
c. 2003  
2003/04

Source: a. [www.fcghana.com/publications/laws/act\\_547/index.html](http://www.fcghana.com/publications/laws/act_547/index.html)  
b. [www.fcghana.com/publications/laws/act\\_617/index.html](http://www.fcghana.com/publications/laws/act_617/index.html)  
c. [http://www.fcghana.org/library\\_info.php?doc=48&publication:L.I.%201721%20Timber%20Resources%20Management%20\(Amendment\)%20&id=15](http://www.fcghana.org/library_info.php?doc=48&publication:L.I.%201721%20Timber%20Resources%20Management%20(Amendment)%20&id=15)  
<http://www.fcghana.org/page.php?page=334&section=25&typ=1>

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### **Forest Management Plans**

 Are forest management plans published?

In 2010, the Forestry Commission (FC) began a process to update or develop and document new management plans for all forest reserves in the country, which are meant to reflect on the socio-economic, cultural and environmental values of forests to communities. This was intended to demonstrate the way forward for sustainable management and development. They have been prepared in consultation with local communities, and set out forest resources, production and protected areas, and community rights. These plans are required only for forest reserves and are available at the offices of Forest Services Division, but in many cases still need to be updated.

It is important to differentiate between the reserve management plans which are strategic in nature and the operational plans which inform logging. The operational plans, which include details on the felling cycle and yields, are rarely informed by the reserve management plans. Most do not provide trends and are not informed by previous management performance. They are not produced in consultation with civil society or communities and are not in the public domain. In some cases, hard copies have been made available by district offices when requested, but there is no obligation on the authorities to provide them. Consequently, communities often do not have access to them.

With regard to off-reserve areas, strategic management plans are not required. Communities should be supported to develop and establish Community Resource Management Areas as well as community-owned natural regenerated sites to reduce illegal activities.

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### **Reports from Independent Forest Monitoring**

 Are reports by an independent forest monitor published?

Under the Voluntary Partnership Agreement (VPA) with the European Union, there is an obligation to set up an Independent Monitor. In fulfilment of this requirement, the Forestry Commission (FC) in June 2011 advertised for the position of an Independent Monitor even though the wood tracking system and other key systems in the VPA process were still not yet in place.

Though this was a welcome step and a concrete demonstration of the FC's efforts to implement the VPA, but it is surprising that the results of the tendering process had not yet been released at the time of this assessment. The Aide Memoire from the EU-Ghana Joint Monitoring and Reporting Mechanism mission in March 2012 stated "the IM will be contracted by May 2012" (<http://www.fcghana.org/vpa/assets/file/JMRM%20Mission%204.pdf>), but to date there has been no announcement, and it is still not clear when the Independent Monitor would be engaged.

**Title:** Annex VI of the Voluntary Partnership Agreement provide a Terms of Reference for the Independent Monitor

**Organisation:** Government of Ghana and European Union

**Date:** 2010

**Source:** [http://www.fcghana.com/VPA\\_2/assets/file/Downloads/Signed\\_Agreement\\_EC-Ghana\\_FLEGT\\_EN%5B1%5D.pdf](http://www.fcghana.com/VPA_2/assets/file/Downloads/Signed_Agreement_EC-Ghana_FLEGT_EN%5B1%5D.pdf)

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### Data on the Distribution of Forestry Royalties and Incentives



Is data regularly published on the distribution of forestry royalties and/or incentives to stakeholders?

The Forestry Commission (FC) has consistently published reports since 2002 on the disbursement of land rents and stumpage revenues from timber contractors to stool chiefs, District Assemblies and traditional councils. Each report covers six months of disbursement; the most recent report released in August 2012 covered the period from 1 January to 30 June 2011. The FC has made commendable efforts to catch up on the timing of these reports over the last couple of years. In addition to hard copies, the last three editions have been released online as pdf documents that are easy to print and facilitate wider distribution and coverage.

Despite this, key stakeholders such as many stool chiefs and District Assemblies have indicated that they have never seen these reports. Communities and civil society groups have not used them to effectively influence local decision making. Furthermore, District Assemblies do not account for how they use the royalties that they receive and there are no guidelines that regulate this expenditure.

As part of the Making the Forest Sector Transparent programme, CIKOD has completed three initiatives to strengthen transparency and governance of revenue disbursement:

- Wassa Amenfi East District have developed and adopted model by-laws, including management of forest revenues, with assistance from New Generation Concern.
- Brong Ahafo Regional House of Chiefs has adopted a Traditional Authority Transparency and Accountability Charter to regulate the use of royalties by traditional authorities.
- Six regions have received additional copies of the most recent disbursement report relevant to their areas. The re-print documents were produced in region-specific versions that are not bulky and provide a reader friendly summary of the amounts disbursed.

While the reporting on disbursement has improved, there are unresolved issues about the amounts due to different stakeholders. The FC retains 50% of stumpage revenues (which constitute the majority of the total) and charges 10% for administration of the funds. Furthermore, the FC is required by law to review stumpage fees every quarter and adjust them to track international prices (approximately 1.8% to 7% of free-on-board prices, depending on species), but they have not changed since 2005. Unofficial FC calculations suggest that current rates are therefore less than 30% of what they should be.

**Title:** a. Art 267 (6) of the Constitution of the Republic of Ghana  
b. Stumpage / Rent Disbursement Reports

**Organisation:** Forestry Commission and The Office of Administrator of Stool Lands

**Date:** 1992  
b. Most recent report for January - June 2011

Source: a. [www.fcghana.com/publications/76.12.220.51](http://www.fcghana.com/publications/76.12.220.51)  
b. [http://www.fcghana.com/library\\_info.php?doc=53&publication:Stumpage%20/%20Rent%20Disbursement%20Report](http://www.fcghana.com/library_info.php?doc=53&publication:Stumpage%20/%20Rent%20Disbursement%20Report)

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### Information on Forest Law Infractions

 Is information regularly published on infractions of forest law?

There is no official publication of forest offenders, and so no overt way in which previous offenders can be barred from future contract opportunities. Some cases of those who are arrested and/or prosecuted appear in the newspapers, but these tend to focus on small-scale illicit chainsaw operations. There are constitutional bodies such as the Commission on Human Rights and Administrative Justice and the Economic and Organised Crime Unit (previously the Serious Fraud Office) that are set up as anti-corruption units. There have not been any publicised reports by these bodies dealing directly with forestry related corruption.

A major issue is tax avoidance. The Forestry Commission (FC) Charter states that “all revenue on fees and charges are collected within 30 days of billing date”, but official reports on revenue disbursements indicate that there are significant arrears in payment by timber contractors. For example, according to the latest report 3.2 million Cedis (approximately US.7 million) were owed as at 30 June 2011; nearly half of the total. The FC has not named recalcitrant contractors since attempts to do so in 2003 were met with court injunctions from the Ghana Timber Association. In a communiqué issued following the 2012 National Forest Forum in November 2012, the forum expressed concern over this issue and called on the FC to be more resolute in retrieving stumpage fees from defaulting companies.

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### Annual Forest Authority Report

 Are annual reports published by the forest authority?

The Forestry Commission (FC) is required in its Charter to publish an annual report and present it to parliament through the Minister, but the last annual report was in 2006. The delay in the documentation and distribution of the annual report of the FC is typical of many state agencies in the country.

There are more recent (2008) sub-reports on various projects and programmes of the FC. These include the National Forest Plantation Development Programme and the Timber Industry Development Division. In districts where there is a Customer Services Officer, copies of some publications are kept in the offices but these are not publicly displayed and not many people know about the publication.

Together with the EU, Ghana’s forest authorities published in April 2012 a 2009-10 Annual Progress Report on implementation of the Voluntary Partnership Agreement. As a first report, this document provides an introduction to VPA implementation activities, and there is little to highlight as completed legislative, fiscal, institutional or legal compliance actions. Article 20 of the VPA also states that, the Joint Monitoring and Reporting Mechanism “shall record the efforts Ghana has made to be transparent by, inter alia, making publicly available information about harvest rights, areas designated for harvesting, harvesting schedules, timber rights fees, and harvest related payments, and information on social responsibility agreements and crop damage compensation awards. Future reports will include details of what has been done to collate and publish such information”.

Title: a. Annual Report of the Forestry Commission  
b. National Forest Plantation Development Programme (NFPDP)  
c. Annual Progress Report: VPA Implementation Ghana-EU 2009-10

Organisation: Forestry Commission

Date: a.2006  
b.2008 - 2010  
c. 2009/10

Source: a. Not available online but noted in <http://ghana.gov.gh/index.php/news/general-news/5960-parliament-adopts-forestry-committees-report>  
b. [http://www.fcghana.org/library\\_info.php?doc=41&publication:National%20Forest%20Plantation%20Development%20Programme%20Annual%20Reports%20&id=18](http://www.fcghana.org/library_info.php?doc=41&publication:National%20Forest%20Plantation%20Development%20Programme%20Annual%20Reports%20&id=18)  
[http://www.euflegt.efi.int/files/attachments/euflegt/ghana\\_annualprogressreport\\_vpaimplementation\\_09-10\\_lores.pdf](http://www.euflegt.efi.int/files/attachments/euflegt/ghana_annualprogressreport_vpaimplementation_09-10_lores.pdf)

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