

Timber Legality Risk Assessment Ghana

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COUNTRY RISK
ASSESSMENTS



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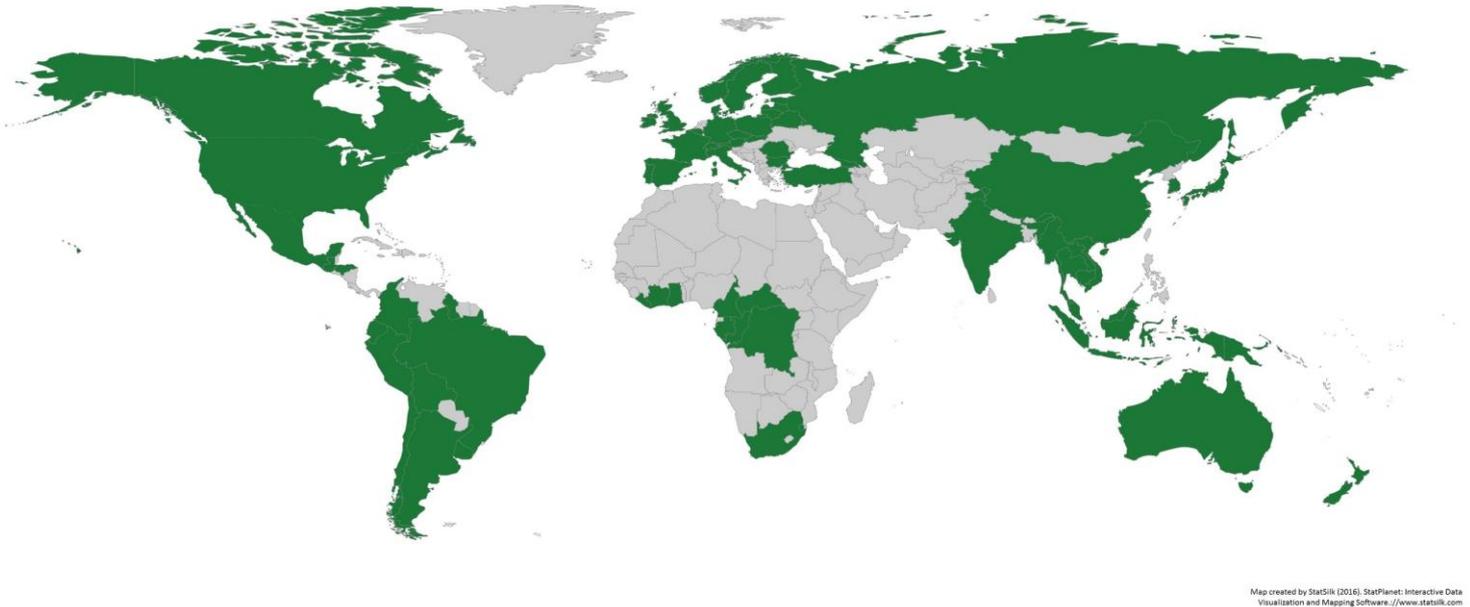
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A. Introduction

This Timber Legality Risk Assessment for Ghana provides an analysis of the risk of sourcing timber from areas of illegal harvesting and transport. NEPCon has been working on risk assessments for timber legality, in partnership with a number of organisations, since 2007.

In that time, NEPCon has developed timber risk assessments for more than 60 countries, illustrated in Figure 1.



Map created by StatSik (2016). StatPlanet: Interactive Data Visualization and Mapping Software.://www.statsik.com

Figure 1. Countries for which NEPCon have developed a legality risk assessment for timber

The risk assessments are developed in collaboration with local forest legality experts and use an assessment methodology jointly developed by FSC and NEPCon. A detailed description of the methodology can be found on NEPCon’s website.

B. Overview of Legality risks

Timber Risk Score: 35 / 100 in 2017

This report contains an evaluation of the risk of illegality in Ghana for five categories and 21 sub-categories of law. We found:

- **Specified risk for 13 sub-categories.**
- **Low risk for 6 sub-categories.**
- **No legal requirements for 2 sub-categories.**

The Timber Risk Score for Ghana is 35 out of 100. The key legality risks identified in this report concern legal rights to harvest, taxes and fees, timber harvesting activities, third parties' rights, and trade and transport.

For **Legal Rights to Harvest**, there is a risk that:

- Timber is harvested under permits which have been granted illegally (Sub-categories 1.1, 1.2, and 1.4)

NOTE: This is a complicated area in Ghana and relates to the state's administration and issuance of harvest rights, and whether it does this in compliance with the law.

- Forest reserves are not managed following approved management plans (1.3)

For **Taxes and Fees**, there is a risk that:

- Royalties and harvesting fees are reduced by underreporting harvest volumes (natural forest only) (1.5)
- Companies do not settle their timber rights fees on time (1.5)
- Social responsibility agreements with communities or landowners may not be fulfilled (see risk for third parties' rights) (1.5)

NOTE: All risks related to taxes and fees are relevant for forest reserve and off reserve areas, including plantations, but do not apply to private plantations

For **Timber Harvesting Activities**, there is a risk that:

- The harvested volume exceeds the approved yield (1.8)
- Harvesting regulations (e.g. no logging in buffer zones; protection of some species; and quantity of trees removed per hectare) set out in the "Logging Manual" and "Key Standards for Logging in the High Forest Zone" are not implemented (1.8)
- Protected species are illegally harvested through the abuse of salvage permits (1.9)
- Protected areas are illegally harvested (1.9)
- Companies operate without a required Environmental permit (1.10)
- Safety equipment is provided to or used by workers (1.11)
- The terms of the collective bargaining agreements are not met by companies (1.12)
- Workers do not have contracts and obligatory insurance (1.12)

For **Third Parties' Rights**, there is risk that:

- Social Responsibility Agreements (SRAs) between timber operators and adjacent forest-fringe communities are not implemented, with operators not paying communities the amounts owed to them (5% of the stumpage fees), or at all (1.13, 1.15)
- Compensation paid to farmers or landowners in off reserve areas is below legally required levels (1.13, 1.15)
- Trees, species and volumes are mis-classified, both during harvesting and enumeration, to reduce the fees payable to local communities through SRAs (See risk for trade and transport, below) (1.13, 1.15)

For **Trade and transport**, there is a risk that:

- Species is incorrectly identified or classified during enumeration, e.g. high value species may be misclassified as low value species and vice versa, some merchantable trees may not be captured during enumeration and may therefore not have stock numbers (1.16)
- Harvested volumes are under-reported (1.16)
- Stock numbers of approved trees are repeated in order to harvest more trees outside the yield (1.16)
- Harvesting contractors substitute lower value species with closely related high value species (1.16)
- Salvage permits for rosewood (a CITES species) that has already been felled being abused to harvest standing trees not covered by the permits (1.20)

Timber source types and risks

There are five main timber source types found in Ghana. Knowing the “source type” that timber originates from is useful because different source types can be subject to different applicable legislation and have attributes that affect the risk of non-compliance with the legislation. We have analysed the risks for these source types and found the risks differ between them.

Natural forest in forest reserves	Natural forest within Ghana’s forest reserves (permanent forest estates). These forests are on stool/skin lands and owned by chiefs but vested in Ghana’s president and managed by the Forestry Commission.
Natural forest off forest reserve	Natural forest outside of Ghana’s forest reserves, on land owned by chiefs, families, individuals, and public institutions.
Plantation in Forest Reserves	Plantation within Ghana’s forest reserves (permanent forest estates). Plantations established by the Forestry Commission are managed by the Forestry Commission, whereas private plantations are under special benefit sharing arrangements with investors.

Plantation off forest reserve	Plantations outside forest reserves, on lands which may be owned by stool (community), family, individuals or public institutions. The plantations are privately managed, and the Forestry Commission conducts monitoring and issues the Plantation Production Certificate.
Submerged forest	Underwater forests, off reserve, on stool and family lands. Timber harvesting rights are granted by the Forestry Commission through underwater use rights and salvage permits.

This matrix summarises the findings of the timber legality risk assessment set out in this report.

Legal Category	Sub-Category	Natural forest source types	Plantation	
			Reserve	Off reserve
Legal rights to harvest	1.1 Land tenure and management rights	Specified	Specified	Low
	1.2 Concession licenses	Specified	Specified	Low
	1.3 Management and harvesting planning	Specified	Specified	Specified
	1.4 Harvesting permits	Specified	Specified	Specified
Taxes and fees	1.5 Payment of royalties and harvesting fees	Specified	Specified	Low
	1.6 Value added taxes and other sales taxes	Low	Low	Low
	1.7 Income and profit taxes	Low	Low	Low
Timber harvesting activities	1.8 Timber harvesting regulations	Specified	Specified	Specified
	1.9 Protected sites and species	Specified	Specified	Specified
	1.10 Environmental requirements	Specified	Specified	Specified
	1.11 Health and safety	Specified	Specified	Specified
	1.12 Legal employment	Specified	Specified	Specified
Third parties' rights	1.13 Customary rights	Specified	Specified	Specified
	1.14 Free prior and informed consent	Low	Low	Low
	1.15 Indigenous/traditional peoples rights	Specified	Specified	Specified
Trade and transport	1.16 Classification of species, quantities, qualities	Specified	Specified	Specified
	1.17 Trade and transport	Low	Low	Low
	1.18 Offshore trading and transfer pricing	Low	Low	Low
	1.19 Custom regulations	Low	Low	Low
	1.20 CITES	Specified	Low	Low
	1.21 Legislation requiring due diligence/due care procedures	Specified	Specified	Specified

C. Overview of the forest sector in Ghana

Ghana's forests are classified into (i) Forest reserve (FR) (1.63 million hectares of gazetted permanent forest estates which includes permanently protected areas (national parks, globally significant biodiversity areas of 352,500ha), (ii) Off-forest reserve (OFR) (farmlands and patches of forests on non-gazetted lands), (iii) Plantations (estimated at 250,000ha), and (iv) Submerged forest (SF). The forests are mainly found in the High forest zone; and Savanna woodlands zone.

Forest Reserves, plantations on FRs, and Protected Areas (PAs) are on stool/skin lands and owned by chiefs but vested in Ghana's president and managed by the Forestry Commission (FC). OFRs, Submerged Forest (SF), and private plantations on OFRs are on lands owned by chiefs; families, individuals, and public institutions. Private plantations in FRs are under special benefit sharing arrangements with investors whereas plantations in OFRs are leased.

Timber production/extraction rights for natural forests in FRs and OFRs are granted through the award of Timber Utilization Contracts (TUC) by the sector Minister [Acts 547 and 617] and ratified by Ghana's Parliament [ACT 547; LI 1649]. Apart from TUCs, the Executive Officer of FC [Acts 547 and 617; and LI 1649 and 1721] may issue;

- i) **Salvage Permits** [Regulation 38, LI 1649];
- ii) **Submerged forest use rights;**
- iii) **Special Permits** [Section 6 of Act 617 which amended section 20 of Act 547]. Recent special permits issued by the FC on expired concession areas are being challenged by Civil Society in Ghana;
- iv) **Certificate of Purchase** (proves legal ownership of seized/abandoned timber) [Act 547 Section 17(3) and LI 1649 Section 37].
- v) **Entry Permit** (for plantations in FRs managed by the FC. It follows a competitive bidding process and evaluation by the Timber Right Evaluation Committee of the FC.

Application for TUCs requires Timber operational specification and Social responsibility agreement [Act 547 and LI 1721]. Once a TUC is awarded, the TUC holder is required to prepare a TUC Area and 5-year operational plans for vetting and approval by the Forest service division (FSD) of the FC [Act 547 and LI 1649 Part IV]. Subsequently annual operating plans are prepared by the company, verified and endorsed by the FSD. For non-TUC areas (i.e., salvage, entry or special permits), harvesting requirements are set out in the permit conditions.

The FSD monitors harvesting operations on-site, including stumpage capturing and fee payments, through harvest and post-harvest inspections by FSD Technical Officers. The Resource Management Support Centre and FC also conduct quarterly monitoring of field inspections.

Prior to harvesting in any FR compartment or OFR area, the FSD conducts inventory of all trees. A Tree information form (TIF) which captures details of each tree felled is prepared by the FSD Technical Officer. The Company completes a Log information form (LIF) to cover logs produced from each tree. A log measurement and conveyance certificate is prepared by the FSD before logs are trucked from the forest to the processing site or point of sale. Transported

logs are certified by the Timber Industry Development Division. For forest plantations, TIF and LIF are replaced by the Plantation production certificate.

Additional sources:

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- ITTO. 2014. Market Information Service 1-15 August 2014. ITTO. http://www.itto.int/mis_detail/id=4045
- ITTO. 2015. Biennial review and assessment of the world timber situation. ITTO. http://www.itto.int/annual_review/

D. Legality Risk Assessment

LEGAL RIGHTS TO HARVEST

1.1. Land tenure and management rights

Legislation covering land tenure rights, including customary rights as well as management rights that includes the use of legal methods to obtain tenure rights and management rights. It also covers legal business registration and tax registration, including relevant legal required licenses. Risk may be encountered where land rights have not been issued according to prevailing regulations and where corruption has been involved in the process of issuing land tenure and management rights. The intent of this indicator is to ensure that any land tenure and management rights have been issued according to the legislation.

1.1.1. Applicable laws and regulations

- Forest Act 1927 (defines forest land ownership). Available at: <http://www.clientearth.org/external-resources/ghana/forests-and-wildlife/1927%20FORESTS%20ACT.pdf>
- Forest Concession Act 1962 (defines forest concessions). Available at: <http://www.clientearth.org/external-resources/ghana/forests-and-wildlife/1962-concessions-act-act-124.pdf>
- Forestry Commission Act 1999 (Act 571) (defines legal authority for forest management). Available at: <http://www.clientearth.org/external-resources/ghana/forests-and-wildlife/1999-forestry-commission-act-act-571.pdf>
- Companies Code 1963 (Act 179) (contains business registration requirements). Available at: <http://glorylawfirm.com/wp-content/uploads/2015/08/COMPANIES-ACT-1963-Act-179.pdf>
- Incorporated Private Partnerships Act, 1962 (Act 152) (contains business registration requirements)
- Taxpayers Identification Numbering System, 2002 (Act 632) (outlines the requirements for registration of Tax Codes and Certificates from the Ghana Revenue Authority). Available at: http://gra.gov.gh/docs/info/tin_act.pdf
- National Pension Act 2008 (Act 766) (Section 58-63) (defines the requirements for Social Security registration for companies and employees). Available at: <http://www.ssnit.org.gh/resource/pension-act-766/attachment/law-pension-act-766/>
- Timber Resources Management Act 1997 (Act 547) section 4 (defines forest resource use rights in Ghana). Available at: http://fcghana.org/library_info.php?doc=45&publication:Timber%20Resource%20Management%20Act,%201997%20-%20Act%20%20547&id=15
- Timber Resources Management Amendment Act (Act 617) (defines forest resource use rights in Ghana). Available at: [http://fcghana.org/library_info.php?doc=52&publication:Timber%20Resources%20Management%20Act%20617%20\(Amendment\)%20Act,%202002&id=15](http://fcghana.org/library_info.php?doc=52&publication:Timber%20Resources%20Management%20Act%20617%20(Amendment)%20Act,%202002&id=15)
- Timber Resources Management Regulations 1998 (LI 1649) Regulations 1, 2-8

(defines forest resource use rights in Ghana). Available at:
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- Timber Resources Management Amendment Regulations 2003 (LI 1721) (defines forest resource use rights in Ghana). Available at:
[http://fcghana.org/library_info.php?doc=48&publication:L.I.%201721%20Timber%20Resources%20Management%20\(Amendment\)%20&id=15](http://fcghana.org/library_info.php?doc=48&publication:L.I.%201721%20Timber%20Resources%20Management%20(Amendment)%20&id=15)
- Trees and Timber Act 1974 (NCRD 273) (regulates the issuance of Property Marks). Available at: <http://www.clientearth.org/external-resources/ghana/forests-and-wildlife/1974-trees-and-timber-decree--nrcd-273.pdf>
- Trees and Timber Amendment Act 1994 (Act 493) section 2 (regulates the issuance of Property Marks). Available at:
[http://fcghana.org/library_info.php?doc=49&publication:The%20Trees%20&%20Timber%20\(Amendment\)%20Act,%201994&id=15](http://fcghana.org/library_info.php?doc=49&publication:The%20Trees%20&%20Timber%20(Amendment)%20Act,%201994&id=15)
- Incorporated Private Partnerships Act, 1962 (Act 152). Available at:
http://laws.ghanalegal.com/acts/id/32/section/5/Method_Of_Registration

1.1.2. Legal authority

- Registrar Generals Department (RGD) (Main legal Authority for business registration). Website available at: <http://www.rgd.gov.gh/>
- Ghana Revenue Authority (GRA) (Legal authority for Corporate, Income and VAT tax) Website available at: <http://www.gra.gov.gh/>
- Social Security and National Insurance Trust (SSNIT) (legal authority for social tax registration and payment). Website available at: <http://www.ssnit.org.gh/>
- The Forestry Commission (FC) (the principal authority overseeing forest management in Ghana). Website available at: <http://fcghana.org/>

1.1.3. Legally required documents or records

- Certificate of Business Registration from the Registrar General's Department
- Tax Identification Number (TIN) and Tax Clearance Certificate from Ghana Revenue Authority and Social Security and National Insurance Trust
- Timber Utilization Contract signed by the Minister and ratified by the Parliament of Ghana
- Salvage permit or 'other permits' issued by the Minister
- Property Mark issued by the Forestry Commission
- Lease agreement (for on- and off-reserve plantation operations)

1.1.4. Sources of information

Government sources

- The Forestry Commission of Ghana (n.d.). *Forest Laws and Regulations (Publications)*. [online]. Available at: <http://fcghana.org/library.php?id=15> [Accessed

23. March 2016]

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- Forestry Commission of Ghana (n.d.). *Forestry Commission ravishes Global Witness Report* (Forestry Commission's response to Global Witness Report on Logging permits issuance in Ghana). [online]. Available at: <http://www.fcghana.org/news.php?news=67> [Accessed 16 November 2016]
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Ghana, The Democratic Republic of Congo and Liberia. [online]. Available at: <https://www.globalwitness.org/en/archive/logging-shadows-how-vested-interests-abuse-shadow-permits-evade-forest-sector-reforms/> [Accessed 16 November 2016]

1.1.5. Risk determination

Overview of Legal Requirements

In Ghana, forest lands are classified into:

- i) Forest reserves [permanent forest estates] (contains both production and protection areas). These are stool (or community) lands which are under the custody of chiefs but vested in the President with the state acting as 'trustee' on behalf of the stool;
- ii) National Parks and Resource Reserves (These are wholly protected reserves where exploitation of trees is prohibited). These are stool or skin (or community) lands under custody of chiefs but vested in the state with the state acting as 'trustee' on behalf of the stool (The Forests Act, 1927; Concessions Act 1962);
- iii) Off forest reserves (OFR) (lands not gazetted for permanent forestry). These are stool (or community) lands with chiefs as custodians, Family lands (Family head as custodian), Individual lands, and public lands;
- iv) Submerged forests (located on off-reserves; e.g. Volta Lake). These are stool lands (community) and family lands. Irrespective of land classification (and except for private plantations both on- and off-reserve: Act 617), the rights of timber resource allocation and management are vested in the 'State' (Forest Ordinance of 1927; Forest Protection Decree 1972). The Forestry Commission (FC) established by Act 571 (1999); under the Ministry of Lands and Natural Resources (MLNR), is the main government institution responsible for administering forest management in Ghana.

Legal right to harvest timber in Ghana is granted primarily through the award of:

- i) Timber utilization contracts (TUC) (Act 547 and Act 617) by the sector (MLNR) Minister acting on the recommendation of the FC. TUC agreements are ratified by the Parliament of Ghana (ACT 547; LI 1649). Apart from TUCs, the sector Minister, upon recommendations from the FC, and in accordance with provisions made in Acts 547 and 617 (supporting legislations, LI 1649 and 1721) may also grant administrative harvest rights such as;
 - a. Salvage Permits: for abandoned logs or forest areas undergoing developments e.g. farmlands or areas undergoing settlement expansion (Regulation 38, LI 1649)
 - b. Other Permits (under Section 6 of Act 617 which amended section 20 of Act 547)
 - c. Entry Permit: for on-reserve plantations managed by the FC. The grant of 'Entry Permit' follows a bidding process and evaluation of bids by the Timber Right Evaluation Committee of the FC.
- ii) Certificate of Purchase (proves legal ownership of seized/abandoned timber).

Description of risk

Generally, the requirements for grant of TUC (and “Entry permit” for plantations) are clearly defined, transparent and acceptable to all stakeholders (Client Earth 2013; CIKOD 2012; Global Witness 2013; Hoare 2014).

There is an on-going debate about the legality of the category of permits referred to as ‘other or special permits’ by the Forestry commission (Client Earth 2013, Global Witness 2013, FC response to Global witness report 2013). Global Witness 2013 raised concerns that three quarters of Ghana’s logging permits could break Europe’s new timber law after analysis of official Ghana logging permits provided by the Forestry Commission (FC). The FC argues that the Minister of the Ministry of Lands and Natural Resources issues “other permits or special permits” following the Forestry Commission’s recommendation; and that section 20 of Act 547 was amended by Act 617 such that Timber Utilization Contract (TUC) was extended to cover any other permits that the Minister may issue following the recommendation of the Forestry Commission. Therefore, Special permits and other permits are Timber Utilisation Contracts. However, the FCs claims are based on the definition or interpretation section of the amended law (i.e. Act 617) instead of the substantive sections of the law. Therefore, the authority of the Minister to grant Special permits is questionable (Expert consultation conducted by NEPCon, 2016). The processes involved in the grant of special permits are arbitrary, not transparent and not competitive compared to TUCs (Expert consultation conducted by NEPCon, 2016).

With the help of civil society organisations, a guideline has been developed to address the challenges associated with special permits. A committee, comprising representatives of the Ministry of Lands, Forestry and Mines; Attorney General; Forestry Commission; and Civil Society Organisations, has been formed to convert the guidelines into a Legislative Instrument (Expert consultation conducted by NEPCon, 2016). However, the guidelines address only two aspects of the challenges with the Special permits –arbitrariness and lack of transparency. The guidelines do not address the legality or authority for granting Special permits and how the already issued permits will be addressed. These issues may be addressed by the Committee. If this process fails, some civil society organisations are preparing to go to court to contest the authority of the Forestry Commission and Ministry to issue Special permits.

Further complications in the harvesting permit system in Ghana revolve around the existence of Concession or Leases. Concessions or Leases were used to grant timber harvesting rights under the Concessions Act, 1962 (ACT 124). However, with the enactment of ACT 547, all leases were supposed to be converted to TUCs within 6 months of Act 547 coming into force. Some timber companies operating with leases applied for the conversion when the application was opened some years back but the Forestry Commission did not process the applications. Later these companies were requested to re-apply and pay Timber Rights Fees (TRFs) following the enactment of LI 1721 which introduced TRFs. The timber companies are contesting whether LI 1721 can have a retrospective effect and have therefore resolved not to pay the TRF. This has become a bone of contention between Forestry Commission and the Timber Industry. Some timber operators therefore continue to operate with Concession and Lease which under current forest dispensation can be classified as illegal. Private plantations in off forest reserve areas are low risk.

Risk conclusion

This indicator has been evaluated as specified risk. The authority of the Forestry Commission and Minister of the Ministry of Lands and Natural Resources is not defined in the substantive sections of the law; and timber companies still use outlawed concessions and leases.

1.1.6. Risk designation and specification

Specified risk for natural forest in and outside forest reserves, and plantations in forest reserves.

Private plantations in off forest reserve areas are low risk.

1.1.7. Control measures and verifiers

- FME is registered and has obtained a business registration license from the Registrar General's Department
- Forest Management Enterprises (FMEs) holds a valid Property Mark and a Certificate of Registration of the Property Mark from the Forestry Commission of Ghana
- FME holds a timber harvesting rights in the form of 1) Timber Utilization Contract (TUC) issued by the Minister of Lands, Forests and Mines and ratified by the parliament of Ghana, 2) A salvage permit issued by the Minister of Lands, Forest and Mines
- For salvage permits, it is relevant to verify if such lands do not qualify for grant TUC as defined by Act 547.
- For lands leased for plantation development, either on- and off-reserves, a 'leased agreement' with the Forestry Commission or the land owners specifying the boundary, management and legal rights is signed between the relevant stakeholders.

1.2. Concession licenses

Legislation regulating procedures for the issuing of forest concession licenses, including use of legal methods to obtain concession license. Especially bribery, corruption and nepotism are well-known issues in connection with concession licenses. The intent of this indicator is to avoid risk related to situations where organizations are obtaining concession licenses via illegal means such as bribery, or where organizations or entities that are not eligible to hold such rights do so via illegal means. Risk in this indicator relates to situations where due process has not been followed and the concession rights can therefore be considered to be illegally issued. The level of corruption in the country or sub-national region is considered to play an important role and corruption indicators (e.g., Corruption Perception Index, CPI) should therefore be considered when evaluating risks.

1.2.1. Applicable laws and regulations

- Timber Resources Management Act 1997 (Act 547) section 1, 7, 8, 9 (defines requirements and procedures for concession licenses in Ghana). Available at: http://fcghana.org/library_info.php?doc=45&publication:Timber%20Resource%20Management%20Act,%201997%20-%20Act%20%20547&id=15
- Timber Resources Management Amendment Act (Act 617) (defines requirements and procedures for concession licenses in Ghana). Available at: http://fcghana.org/library_info.php?doc=52&publication:Timber%20Resources%20M

[anagement%20Act%20617%20\(Amendment\)%20Act,%202002&id=15](http://fcghana.org/library_info.php?doc=46&publication:L.I.%201649%20-%20Timber%20Resources%20Management%20Regulations,%201998&id=15)

- Timber Resources Management Regulations 1998 (LI 1649) (defines requirements and procedures for concession licenses in Ghana). Available at: http://fcghana.org/library_info.php?doc=46&publication:L.I.%201649%20-%20Timber%20Resources%20Management%20Regulations,%201998&id=15
- Timber Resources Management Amendment Regulations 2003 (LI 1721) (defines requirements and procedures for concession licenses in Ghana). Available at: [http://fcghana.org/library_info.php?doc=48&publication:L.I.%201721%20Timber%20Resources%20Management%20\(Amendment\)%20&id=15](http://fcghana.org/library_info.php?doc=48&publication:L.I.%201721%20Timber%20Resources%20Management%20(Amendment)%20&id=15)

1.2.2. Legal authority

- Timber Right Evaluation Committee (TREC) (main body that assesses bids for timber utilization contracts (TUCs))
- Forestry Commission (FC) (the principal authority overseeing forest management in Ghana; makes recommendations to the Minister for grant of TUC or other permits. Website available at: <http://fcghana.org/>)
- Ministry of Lands, Forests and Natural Resources (the Minister signs the (TUC) agreement and grants other permits)
- Parliament of Ghana (ratifies the TUC agreement)

1.2.3. Legally required documents or records

Prequalification requirements:

- Certificate of Business Registration,
- Proof of payment of forest levies,
- Tax and Social Security clearance certificates, and
- Timber Operational Specifications (TOS) covering social and environmental considerations.

Main bidding requirements:

- Timber harvest schedule for the area,
- Performance Bond,
- Reserve Bid,
- Management requirements and restrictions specific to the contract.

Permits issued include:

- Timber Utilization Contract signed by the Minister and ratified by the Parliament of Ghana,
- Salvage permit issued by the Minister,
- Other Permit issued by the Minister,
- Lease Agreements (for on- and off-reserve plantation operations).

1.2.4. Sources of information

Government sources

- The Forestry Commission of Ghana (n.d.). *Forest Laws and Regulations (Publications)*. [online]. Available at: <http://fcghana.org/library.php?id=15> [Accessed 23. March 2016]
- The Forestry Commission of Ghana (n.d.). *List of Concession Holders in Ghana and their permit category provided by the Forestry Commission of Ghana*. [Excel sheet]. Available at: https://docs.google.com/spreadsheets/d/1Isn8DsUclq8F5xyVlqA-8tBfvkPxluSnCeyWwor0I_E/edit?pref=2&pli=1#gid=0
- Forestry Commission of Ghana (n.d.). *Forestry Commission ravishes Global Witness Report* (Forestry Commission's response to Global Witness Report on Logging permits issuance in Ghana). [online]. Available at: <http://www.fcghana.org/news.php?news=67> [Accessed 16. November 2016]
- The Tax Payers Identification Numbering System, Act 632 dated 2002. (Registration Acts and regulations made available by the Ghana Revenue Authority). Available at: http://gra.gov.gh/docs/info/tin_act.pdf [Accessed 23. March 2016]
- The National Pensions Act, Act 766 dated 2008. By The Social Security and National Insurance Trust. Available at: <http://www.ssnit.org.gh/resource/pension-act-766/attachment/law-pension-act-766/> [Accessed 23. March 2016]

Non-Government sources

- Client Earth (2013). A short legal briefing on "*Understanding the legality of rights, permits and certificates to harvest naturally occurring timber in Ghana*". Available at: <http://www.clientearth.org/external-resources/ghana/other-ressources/Timber%20Rights%20and%20Felling%20Permits%20in%20Ghana-2013.pdf> [Accessed 16 November 2016]
- Hoare, A. (2014). *Illegal Logging and Related Trade; The Response in Ghana*. [online]. A Chatham House Assessment. Available at: <https://www.chathamhouse.org/publication/illegal-logging-and-related-trade-response-ghana> [Accessed 16 November 2016]
- CIKOD (2012). *Annual Transparency Report Card for Forest Sector Ghana*. A report prepared by Centre for Indigenous Knowledge and Organization Development (CIKOD) under the Governance Initiative for Rights and Accountability in Forest (GIRAF). [online]. Available at: <http://www.foresttransparency.info/ghana/2012/> [Accessed 16 November 2016]
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- Bosu, D. (2014). *Rosewood: Most expensive, fastest selling commodity in Ghana today*. Ghana Web (Article 313635). [online]. Available at: <http://www.ghanaweb.com/GhanaHomePage/features/Rosewood-Most-expensive->

[fastest-selling-commodity-in-Ghana-today-313635](#) [Accessed 23 November 2016]

- Global Witness (2013). *Logging in the shadows - How vested interest abuse shadow permits to evade forest sector reforms*. An analysis of recent trends in Cameroon, Ghana, The Democratic Republic of Congo and Liberia. [online]. Available at: <https://www.globalwitness.org/en/archive/logging-shadows-how-vested-interests-abuse-shadow-permits-evade-forest-sector-reforms/> [Accessed 16 November 2016]

1.2.5. Risk determination

Overview of Legal Requirements

Apart from private forest plantation in forest reserves and off forest reserves, TUCs are required to be awarded through competitive bidding processes involving 1) pre-qualification evaluation and 2) main bidding process. Prequalification requirements include possession of:

- 1) Certificate of Business Registration,
- 2) Proof of full payment of applicable forest levies,
- 3) Income tax, VAT and social security clearance certificates
- 4) Where applicable, evidence of value, and
- 5) a statement of all timber rights, including sizes, held by the applicant at the time of the application.

For the main bidding process, for each area proposed for grant of timber rights, the Chief Executive of the Commission specifies;

- a) a timber harvest schedule for the area;
- b) the amount of Performance Bond to be posted by the person to whom timber rights to the area may be granted;
- c) the amount of a Reserve Bid below which the grant of timber rights for the area will not be made;
- d) any management requirements and restrictions specific to the contract;
- e) the time and place at which the bids will be opened; and
- f) any other information relevant to the grant and exercise of the timber right.

Following this process, a written contract is signed by the Minister and ratified by the Parliament of Ghana granting timber harvesting right to the successful bidder.

Salvage Permits are issued by the Chief Executive of the Forestry Commission (FC) for the salvage of trees from areas of land undergoing development such as road construction, expansion of human settlement or cultivation of farms. Salvage permits may also be issued for Submerged and underwater harvesting. Special or other permits: For lands that are not eligible for TUCs or salvage permit, the FC may grant 'other or special permit' for timber harvesting. Application for salvage or special/other permit requires;

- 1) a valid certificate of business registration,

- 2) records of payments of forest fees,
- 3) tax clearance certificate and
- 4) field inspection report.

Description of risk

Generally, the requirements for grant of TUC (and “Entry permit” for plantations) are clearly defined, transparent and acceptable to all stakeholders (Client Earth 2013; CIKOD 2012; Global Witness 2013; Hoare 2014).

There is an on-going debate about the legality of the category of permits referred to as ‘other or special permits’ by the Forestry commission (Client Earth 2013; Global Witness 2013; FC response to Global witness report 2013). Global Witness 2013 raised concerns that three quarters of Ghana’s logging permits could break Europe’s new timber law after analysis of official Ghana logging permits provided by the Forestry Commission (FC). The FC argues that the Minister of the Ministry of Lands and Natural Resources issues “other permits or special permits” following the Forestry Commission’s recommendation; and that section 20 of Act 547 was amended by Act 617 such that Timber Utilization Contract (TUC) was extended to cover any other permit that the Minister may issue following the recommendation of the FC. Therefore, special permits and other permits are Timber Utilisation Contracts. However, the FCs claims that TUC is extended to include any other permit issued by the Minister has no legal basis. These claims are based on the definition or interpretation section of the amended law (i.e. Act 617) instead of the substantive sections of the law. The authority to grant Special permits is therefore questionable (Expert consultation conducted by NEPCon, 2016). The processes involved in the grant of special permits are arbitrary, not transparent and not competitive compared to TUCs (Expert consultation conducted by NEPCon, 2016; CIKOD, 2012).

With the help of civil society organisations, a guideline has been developed to address the challenges associated with Special permits. A committee, comprising representatives of the Ministry of Lands and Natural Resources; Attorney General; Forestry Commission; and Civil Society Organisations, has been formed to convert the guidelines into a Legislative Instrument (Expert consultation conducted by NEPCon, 2016). However, the guidelines address only two aspects of the challenges associated with the Special permits –arbitrariness and lack of transparency. The guidelines do not address the legality or authority for granting Special permits and how the already issued permits will be addressed. If this process fails to fully address the legality of Special permits (especially, if Section 20(2) the Act is not expunged or amended), some civil society organisations are preparing to go to court to contest the authority of the Forestry Commission and Ministry to issue Special permits.

Concessions or Leases were used to grant timber harvesting rights under the Concessions Act, 1962 (ACT 124). However, with the enactment of ACT 547, all leases were supposed to be converted to TUCs within 6 months of Act 547 coming into force. Some timber companies operating with leases applied for the conversion when the application was opened some years back but the Forestry Commission did not process the applications. Later these companies were requested to re-apply and pay Timber Rights Fees (TRFs) following the enactment of LI 1721 which introduced TRFs. The timber companies are contesting whether LI 1721 can have a retrospective effect and

have therefore resolved not to pay the TRF. This has become a bone of contention between Forestry Commission and the Timber Industry. Some timber operators therefore continue to operate with Concession and Lease which under current forest dispensation can be classified as illegal.

Salvage or Special permits are issued for lands or forest areas where a TUC may be eligible. Issuance of Salvage or Special permits does not go through the transparent process such as public bidding and TREC (Act 547) and parliament ratification processes (Act 547 and 617). Importantly, management and harvesting planning requirements may be less stringent for non-TUC permits. Special permits awarded in expired concessions in forest reserve areas which does not meet the requirements for special permit is illegal.

Plantations in off forest reserve areas are a low risk.

Risk conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld.

1.2.6. Risk designation and specification

Specified risk for natural forest in and outside forest reserves, and plantations in forest reserves.

Private plantations in off forest reserve areas are low risk.

1.2.7. Control measures and verifiers

- For TUC application, a) application went through the competitive bidding processes and b) the following documents were available as part of the application: 1) valid certificate of business registration, 2) records of up-to-date payment of forest fees, 3) tax clearance certificates (SSNIT and GRA) as well as Timber Operational Specification and signed Social Responsibility Agreement (SRA).
- For salvage or special permit, a) the defined forest area is clearly delimited on map, b) evidence of proposed development available and c) application included: 1) a valid certificate of business registration, 2) records of payments of forest fees, 3) tax clearance certificate and, 4) field inspection report.

1.3. Management and harvesting planning

Any legal requirements for management planning, including conducting forest inventories, having a forest management plan and related planning and monitoring, as well as approval of these by competent authorities. Cases where required management planning documents are not in place or are not approved by competent authorities should be considered. Low quality of the management plan resulting in illegal activities may be a risk factor for this indicator as well.

1.3.1. Applicable laws and regulations

- Timber Resources Management Act 1997 (Act 547) section 10 and 12 (defines main regulations covering management of harvesting operations). Available at: http://fcghana.org/library_info.php?doc=45&publication:Timber%20Resource%20Management%20Act,%201997%20-%20Act%20%20547&id=15
- Timber Resources Management Regulations 1998 (LI 1649) Part IV (defines main

regulations covering management of harvesting operations). Available at: http://fcghana.org/library_info.php?doc=46&publication:L.I.%201649%20-%20Timber%20Resources%20Management%20Regulations,%201998&id=15

- Manual of Procedures (MoPs) and Logging manual (operationalize Act 547 and LI 1649 and subsequent regulations; they are statutory guidance documents for forest management in Ghana). Available at: <http://www.clientearth.org/reports/130819-climate-and-forests-MOP-A.pdf> (MoP Section A), <http://www.clientearth.org/reports/130819-climate-and-forests-MOP-B.pdf> (MoP Section B), <http://www.clientearth.org/reports/130819-climate-and-forests-MOP-C.pdf> (MoP Section C), <http://www.clientearth.org/reports/130819-climate-and-forests-MOP-D.pdf> (MoP Section D), <http://www.clientearth.org/reports/130819-climate-and-forests-MOP-E.pdf> (MoP Section E), <http://www.clientearth.org/reports/130819-climate-and-forests-MOP-F.pdf> (MoP Section F).

1.3.2. Legal authority

- Forestry Commission (FC) (the principal authority overseeing forest management in Ghana). Website available at: <http://fcghana.org/>
- Forest Services Division (FSD) (They support the Commission in the preservation and management of forest reserves in Ghana). Website available at: <http://fcghana.org/>
- Resource Management Support Centre (RMSC) (is the technical wing of the Forestry Commission (FC) and responsible for the exploration, development, facilitation, institutionalization, implementation, and monitoring of effective and affordable forest management systems in Ghana. Website available at: <http://www.fcghana.org/page.php?page=46§ion=22&typ=1&subs=252>

1.3.3. Legally required documents or records

- Approved map of the concession/permit area
- Approved coupes/harvesting schedule or blocks
- Signed social Responsibility Agreement (SRA) with forest fringe communities (for TUCs, Salvage and other permits)
- Pre-harvest inspection reports
- Approved yield or yield markings
- Approved harvesting plan

1.3.4. Sources of information

Government sources

- The Forestry Commission of Ghana (n.d.). *Forest Laws and Regulations (Publications)*. [online]. Available at: <http://fcghana.org/library.php?id=15> [Accessed 23. March 2016]
- Manual of Procedures (MOPs) and Logging manual (operationalize Act 547 and LI 1649 and subsequent regulations; they are statutory guidance documents for forest

management in Ghana) (Section A-F). Available at: <http://www.clientearth.org/reports/130819-climate-and-forests-MOP-A.pdf> (MoP Section A), <http://www.clientearth.org/reports/130819-climate-and-forests-MOP-B.pdf> (MoP Section B), <http://www.clientearth.org/reports/130819-climate-and-forests-MOP-C.pdf> (MoP Section C), <http://www.clientearth.org/reports/130819-climate-and-forests-MOP-D.pdf> (MoP Section D), <http://www.clientearth.org/reports/130819-climate-and-forests-MOP-E.pdf> (MoP Section E), <http://www.clientearth.org/reports/130819-climate-and-forests-MOP-F.pdf> (MoP Section F).

Non-Government sources

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- Hoare, A. (2014). *Illegal Logging and Related Trade; The Response in Ghana*. [online]. A Chatham House Assessment. Available at: <https://www.chathamhouse.org/publication/illegal-logging-and-related-trade-response-ghana> [Accessed 16. November 2016]
- CIKOD (2012). *Annual Transparency Report Card for Forest Sector Ghana*. A report prepared by Centre for Indigenous Knowledge and Organization Development (CIKOD) under the Governance Initiative for Rights and Accountability in Forest (GIRAF). [online]. Available at: <http://www.foresttransparency.info/ghana/2012/> [Accessed 16. November 2016]
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- Bosu, D. (2014). *Rosewood: Most expensive, fastest selling commodity in Ghana today*. Ghana Web (Article 313635). [online]. Available at: <http://www.ghanaweb.com/GhanaHomePage/features/Rosewood-Most-expensive-fastest-selling-commodity-in-Ghana-today-313635>
- Global Witness (2013). *Logging in the shadows - How vested interest abuse shadow permits to evade forest sector reforms*. An analysis of recent trends in Cameroon, Ghana, The Democratic Republic of Congo and Liberia. [online]. Available at: <https://www.globalwitness.org/en/archive/logging-shadows-how-vested-interests-abuse-shadow-permits-evade-forest-sector-reforms/> [Accessed 16. November 2016]

1.3.5. Risk determination

Overview of Legal Requirements

The Forestry Commission (FC) has developed Manual of Operations (MOPs) [sections A-F] to operationalize Act 547 and LI 1649 (and subsequent regulations). The management and harvesting planning is 'co-managed' by the FC and the TUC holder. For any Defined Forest Area (DFA) for which harvesting rights are granted, a map delimiting the

boundary is required to be prepared by the Forest Services Division. The whole DFA is required to be divided into felling coupes or blocks. For on-reserve, the felling coupes or blocks are sub-divided into smaller harvesting units (e.g., compartments). A schedule, listing the order in which the coupes/blocks and the sub-divisions are to be logged is prepared by the TUC holder and is vetted and endorsed by the Resource Management Support Centre (RMSC) of the FC. For each harvesting unit, pre-harvest inspection (stock survey or pre-survey inspections) are required to be conducted and the results of this survey fed into the yield allocation process. The pre-inspection survey is verified by an independent team from the Forest Services Division (FSD). The FSD selects individual trees for harvesting and prepares a yield summary (or yield marking in the case of off-reserve areas) and a yield map (for forest reserve operations). The yield summary, map (together with pre-inspection data), and a logging plan (completed by the TUC holder) is submitted to the RSMC for vetting. These documents are vetted against the requirements of Mop Section D. It is only after this elaborate process before the yield summary (yield marking), harvesting schedule for forest reserves (LI 1649 Section 17; MoP Section E) and logging plan for off-forest reserves (MoP Section F) and yield map can be approved and released to the TUC holder for harvesting to commence.

The grant of Entry Permit for on-reserve plantations managed by the FC follows a bidding process and bids are evaluated by the Timber Right Evaluation Committee of the FC. Salvage Permits are issued to rescue abandoned logs or forest areas undergoing developments, eg, farmlands or areas undergoing development (Regulation 38, LI 1649). Management and planning of harvesting operations involved in these timber rights are specified in the contract terms and follows the timber harvesting standards and specifications in Section 3 of the Logging Manual.

Management of harvesting operations associated with Special Permits (under Section 6 of Act 617 which amended section 20 of Act 547) are not defined in the law.

The MOP Section A requires the FSD to prepare management plans for forest reserves. Instruction sheet in Part 1 (A2.1) provides an overview of the legal requirements of the forest reserve management plans and their structure. Instruction sheets in Part 2 provide details of the required procedures to collect data and prepare the plans to meet the interests of relevant stakeholders.

Description of risk

The management and harvesting planning procedures are detailed and clearly laid out in the MoPs (Section A-F) produced by the FC. The roles of the various divisions of the FC (FSD and RMSC) and the TUC holders in this process are clearly defined. The planning process also involves several cross-checking by different divisions of the FC which ensures that the planning regulations are implemented. A review of the public summaries of FSC Controlled Wood audit reports for the period 2013-2015 found no instance of non-compliance with the management and harvesting planning requirements. However, not all the forest reserves have management plans. Timber is produced from some 55 production forest reserves in Ghana. So far, 30 production forest reserves have approved management plans. Some of these plans may have expired and needs review and approval. An additional 10 production reserves have been approved recently; making a total of 40 management plans in existence (Expert consultation conducted by NEPCon, 2016). The Forestry Commission is seeking to develop plans for the remaining

15 production forest reserves. Even so, all the production forest reserves in Ghana are micro-managed by the Forestry Commission through the use of harvesting schedules. These harvesting schedules provide a list of the compartments that can be considered for harvesting for each year of the period of the 40-year felling cycle. The harvesting schedules are prepared based on flora and fauna surveys in the forest reserves and ensures that harvesting is sustainable.

Risk Conclusion

This indicator has been evaluated as specified risk. All forest reserves are not managed based on approved management plans as required by law.

1.3.6. Risk designation and specification

Specified risk

1.3.7. Control measures and verifiers

- The TUC holder must have a map delimiting the defined forest area and the sub-divisions or order in which the area is to be harvested (e.g., harvesting schedule or felling coupes) prepared and approved by the Forestry Commission.
- The TUC holder is required to have a signed social responsibility agreement (SRA) with local land-owning communities fringing the defined forest area
- The TUC holder must have the list of trees approved for harvesting by the Forestry Commission (approved yield for TUC and plantation or Yield marking for salvage permit)
- TUC holder must have a harvesting plan for each harvesting area (e.g. compartment logging plan) approved by the Forestry Commission as part of the yield approval process

1.4. Harvesting permits

Legislation regulating the issuing of harvesting permits, licenses or other legal document required for specific harvesting operations. It includes the use of legal methods to obtain the permit. Corruption is a well-known issue in connection with the issuing of harvesting permits. Risk relates to situations where required harvesting is carried out without valid permits or where these are obtained via illegal means such as bribery. In some areas, bribery may be commonly used to obtain harvesting permits for areas and species that cannot be harvested legally (e.g., protected areas, areas that do not fulfil requirements of minimum age or diameter, tree species that cannot be harvested, etc.). In cases where harvesting permits classify species and qualities to estimate fees, corruption and bribery can be used to classify products that will result in a lower fee. The level of corruption in a country or sub-national region is considered to play an important role and corruption indicators should therefore be considered when evaluating risks. In cases of illegal logging, harvesting permits from sites other than the actual harvesting site may be provided as a false proof of legality with the harvested material.

1.4.1. Applicable laws and regulations

- Timber Resources Management Act 1997 (Act 547) section 10 and 12 (defines main regulations covering management of harvesting operations). Available at: http://fcghana.org/library_info.php?doc=45&publication:Timber%20Resource%20Ma

[nagement%20Act,%201997%20-%20Act%20%20547&id=15](#)

- Timber Resources Management Regulations 1998 (LI 1649) Part IV (defines main regulations covering management of harvesting operations). Available at: http://fcghana.org/library_info.php?doc=46&publication:L.I.%201649%20-%20Timber%20Resources%20Management%20Regulations,%201998&id=15)
- Manual of Operations (MOPs) and Logging manual (operationalize Act 547 and LI 1649 and subsequent regulations; they are statutory guidance documents for forest management in Ghana) (Section A-F). Available at: <http://www.clientearth.org/reports/130819-climate-and-forests-MOP-A.pdf> (MoP Section A), <http://www.clientearth.org/reports/130819-climate-and-forests-MOP-B.pdf> (MoP Section B), <http://www.clientearth.org/reports/130819-climate-and-forests-MOP-C.pdf> (MoP Section C), <http://www.clientearth.org/reports/130819-climate-and-forests-MOP-D.pdf> (MoP Section D), <http://www.clientearth.org/reports/130819-climate-and-forests-MOP-E.pdf> (MoP Section E), <http://www.clientearth.org/reports/130819-climate-and-forests-MOP-F.pdf> (MoP Section F).

1.4.2. Legal authority

- Timber Right Evaluation Committee (TREC) (main body that assesses bids for timber utilization contracts (TUCs))
- Forestry Commission (FC) (the principal authority overseeing forest management in Ghana; makes recommendations to the Minister for grant of TUC or other permits). Website available at: <http://fcghana.org/>
- Ministry of Lands, Forests and Natural Resources (the Minister signs the (TUC) agreement and grants other permits)
- Parliament of Ghana (ratifies the TUC agreement)

1.4.3. Legally required documents or records

- Concession map
- Valid Property Mark
- Approved Harvesting schedule/blocking or coupes delineation
- Pre-harvest compartment inspections
- Approved yield/yield marking
- Logging plan
- Entry permit or released letter issued by the FC

1.4.4. Sources of information

Government sources

- The Forestry Commission of Ghana (n.d.). *Forest Laws and Regulations (Publications)*. [online]. Available at: <http://fcghana.org/library.php?id=15> [Accessed 23. March 2016]

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1.4.5. Risk determination

Overview of Legal Requirements

Timber harvesting permits in Ghana are granted primarily through the award of;

- 1) Timber utilization contracts (TUC) (Act 547 and Act 617) by the Minister of the Ministry of Lands and Natural Resources (MLNR) acting on the recommendation of the Forestry Commission. TUC agreements are ratified by the Parliament of Ghana (ACT 547; LI 1649). Apart from TUCs, the Minister of the MLNR, upon recommendations from the FC, and in accordance with provisions made in Acts 547 and 617 (supporting legislations, LI 1649 and 1721) may also grant administrative harvest permits such as;
- 2) Salvage Permits: for abandoned logs or forest areas undergoing developments. For example; farmlands or areas undergoing settlement expansion or road construction (Regulation 38, LI 1649)
- 3) Other Permits or special permits (under Section 6 of Act 617 which amended section 20 of Act 547)
- 4) Entry Permit: for plantations in forest reserves managed by the Forestry Commission. The grant of Entry Permit follows a bidding process and evaluation of bids by the Timber Right Evaluation Committee of the Forestry Commission.

The harvesting regulations in Ghana stipulate that the Contactor or TUC holder should hold a valid timber harvesting permit (in the form of TUCs, Entry permits and Salvage permits) at the time of logging.

For any Defined Forest Area (DFA) for which harvesting permits are granted, a map delimiting the boundary is required to be prepared by the Forest Services Division. The whole DFA is required to be divided into felling coupes or blocks. For on-reserve, the felling coupes or blocks are sub-divided into smaller harvesting units (e.g., compartments). A schedule, listing the order in which the coupes/blocks and the sub-divisions are to be logged is prepared by the TUC holder and is vetted and endorsed by the Resource Management Support Centre (RMSC) of the FC. For each harvesting unit, pre-harvest inspection (stock survey or pre-survey inspections) are required to be conducted and the results of this survey fed into the yield allocation process. The pre-inspection survey is verified by an independent team from the Forest Services Division (FSD). The FSD selects individual trees for harvesting and prepares a yield summary (or yield marking in the case of off-reserve areas) and a yield map (for forest reserve operations). The yield summary, map (together with pre-inspection data), and a logging plan (completed by the TUC holder) is submitted to the RSMC for vetting. These documents are vetted against the requirements of Mop Section D. It is only after this elaborate process that the yield summary (or yield marking in off forest reserve areas), logging plan and yield map can be approved and released to the TUC holder for harvesting to commence. The TUC holder is required to obtain an approval for the trees or volume to be harvested (and also obtain special permit for restricted species); and hold a valid property mark.

Description of risk

Generally, the requirements for grant of TUC (and "Entry permit" for plantations) are clearly defined, transparent and acceptable to all stakeholders (Client Earth 2013; CIKOD 2012; Global Witness 2013; Hoare 2014).

There is an on-going debate about the legality of the category of permits referred to as 'other or special permits' by the Forestry commission (Client Earth 2013, Global Witness

2013, FC response to Global witness report 2013). Global Witness 2013 raised concerns that three quarters of Ghana's logging permits could break Europe's new timber law after analysis of official Ghana logging permits provided by the Forestry Commission (FC). The FC argues that the Minister of the Ministry of Lands and Natural Resources issues "other permits or special permits" following the Forestry Commission's recommendation; and that section 20 of Act 547 was amended by Act 617 such that Timber Utilization Contract (TUC) was extended to cover any other permit that the Minister may issue following the recommendation of the FC. Therefore, special permits and other permits are Timber Utilisation Contracts.

However, the FC's claims that TUC is extended to include any other permit issued by the Minister has no legal basis. These claims are based on the definition or interpretation section of the amended law (i.e. Act 617) instead of the substantive sections of the law. The authority to grant Special permits is therefore questionable (Expert consultation conducted by NEPCon, 2016). The processes involved in the grant of special permits are arbitrary, not transparent and not competitive compared to TUCs (Expert consultation conducted by NEPCon, 2016; CIKOD, 2012).

With the help of civil society organisations, a guideline has been developed to address the challenges associated with Special permits. A committee, comprising representatives of the Ministry of Lands and Natural Resources; Attorney General; Forestry Commission; and Civil Society Organisations, has been formed to convert the guidelines into a Legislative Instrument (Expert consultation conducted by NEPCon, 2016). However, the guidelines address only two aspects of the challenges associated with the Special permits – arbitrariness and lack of transparency. The guidelines do not address the legality or authority for granting Special permits and how the already issued permits will be addressed. If this process fails to fully address the legality of Special permits (especially, if Section 20(2) the Act is not expunged or amended), some civil society organisations are preparing to go to court to contest the authority of the Forestry Commission and Ministry to issue Special permits.

Concessions or Leases were used to grant timber harvesting rights under the Concessions Act, 1962 (ACT 124). However, with the enactment of ACT 547, all leases were supposed to be converted to TUCs within 6 months of Act 547 coming into force. Some timber companies operating with leases applied for the conversion when the application was opened some years back but the Forestry Commission did not process the applications. Later these companies were requested to re-apply and pay Timber Rights Fees (TRFs) following the enactment of LI 1721 which introduced TRFs. The timber companies are contesting whether LI 1721 can have a retrospective effect and have therefore resolved not to pay the TRF. This has become a bone of contention between Forestry Commission and the Timber Industry. Some timber operators therefore continue to operate with Concession and Lease which under current forest dispensation can be classified as illegal.

Salvage or Special permits are issued for lands or forest areas where a TUC may be eligible. Issuance of Salvage or Special permits does not go through the transparent process such as public bidding and TREC (Act 547) and parliament ratification processes (Act 547 and 617). Importantly, management and harvesting planning requirements may be less stringent for non-TUC permits. Special permits awarded in expired concessions in forest reserve areas which does not meet the requirements for special

permit is illegal.

Risk conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld.

1.4.6. Risk designation and specification

Specified risk

1.4.7. Control measures and verifiers

- The company must be registered and has obtained a business registration license from the Registrar General's Department
- The company must have a valid Property Mark and a Certificate of Registration of the Property Mark from the Forestry Commission of Ghana
- The company must hold a timber harvesting rights in the form of 1) Timber Utilization Contract (TUC) issued by the Minister of Lands, Forests and Mines and ratified by the parliament of Ghana, 2) A salvage or other permit issued by the Minister of Lands, Forest and Mines
- For companies holding salvage or special permits, it is relevant to verify if such lands do not qualify for grant TUC as defined by Act 547.
- For lands leased for plantation development, either on- and off-reserves, a 'leased agreement' with the Forestry Commission or the land owners specifying the boundary, management and legal rights must be signed between the relevant stakeholders.
- The TUC holder must have a map delimiting the defined forest area and the subdivisions or order in which the area is to be harvested (e.g., harvesting schedule or felling coupes) prepared and approved by the Forestry Commission.
- The TUC holder is required to have a signed social responsibility agreement (SRA) with local land-owning communities fringing the defined forest area
- The TUC holder must have the list of trees approved for harvesting by the Forestry Commission (approved yield for TUC and plantation or Yield making for salvage permit)
- TUC holder must have a harvesting plan for each harvesting area (e.g. compartment logging plan) approved by the Forestry Commission as part of the yield approval process

TAXES AND FEES

1.5. Payment of royalties and harvesting fees

Legislation covering payment of all legally required forest harvesting specific fees such as royalties, stumpage fees and other volume based fees. It also includes payments of the fees based on correct classification of quantities, qualities and species. Incorrect classification of forest products is a well-known issue often combined with bribery of officials in charge of controlling the classification.

1.5.1. Applicable laws and regulations

- Timber Resources Management Regulation 1998 (LI 1649) part V, sections 21-27 (Regulations on stumpage, management and ground rent fees payable by loggers in Ghana). Available at: http://fcghana.org/library_info.php?doc=46&publication:L.I.%201649%20-%20Timber%20Resources%20Management%20Regulations,%201998&id=15
- Timber Resources Management Amendment Regulations 2003 (LI 1721) (minor amendment of regulation 21 of LI 1649). Available at: [http://fcghana.org/library_info.php?doc=48&publication:L.I.%201721%20Timber%20Resources%20Management%20\(Amendment\)%20&id=15](http://fcghana.org/library_info.php?doc=48&publication:L.I.%201721%20Timber%20Resources%20Management%20(Amendment)%20&id=15)
- Timber Resources Management Amendment Regulations 2003 (LI 1721) (minor amendment of regulation 21 of LI 1649). Available at: [http://fcghana.org/library_info.php?doc=48&publication:L.I.%201721%20Timber%20Resources%20Management%20\(Amendment\)%20&id=15](http://fcghana.org/library_info.php?doc=48&publication:L.I.%201721%20Timber%20Resources%20Management%20(Amendment)%20&id=15)

1.5.2. Legal authority

- Forestry Commission (FC) (the principal authority overseeing forest management in Ghana). Website available at: <http://fcghana.org/>
- Forest Services Division (FSD) (They support the Commission in the preservation and management of forest reserves in Ghana). Website available at: <http://fcghana.org/>

1.5.3. Legally required documents or records

- Approved Yield/ Markings
- FC Stumpage/Services Bills
- FC receipts of stumpage/Bill payment
- Operator FC Statement Account
- SRA payment records
- Contract Area rent
- Social Responsibility Agreement
- Timber Right payment

1.5.4. Sources of information

Government sources

- The Forestry Commission of Ghana (n.d.). *Stumpage disbursement procedure published by the Forestry Commission*. [online]. fcghana.org. Available at: http://fcghana.org/library_info.php?doc=55&publication:New%20Procedure%20for%20Stumpage%20Disbursement%20&id=18 [Accessed 22 November 2016]
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- The Forestry Commission of Ghana (n.d.). *Forest Laws and Regulations (Publications)*. [online]. Available at: <http://fcghana.org/library.php?id=15> [Accessed 23. March 2016]
- Auditor general report, 2015

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- Hoare, A. (2014). *Illegal Logging and Related Trade; The Response in Ghana*. A Chatham House Assessment. [online]. London: Chatham House. pp. 1-35. Available at: <https://www.chathamhouse.org/publication/illegal-logging-and-related-trade-response-ghana>
- Forest Watch Ghana (2010). *Synthesis of political economy and fiscal studies on Ghana's Forest Sector*. [online]. Ghana: Forest Watch Ghana. Available at: <http://www.forestwatchghana.org/assets/synthesis-of-political-economy-and-fiscal-studies-on-ghana-s-forest-sector2.pdf> [Accessed 22 November 2016]
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 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000008EJIQE44;>
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- Client Earth (2013). *Understanding the distribution of Benefits Derived from timber production in Ghana, Legal Learning tools*. [online]. Ghana: Client Earth, pp. 1-12. Available at: <http://www.clientearth.org/external-resources/ghana/other-ressources/LLT%20benefit%20sharing%20in%20the%20timber%20sector.pdf> [Accessed 22. November 2016]
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1.5.5. Risk determination

Overview of Legal Requirements

Royalties and harvesting fees in Ghana includes; 1) Timber Right Fee, 2) Contract Area rent, 3) Stumpage Fee, and 4) Social Responsibility Agreement. Timber right fees are paid to the Forestry Commission after the award of harvesting rights. Contract Area rent is paid annually on per hectare basis over the area of timber rights. Stumpage fees are paid on tree by tree basis for each tree a company harvest. Social Responsibility Agreement (SRA) is a social tax that a timber company pays to support development of local communities around its TUC area. The monetary value of the support is 5% of the stumpage paid in respect of trees harvested within a defined forest area. TUC permits (Act 547 Section 3(e)) in both natural forests and plantations and Salvage permits (LI 1649 as amended by LI 1721; regulation 38 (2) require SRAs.

Description of risk

There is generally improvement in the fiscal regime in the forestry sector due to introduction of computer-based revenue management programs used by The Forestry Commission (Hoare, 2014). The FC publishes quarterly disbursement of revenue and indicates that it achieves over 95% of revenue collection rates. Companies have a 30 day grace period to pay once the FC issues the royalty bill. The FC controls payments through the enforcement of Property Mark renewal. Companies are required to renew their Property Mark every six months and are not allowed to operate without a renewed Property Mark.

A report produced by the Forest Governance Learning Group and Civic Response in 2013 concluded that within the period of 2003-2012, a total loss in real revenue of \$16 million was recorded. This is probably mainly because the stumpage rates were not periodically reviewed as required by LI 1649 and inflation was not accounted for (even though this was not envisaged by the relevant regulations). However, the Forestry Commission has made lots of progress in reviewing the stumpage rates and estimating the potential stumpage rates and corresponding SRAs before logging commence. Copies of these estimates are available at the various Forest Services Division offices (Expert consultation conducted by NEPCon, 2016).

A wood-balance analysis carried out by Hoare (2014) on Ghana's timber which compared the legal supply of timber (from official records of harvest and imports) with consumption (based on domestic consumption and exports) shows a gap between supply and consumption. This gap could be due to under reporting of harvested tree volumes captured on the TIFs as FSD Range Supervisors may have left the capturing of TIFs to timber contractors or colluded with them. Stock numbers of approved trees can be repeated in order to harvest more trees outside the yield. This results in under billing of royalties and harvesting fees.

Some timber companies have not settled their timber right fees (TRFs) within the required time period (Expert consultation conducted by NEPCon, 2016).

SRA agreements are sometimes violated by timber contractors (Expert consultation conducted by NEPCon, 2016); though most contractors pay more than the legally required 5% of stumpage fee (Expert consultation conducted by NEPCon, 2016). Communities could ensure that they get what is due them if they have information on stumpage value. However, information on the actual volumes of timber extracted is kept within the FC, though it is the basis for calculating royalties and SRAs. As a result, it is difficult for land owners to independently verify the appropriate revenue due them. The Service Charter of the Forestry Commission identifies reports and publication of materials as the main tool for communicating with the public. However, the official redistribution figures are usually published a year in arrears.

SRA and stumpage information delivery to local communities have improved with the involvement of civil society organisations in awareness creation and establishment of SRA committees in some of the forest fringe communities. Activities and programmes on the implementation of the VPA have also contributed to increase the awareness of communities and improved access to information. The Resource Management Support Centre of the Forestry Commission prepares estimates of potential stumpage and corresponding SRAs before logging begins. These estimates are available at the Forest Services Division offices and are accessible to communities and other stakeholders. Continuous audits carried out by the Timber Validation Division will improve the system. Royalty disbursement has improved (Expert consultation conducted by NEPCon, 2016). A new template has been developed for monthly reporting on SRA implementation in the district offices of the Forestry Commission. The Resource Management Support Centre (RMSC) of the Forestry Commission has (in collaboration with some Civil Society Organisations) developed a compliance checklist to assist the Forestry Commission in monitoring compliance with the due process in the SRA negotiation and implementation (Joint Monitoring and Review Mechanism, 8th Session, March 2016).

All the above risks are associated with natural forest and plantation in forest reserve, and off reserve plantations. There are no risks associated with wood from private plantations.

Risk conclusion

This indicator has been evaluated as Specified risk. Identified laws are not upheld consistently by all entities.

1.5.6. Risk designation and specification

Specified risk

1.5.7. Control measures and verifiers

- Deposit slip and certificate of payment for the payment in cash of all taxes and royalties required by the Forest Code
- Debit notice and certificate of payment for the payment in writing
- Collection note or deposit signed by the contractor
- Deposit slip for the implementation tax and the annual compensatory tax payable at the latest by 30 June of each year
- Deposit slip and harvesting tax payable by the forestry company, at the rate of 1.25% per m³ of the value of the species

1.6. Value added taxes and other sales taxes

Legislation covering different types of sales taxes, which apply to the material being sold, including selling material as growing forest (standing stock sales). Risk relates to situations where products are sold without legal sales documents or far below market price resulting in illegal avoidance of taxes.

1.6.1. Applicable laws and regulations

- Value Added Tax Act 2013 (Act 870) (contains regulations on value added tax). Available at: http://gra.gov.gh/docs/info/vat_act_870.pdf
- Trees and Timber Amendment Act 1994 (Act 493) Part IIA (specifies regulations related to levies imposed on wood products). Available at: [http://fcghana.org/library_info.php?doc=49&publication:The%20Trees%20&%20Timber%20\(Amendment\)%20Act,%201994&id=15](http://fcghana.org/library_info.php?doc=49&publication:The%20Trees%20&%20Timber%20(Amendment)%20Act,%201994&id=15)

1.6.2. Legal authority

- Ghana Revenue Authority (GRA) (Legal authority for Corporate, Income and VAT tax). Website available at: <http://www.gra.gov.gh/>
- Timber Industry Development Division (TIDD) (main legal authority for Export Levy Tax). Website available at: <http://www.fcghana.org/page.php?page=46§ion=22&typ=1&subs=253>

1.6.3. Legally required documents or records

- GRA withholding Tax payment receipts
- GRA Tax Clearance Certificate
- Export Levy Receipts/ LCs/Bank Advice

1.6.4. Sources of information

Government sources

- The Forestry Commission of Ghana (n.d.). *New Procedures for Stumpage Collection and Disbursement*. [online]. fcghana.org (Forestry Commission in Association with

the Office of Administrator of Stool Lands). Available at:
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1.6.5. Risk determination

Overview of Legal Requirements

Fees, fines and export levies in the forestry sector are contained in the Trees and Timber (Amendment) Act 1994 (Act 493). Sections 1 – 3 of this Act reviewed the fees and fines upwards whereas Section 4 introduced export levy for air-dried lumber. All levies payable under Section 4 are paid to the Forest Products Inspection Bureau [now Timber Industry Development Division (TIDD)] at the time of the export of the timber [Section 4 15B (2)]. Value Added Tax Act, 2013 (Act 870) imposes valued added tax (Section 1), and defines the persons (Section 2) and businesses (Section 20) liable to pay tax, among others.

Description of risk

The Ghana Revenue Authority (GRA), Customs Excise and Preventive Services (CEPS) and the Timber Industry Development Division (TIDD) are enforcing the applicable laws relating to VAT and other taxes. Wood products exports are well documented to ensure that there are little or risks. The GRA, with the help of the TIDD and CEPS, tracks companies with the tax identification number (TIN) to ensure that taxes are paid. Payments for exports are mostly through the banking system and are therefore well documented (Expert consultation conducted by NEPCon, 2016). In some isolated cases, wood could be concealed and exported without payment of taxes. For small businesses engaged in local sales, there could be some risks but it is largely very low (Expert consultation conducted by NEPCon, 2016).

Risk conclusion

This indicator has been evaluated as low risk. Identified laws are upheld consistently by all entities.

1.6.6. Risk designation and specification

Low risk

1.6.7. Control measures and verifiers

N/A

1.7. Income and profit taxes

Legislation covering income and profit taxes related to the profit derived from sale of forest products and harvesting activities. This category is also related to income from the sale of timber and does not include other taxes generally applicable for companies or related to salary payments.

1.7.1. Applicable laws and regulations

- Income Tax Act 2015 (Act 896) and Amendment Act 902 (defines income and profit tax regimes in Ghana). Available at: [http://gra.gov.gh/docs/info/dtrd/INCOME%20TAX%20ACT%202015%20\(ACT%20896\).pdf](http://gra.gov.gh/docs/info/dtrd/INCOME%20TAX%20ACT%202015%20(ACT%20896).pdf) and http://www.japarliament.gov.jm/attachments/339_The%20Income%20Tax%20%28%20Amendment%29%20act,%202015.pdf
- Free zone Act 1995 (Act 504) Part V section 21 and Part VI section 28 (exempts Free Zone Companies from payment of some taxes). Available at: <http://laws.ghanalegal.com/acts/id/134/free-zone-act>
- National Pension Act 2008 (Act 766) Section 58-63 (defines the requirements for Social Security registration for companies and employees). Available at: <http://www.ssnit.org.gh/resource/pension-act-766/attachment/law-pension-act-766/>

1.7.2. Legal authority

- Ghana Revenue Authority (GRA) (Legal authority for Corporate, Income and VAT tax) Website available at: <http://www.gra.gov.gh/>
- Social Security and National Insurance Trust (SSNIT) (legal authority for social tax registration and payment). Website available at: <http://www.ssnit.org.gh/>

1.7.3. Legally required documents or records

- Ghana Revenue Authority (GRA) tax payment receipts
- GRA Clearance Certificates
- Staff Social Security and National Insurance Trust (SSNIT) payment receipts
- SSNIT Clearance Certificates

1.7.4. Sources of information

Government sources

- Forestry Laws and Regulations made available by the Forestry Commission of Ghana. Available at: <http://fcghana.org/library.php?id=15> [Accessed 23 March 2016]
- Ghana Revenue Authority (n.d.). *Domestic Taxes (Tax Information)*. [online]. gra.gov.gh. Available at: <http://www.gra.gov.gh/index.php/tax-information/income-tax> [Accessed 22 November 2016]
- Taxpayers Identification Numbering System, 2002 (Act 632) (outlines the requirements for registration of Tax Codes and Certificates from the Ghana Revenue Authority). Available at: http://gra.gov.gh/docs/info/tin_act.pdfhttp://www.gra.gov.gh/docs/info/tin_act.pdf

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1.7.5. Risk determination

Overview of Legal Requirements

Domestic taxes are administered by the Domestic Tax Revenue Division (DTRD) of the Ghana Revenue Authority. The relevant income taxes (Income Tax Act, Act 896 section 1) administered by the DTRD are:

- Corporate Tax: This is the tax paid by companies on their profits in the year. The tax rate is 25%.
- Pay As You Earn (PAYE): The PAYE contributions are withholdings from salaries of employees in order to satisfy their income tax responsibilities.

Freezone companies licensed under the Freezone Act, 1995 (Act 504) are exempted from the payment of income tax on profits for the first 10 years [Act 896, sixth schedule, section 134, 9(1)].

The GRA uses an identification system called taxpayers identification numbering (TIN) system to identify and track taxpayers (Act 632).

Description of risk

Companies are required to make statutory payments to GRA and obtain clearance. The approved clearance is required in the renewal of the timber companies Property Mark. The Property Mark is required to be renewed every six months and companies cannot work with an expired Property Mark. The tax laws are well enforced by the Ghana

Revenue Authority (GRA). The GRA monitors the tax payment of companies using the TIN numbers. The GRA also conducts documentary and field (office to office) audits; resulting in increased revenue collection and reduced tax default by limited liability companies in Ghana (Expert consultation conducted by NEPCon, 2016). A review of a sample of FSC Controlled Wood audit summaries of various companies in Ghana from 2008 to 2015 shows that this requirement is met.

Risk conclusion

This indicator has been evaluated as low risk.

1.7.6. Risk designation and specification

Low risk

1.7.7. Control measures and verifiers

N/A

TIMBER HARVESTING ACTIVITIES

1.8. Timber harvesting regulations

Any legal requirements for harvesting techniques and technology including selective cutting, shelter wood regenerations, clear felling, transport of timber from felling site and seasonal limitations etc. Typically this includes regulations on the size of felling areas, minimum age and/or diameter for felling activities and elements that shall be preserved during felling etc. Establishment of skidding or hauling trails, road construction, drainage systems and bridges etc. shall also be considered as well as planning and monitoring of harvesting activities. Any legally binding codes for harvesting practices shall be considered.

1.8.1. Applicable laws and regulations

- Timber Resources Management Act 1997 (Act 547) (section 10 and 12 defines main regulations covering management of harvesting operations). Available at: http://fcghana.org/library_info.php?doc=45&publication:Timber%20Resource%20Management%20Act,%201997%20-%20Act%20%20547&id=15
- Timber Resources Management Regulations 1998 (LI 1649) (Part IV defines main regulations covering management of harvesting operations). Available at: http://fcghana.org/library_info.php?doc=46&publication:L.I.%201649%20-%20Timber%20Resources%20Management%20Regulations,%201998&id=15
- Manual of Operations (MOPs) and Logging manual (operationalize Act 547 and LI 1649 and subsequent regulations; they are statutory guidance documents for forest management in Ghana). Available at: <http://www.clientearth.org/reports/130819-climate-and-forests-MOP-A.pdf> (MoP Section A), <http://www.clientearth.org/reports/130819-climate-and-forests-MOP-B.pdf> (MoP Section B), <http://www.clientearth.org/reports/130819-climate-and-forests-MOP-C.pdf> (MoP Section C), <http://www.clientearth.org/reports/130819-climate-and-forests-MOP-D.pdf> (MoP Section D), <http://www.clientearth.org/reports/130819-climate-and-forests-MOP-E.pdf> (MoP Section E), <http://www.clientearth.org/reports/130819-climate-and-forests-MOP-F.pdf> (MoP Section F).

1.8.2. Legal authority

- Forestry Commission (FC) (the principal authority overseeing forest management in Ghana). Website available at: <http://fcghana.org/>
- Forest Services Division (FSD) (They support the Commission in the preservation and management of forest reserves in Ghana). Website available at: <http://fcghana.org/>
- Resource Management Support Centre (RMSC) (is the technical wing of the Forestry Commission (FC) and responsible for the exploration, development, facilitation, institutionalization, implementation, and monitoring of effective and affordable forest management systems in Ghana). Website available at: <http://www.fcghana.org/page.php?page=46§ion=22&typ=1&subs=252>

1.8.3. Legally required documents or records

- Approved harvesting Schedule/Harvesting blocking/Coupes
- Approved Yield Summary or Yield Markings
- Approved logging plan
- Tree Information Form (TIF)
- Log Information Form (LIF)
- Plantation Production Certificate (PPC)
- Compartment Closure Certificate
- Labelled stump

1.8.4. Sources of Information

Government sources

- The Forestry Commission of Ghana (n.d.). *Forest Laws and Regulations (Publications)*. [online]. Available at: <http://fcghana.org/library.php?id=15> [Accessed 23 March 2016]
- Forestry Commission of Ghana (n.d.). *List of Concession Holders in Ghana and their permit category provided by the Forestry Commission of Ghana*. [Excel sheet]. Available at: https://docs.google.com/spreadsheets/d/1Isn8DsUclq8F5xyVlqA-8tBfvkPxluSnCeyWwor0I_E/edit?pref=2&pli=1#gid=0
- Forestry Commission of Ghana (n.d.). *Forestry Commission ravishes Global Witness Report* (Forestry Commission's response to Global Witness Report on Logging permits issuance in Ghana). [online]. Available at: <http://www.fcghana.org/news.php?news=67> [Accessed 16 November 2016]

Non-Government sources

- Client Earth (2013). *A short legal briefing on "Understanding the legality of rights, permits and certificates to harvest naturally occurring timber in Ghana"*. [online]. Available at: <http://www.clientearth.org/external-resources/ghana/other-ressources/Timber%20Rights%20and%20Felling%20Permits%20in%20Ghana-2013.pdf>
- Hoare, A. (2014). *Illegal Logging and Related Trade; The Response in Ghana*. A Chatham House Assessment. [online]. Available at: <https://www.chathamhouse.org/publication/illegal-logging-and-related-trade-response-ghana>
- CIKOD, (2012) *Annual Transparency Report Card for Forest Sector Ghana*. A report prepared by Centre for Indigenous Knowledge and Organization Development (CIKOD) under the Governance Initiative for Rights and Accountability in Forest (GIRAF). [online]. Available at: <http://www.foresttransparency.info/ghana/2012/>
- Global Witness (2013). *Three quarters of Ghana's logging permits could break Europe's new timber law*. Global witness analysis of official Ghana logging permits list. Available at: <https://www.globalwitness.org/en/archive/ghanapermits/> [Accessed 18. November 2016]

- Bosu, D. (2014) *Rosewood: Most expensive, fastest selling commodity in Ghana today*. GhanaWeb (Article 313635. [online]. Available at: <http://www.ghanaweb.com/GhanaHomePage/features/Rosewood-Most-expensive-fastest-selling-commodity-in-Ghana-today-313635> [Accessed 18. November 2016]
- Global Witness (2013). *Logging in the shadows - How vested interest abuse shadow permits to evade forest sector reforms*. An analysis of recent trends in Cameroon, Ghana, The Democratic Republic of Congo and Liberia. [online]. Available at: <https://www.globalwitness.org/en/archive/logging-shadows-how-vested-interests-abuse-shadow-permits-evade-forest-sector-reforms/> [Accessed 16 November 2016]
- Summary of FSC audit reports:
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000003zKMDEA2;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000007OnUkEAK;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000008EJIQEA4;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000005cYQCEA2;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000byIMmEAM;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4000000UZgJBEA1;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000cVDAgEAO;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000Zu06vEAB;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000bxAL5EAM.>

1.8.5. Risk determination

Overview of Legal Requirements

The Forest Services Division of the Forestry Commission have prepared Logging Manual and Key Standards for Logging in the High Forest Zone (HFZ) of Ghana to guide the harvesting operations of Timber Contractors as required under Section 10 of the Timber Resources Management Act (Act 547) [As amended by the Forestry Commission Act, 1999 (Act 571), sch. to s.35(2)].

Some forest reserves have been zoned into production and protection areas. The guideline provides that logging is permitted only in the timber production areas. Harvesting is selective of individual trees in both natural forests and plantations. Minimum felling girth limits are set for individual species and it is an offence to fell trees below their minimum girth limits. The logging manual gives detail prescriptions to include prohibition of harvesting in riparian buffer zones, steep slopes, swampy sites etc. The manual prescribes directional felling at all possible situations, gives specifications for road, skid tracks and log yard constructions and their maintenance.

Description of risk

The Forest Services Division enforces the minimum girth limit on timber right holders. Some timber contractors harvest outside the approved yield and do not follow the machinery, road, skidding and log yard specification at all times.

Illegal operators do not observe the harvesting regulations, such as no logging in buffer

zones; protection of some species; and quantity of trees removed per hectare, set out in the Logging Manual and Key Standards for Logging in the High Forest Zone at all times.

Risk conclusion

This indicator has been evaluated as specified risk. Identified laws are not fully upheld consistently by the Forestry Commission and other authorities.

1.8.6. Risk designation and specification

Specified risk

1.8.7. Control measures and verifiers

- Loggers must have a yield (A yield is a list of individual trees granted for harvesting) or allowable cut (quantities or volume as in the case of plantation, salvage permit or off-reserve) issued by the FC.
- Loggers must have a yield map for on-reserve harvesting. This map shows the concession area and approved trees for harvesting, and other features like slopes and water bodies.
- Loggers must have a logging plan (outlining proposed trucking and hauling routes as well as log yards taking into consideration fine grained areas), which is approved by the FC and available onsite during felling operations.
- Loggers can only harvest trees given in the yield and logging activities are required to conform to the logging plan.
- TIF, LIF or PPCs records should be consistent with those in the approved yield or yield markings
- For each felled tree, a Tree Information Form (TIF) must be completed providing information on the tree dimensions as well as the markings.
- A log Information Form (LIF) must also be completed by the logger for logs derived from each tree.
- For Plantations, a Plantation Production Certificate (PPC) must be available in place of LIF and TIF.
- For compliance with felling regulations, information on TIF, LIF and PPC should be consistent with the approved yield.
- In the case of on-reserve operations, a post-harvest check is conducted by the FSD to verify compliance with harvesting regulations. If a logger complies with the relevant harvesting regulations, a compartment closure certificate is issued by the FSD.
- For every new compartment opened, a certificate of compartment closure for the previous compartment must be available.
- For large operations, a logger may be allowed to open up to 5 compartments but is required to close at least one before opening another one
- Records of harvesting offences committed by loggers are maintained in the FSD

offence Registers at the various offices.

1.9. Protected sites and species

International, national, and sub national treaties, laws, and regulations related to protected areas allowable forest uses and activities, and/or, rare, threatened, or endangered species, including their habitats and potential habitats. Risk relates to illegal harvesting within protected sites, as well as illegal harvest of protected species. Note that protected areas may include protected cultural sites, including sites with historical monuments.

1.9.1. Applicable laws and regulations

- The Forest Protection (Amendment) Act 2002 (Act 624) [Section 1]. Available at: <http://www.clientearth.org/external-resources/ghana/forests-and-wildlife/2002%20THE%20FOREST%20PROTECTION%20AMENDMENT%20ACT.pdf>
- Forest Protection Decree, 1974 (N.R.C.D. 234) [Section 12]. Available at: <http://www.clientearth.org/external-resources/ghana/forests-and-wildlife/1974-trees-and-timber-decree--nrkd-273.pdf>
- Timber Resources Management Act 1997 (Act 547) [Act 547, Sections 18G]. Available at: <http://www.clientearth.org/external-resources/ghana/forests-and-wildlife/1998-timber-resource-management-act.pdf>
- Timber Resources Management Regulations, 1988 LI 1649 [Section 38]. Available at: http://fcghana.org/library_info.php?doc=46&publication:L.I.%201649%20-%20Timber%20Resources%20Management%20Regulations,%201998&id=15
- Environmental Assessment Regulation, 1999 Schedule 1 (Regulation 1(1)) [Sections 1 and 5]. Available at: <http://faolex.fao.org/docs/pdf/gha78169.pdf>
- Forest Plantation Development Fund Act, 2000 (Act 583). Available at: <http://www.clientearth.org/external-resources/ghana/forests-and-wildlife/2000-forest-plantation-development-fund-act-act-%20583.pdf> and its Amendment Act 2002 (Act 623) <http://www.clientearth.org/external-resources/ghana/forests-and-wildlife/2002-forest-plantation-development-amendment-act.pdf>
- Ghana Forest and Wildlife Policy (2012). Available at: <http://www.clientearth.org/external-resources/ghana/forests-and-wildlife/2012-Forest-and-wildlife-policy-GHANA.pdf>
- Timber Resources Management Regulations (LI 1649) (regulation 21(1) of Schedule 2 classifies tree species into classes (class 1-3) for stumpage rate applications). Available at: http://fcghana.org/library_info.php?doc=46&publication:L.I.%201649%20-%20Timber%20Resources%20Management%20Regulations,%201998&id=15
- Timber Resources Management Regulations (LI 1649) (regulation 40(1) of Schedule 6 outlines the restricted species that requires special permit for harvesting). Available at: http://fcghana.org/library_info.php?doc=46&publication:L.I.%201649%20-%20Timber%20Resources%20Management%20Regulations,%201998&id=15
- Trees and Timber Amendment Act 493 (schedule 1 and 2 defines export levies applicable to processed and unprocessed timber of certain species). Available at: [http://fcghana.org/library_info.php?doc=49&publication:The%20Trees%20&%20Timber%20\(Amendment\)%20Act,%201994&id=15](http://fcghana.org/library_info.php?doc=49&publication:The%20Trees%20&%20Timber%20(Amendment)%20Act,%201994&id=15)
- MoP Section A: Strategic Planning (section 2.3 Provisional zonation map). Available at: <http://www.clientearth.org/reports/130819-climate-and-forests-MOP-A.pdf>
- MoP section D: Stock survey and Yield Allocation (sections 7.3 provides list of black

star species-wholly protected, section 7.4 provides a list of scarlet star species for which the reduced yield formula is used in allocation yield, Table D2.1 specifies felling limit for FIP Class 1 species, and Instruction Sheet No D5 provides information on Yield allocation). Available at: <http://www.clientearth.org/reports/130819-climate-and-forests-MOP-A.pdf>

- Logging Manual (Section 3.2: Environmental standards)
- CITIES Convention (schedule/appendix I - II are not given out in yield to other companies)
- Convention on Biological Diversity

1.9.2. Legal authority

- Forestry Commission (FC) (the principal authority overseeing forest management in Ghana). Website available at: <http://fcghana.org/>
- Forest Services Division (FSD) (They support the Commission in the preservation and management of forest reserves in Ghana). Website available at: <http://fcghana.org/>
- Resource Management Support Centre (RMSC) (is the technical wing of the Forestry Commission (FC) and responsible for the exploration, development, facilitation, institutionalization, implementation, and monitoring of effective and affordable forest management systems in Ghana). Website available at: <http://www.fcghana.org/page.php?page=46§ion=22&typ=1&subs=252>

1.9.3. Legally required documents or records

- Approved compartment logging plan

1.9.4. Sources of Information

Government sources

- The Forestry Commission (2013). *Draft Ghana Forest Plantation Strategy: 2015-2040*. [online]. Available at: <http://www.fcghana.org/userfiles/files/Plantation%20Annual%20Report/Ghana%20Forest%20Plantation%20Strategy%202015-%202040.pdf>
- The Ministry of Lands and Forestry (1998). *Timber Resources Management Regulations*. [online]. Available at: <http://www.clientearth.org/external-resources/ghana/forests-and-wildlife/1998-timber-resources-management-regulations.pdf>
- The Ministry of Land and Natural Resources (2012). *Ghana Forest and Wildlife Policy*. [online]. Available at: <http://www.clientearth.org/external-resources/ghana/forests-and-wildlife/2012-Forest-and-wildlife-policy-GHANA.pdf>
- GhanaWeb (2013). Government bans Rosewood Timber Exportation. GhanaWeb. [online]. Available at: <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/Gov-t-bans-Rosewood-timber-exportation-289265>
- The FLEGT Newsletter, 4th Edition, March 2016, Page 3

Non-Government sources

- Summary of FSC audit reports:

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- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000007OnUkEAK>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000008EJIQE44>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000005cYQCEA2>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000byIMmEAM>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4000000UZgJBEA1>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000cVDAgEAO>
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- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000bxAL5EAM>
- gh.chm-cbd.net (n.d.). *List of Globally Significant Biodiversity Areas (GSBA)*. Convention on Biological Biodiversity. Clearing House Mechanism of Ghana. [online]. Available at: <http://gh.chm-cbd.net/biodiversity/faunal-diversity-ghana/-situ-conservation-2/list-of-globally-significant-biodiversity-areas-gsba> [Accessed 18 November 2016]
- Anderson, K. (2010). *Creation and Strengthening of the Management of Protected Area Systems*. Convention on Biological Biodiversity. Clearing House Mechanism of Ghana. [online]. Available at: <http://gh.chm-cbd.net/convention/strategic-framework-biodiversity-management/creation-and-strengthening-management-protected> [Accessed 18 November 2016]
- Derkyi, M. A. A. & T. Dietz (2014) Forest Offence Types, Trends and Lapses: Case Study of the Nkawie Forest District of Ghana from 2005-2010. *Agriculture, Forestry and Fisheries*. Vol. 3 (4), pp. 224-232. Available at: <http://article.sciencepublishinggroup.com/pdf/10.11648.j.aff.20140304.13.pdf>

1.9.5. Risk determination

Overview of Legal Requirements

Ghana established an extensive forest estate in the high forest zone, consisting of 1.63 million hectares of forest reserves, in the 1920s. These reserves include permanently protected areas (national parks and globally significant biodiversity areas (117,322ha) of 352,500ha. The remaining lands in the off-forest reserve areas (about 500,000ha) are primarily farmlands. Overexploitation and illegal logging, especially in the off-reserve areas, resulted in high biodiversity loss (plant and animal species) (Ghana Forest and Wildlife Policy, 2012). Consequently, some plant and animal species are legally protected. For instance; a number of tree species are put under Ghana's conservation star ratings for conservation purposes; and Ghana's Cabinet directed that harvesting and export of Rosewood is banned effective 1st January 2014 until further notice.

Description of risk

This category has risks associated with illegal logging of protected species and illegal logging in protected areas.

Illegal logging of protected species: Following the ban on the harvesting, transportation, processing, export or sale of rosewood, the Forestry Commission granted Salvage Permits to 13 companies to remove the already harvested rosewood. However, these companies have abused their permits (Bonney, 2016; Owusu-Addai, 2016). A study conducted by Nature and Development Foundation revealed that there are trades of

Pericopsis elata (also known as Afromosia) on the local market without accompanied documentation (FLEGT Newsletter, 2016). Pericopsis elata is a scarlet star species. These species are threatened by over-exploitation, at least in Ghana, and are therefore protected.

Illegal logging in protected areas: Illegal logging is a threat to protected areas. Derkyi and Dietz conducted a study of forest offences in the six forest reserves within the Forest Services Division (FSD) – Nkawie Forest District in the High Forest Zone of Ghana in 2014. They found that 53 chainsaw milling offences were recorded in the Nkawie Forest District from 2005 – 2010. 79% of these offences occurred in the six forest reserves, with the Tano-Offin forest reserve, Globally Significant Biodiversity Area (GSBA), recording the highest number of cases (n=17). The remaining 21% of the offences occurred in the off-reserve area. Arrested illegal operators were fined by the FSD and the lumber were confiscated and auctioned (Derkyi and Dietz, 2014).

Risk conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities

1.9.6. Risk designation and specification

Specified risk

1.9.7. Control measures and verifiers

- Approved harvesting schedule/blocking that excludes large Protected areas (referred to as "coarse grain" protection (e.g. Provenance areas, Globally Significant Biodiversity Areas, etc.) must be available to the logger and FSD. The forest logger must possess forest progress maps or TUC area map showing locations of large protected areas within a Forest Management Unit or defined forest area.
- Yield maps indicating locations of fine grain protection areas (All trees in fine-grained areas are required to be exempted) must be available to logger onsite
- For Restricted timber species, Loggers must hold a special permit issued by the FC for the defined harvesting unit.

1.10. Environmental requirements

National and sub-national laws and regulations related to the identification and/or protection of environmental values including but not limited to those relating to or affected by harvesting, acceptable level for soil damage, establishment of buffer zones (e.g. along water courses, open areas, breeding sites), maintenance of retention trees on felling site, seasonal limitation of harvesting time, environmental requirements for forest machineries, use of pesticides and other chemicals, biodiversity conservation, air quality, protection and restoration of water quality, operation of recreational equipment, development of non-forestry infrastructure, mineral exploration and extraction, etc... Risk relates to systematic and/or large-scale non-compliance with legally required environmental protection measures that are evident to an extent that threatens the forest resources or other environmental values.

1.10.1. Applicable laws and regulations

- The Environmental Assessment Regulation 1999 (LI 1652) (Part I section 1-8 provides information environmental regulations). Available at:

[http://fcghana.org/library_info.php?doc=48&publication:L.I.%201721%20Timber%20Resources%20Management%20\(Amendment\)%20&id=15](http://fcghana.org/library_info.php?doc=48&publication:L.I.%201721%20Timber%20Resources%20Management%20(Amendment)%20&id=15)

- Logging Manual (Section 3.2 Environmental Considerations)

1.10.2. Legal authority

- Environmental Protection Agency (Issuance of Environmental Permit and Monitoring). Website available at: <http://www.epa.gov.gh/web/>
- Forestry Commission (FC) (the principal authority overseeing forest management in Ghana). Website available at: <http://fcghana.org/>
- Forest Services Division (FSD) (They support the Commission in the preservation and management of forest reserves in Ghana). Website available at: <http://fcghana.org/>
- Resource Management Support Centre (RMSC) (is the technical wing of the Forestry Commission (FC) and responsible for the exploration, development, facilitation, institutionalization, implementation, and monitoring of effective and affordable forest management systems in Ghana). Website available at: <http://www.fcghana.org/page.php?page=46§ion=22&typ=1&subs=252>

1.10.3. Legally required documents or records

- EPA Certificate of Registration
- Environmental Permit
- Environmental Impact Assessment
- Environmental Management Report
- Logging plan and TUC Operational Plan
- Approved Yield or Yield Markings
- Compartment closure certificate/post-harvest inspection report
- FSD Felling Inspection report
- Field observations by audit team
- List of infractions raised by FSD in offence register
- RMSC Post-harvest audit report
- Blocking report (for submerged forests)

1.10.4. Sources of information

Government sources

- Logging manual
- LI 1652: The Environmental Assessment Regulations

Non-Government sources

- Client Earth (2013). *A short legal briefing on "Understanding the legality of rights, permits and certificates to harvest naturally occurring timber in Ghana"*. [online].

Available at: <http://www.clientearth.org/external-resources/ghana/other-ressources/Timber%20Rights%20and%20Felling%20Permits%20in%20Ghana-2013.pdf>

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- CIKOD (2012) *Annual Transparency Report Card for Forest Sector Ghana*. A report prepared by Centre for Indigenous Knowledge and Organization Development (CIKOD) under the Governance Initiative for Rights and Accountability in Forest (GIRAF). [online]. Available at: <http://www.foresttransparency.info/ghana/2012/>
- Global Witness (2013). *Three quarters of Ghana's logging permits could break Europe's new timber law*. Global witness analysis of official Ghana logging permits list. Available at: <https://www.globalwitness.org/en/archive/ghanapermits/> [Accessed 18 November 2016]
- Bosu, D. (2014) *Rosewood: Most expensive, fastest selling commodity in Ghana today*. GhanaWeb (Article 313635). [online]. Available at: <http://www.ghanaweb.com/GhanaHomePage/features/Rosewood-Most-expensive-fastest-selling-commodity-in-Ghana-today-313635> [Accessed 18. November 2016]
- Global Witness (2013). *Logging in the shadows - How vested interest abuse shadow permits to evade forest sector reforms*. An analysis of recent trends in Cameroon, Ghana, The Democratic Republic of Congo and Liberia. [online]. Available at: <https://www.globalwitness.org/en/archive/logging-shadows-how-vested-interests-abuse-shadow-permits-evade-forest-sector-reforms/> [Accessed 16 November 2016]
- Summary of FSC audit reports:
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000003zKMDEA2;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000007OnUkEAK;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000008EJIQEA4;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000005cYQCEA2;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000byIMmEAM;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4000000UZgJBEA1;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000cVDAgEAO;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000Zu06vEAB;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000bxAL5EAM>

1.10.5. Risk determination

Overview of Legal Requirements

The Logging Manual (Section 3.2, subsections 1 – 7) prescribes environmental standards as guidance (on logging activities in riparian areas, fire precautions, restricted/protected species, and protected areas such as sacred groves, hill sanctuaries, provenance

protection areas, convalescent areas, special biological protection areas, and swamps]); to the timber contractors on the planning and operational aspects of timber harvesting and provides the basic information for a code of good working practice. Protected areas must be clearly marked on the TUC Operational Plan and on the Annual Logging Plan at the appropriate scales.

Section 3 of Schedule 1 (Regulation 1(1)) of the Environmental Assessment Regulation, 1999 prescribes undertakings that require registration and environmental permit from the Environmental Protection Agency (EPA). Relevant undertakings are logging (management of forested land for the primary purpose of harvesting timber in a contract area) and forest services like pesticide application and introduction of exotic species (animals, plants or microbial agents). Application for the Environmental Permit includes;

- i. location and size of area;
- ii. technology intended to be used;
- iii. environmental, health and safety impact of the undertaking;
- iv. clear commitment to avoid any adverse environmental effects which can be avoided on the implementation of the undertaking;
- v. clear commitment to address unavoidable environmental and health impacts and steps where necessary for their reduction;
- vi. the concerns of the general public, if any, and in particular concerns of immediate residents; and
- vii. alternatives to the establishment of the undertaking.

The EPA screens the application under regulation 5 and issues a screening report on the application which states whether the application is approved or not; or requires submission of (a) a preliminary environment report or (b) an environmental impact statement.

Registration and issue of environment permit;

Where an application is approved at the initial assessment, the EPA registers the undertaking and issue in respect of the undertaking an environmental permit.

Where application is rejected, the undertaking cannot commence and where it is in existence it is discontinued.

Description of risk

Apart from logging in submerged forests and private forest plantations, most companies logging in forest reserve and off forest reserve areas approved by the Forestry Commission (FC) may not have a permit from the EPA as required by law. This is because EPA certificate is not part of the required documents for the grant of timber rights by the FC. The FC may recommend companies to the Minister (Ministry of Lands, Forestry and Mines) for the grant of timber rights once the companies have met the environmental standards prescribed in the forest laws.

According to FC officials, there is an unwritten understanding between FC and EPA that, the different level of forest management plans and operational restrictions provided in the forest laws are adequate to safeguard any possible breach of any other

environmental requirement and for that matter EPA's environmental requirements can be waived once the forest operator meets the FC's management planning requirements. However, this arrangement is not documented; therefore, there is a risk that companies operate without the required EPA permit.

Review of a sample of FSC audit summaries in the last five years shows that some companies pursuing FSC controlled wood certification are making efforts to get environmental permit from the Environmental Protection Agency (FSC audit reports 2008-2015).

Risk conclusion

This indicator has been evaluated as specified risk. Though activities on the ground might not violate environmental requirements, substitution of FCs forest management requirements for EPA laws related to forest management has not been formally documented. Therefore, identified EPA laws are not upheld consistently by forest management operators and the EPA also does not enforce them.

1.10.6. Risk designation and specification

Specified risk

1.10.7. Control measures and verifiers

- For forestry operations that fall under Schedule 1 of LI 1652, registration with the EPA and application for Environmental permit is must be available from the EPA and timber operator.
- For forestry activities that falls under Schedule 2, an approved Environmental impact assessment report must be available
- An approved Yield/yield markings and a Logging plan covering the defined forest area should be available.
- Compartment closure certificate issued by the FSD should be available to both the logger and the FSD. Post-harvest inspections report issued by the RMSC should be available at the FSD office.

Note: While the EPA requirements are clear, it has so far not been applied in normal forestry operations (i.e., Environmental Permits and EIA are not conducted). This is mainly because the forestry planning and management requirements are considered sufficient to meet the EPA requirement. There is therefore some unwritten gentleman agreement between the FC and EPA.

1.11. Health and safety

Legally required personnel protection equipment for persons involved in harvesting activities, use of safe felling and transport practice, establishment of protection zones around harvesting sites, and safety requirements to machinery used. Legally required safety requirements in relation to chemical usage. The health and safety requirements that shall be considered relate to operations in the forest (not office work, or other activities less related to actual forest operations). Risk relates to situations/areas where health and safety regulations are consistently violated to such a degree that puts the health and safety of forest workers at significant risk throughout forest operations.

1.11.1. Applicable laws and regulations

- Factory, offices and shops Act, 1970 (Act 328) (covers general health and safety requirements applicable to timber processing activities). Available at: <http://laws.ghanalegal.com/acts/id/82/factories,-offices-and-shops-act>
- Labour Act, 2003 (Act 651) (Part XV: 118-121 outlines regulations for occupational Health and Safety). Available at: <http://laws.ghanalegal.com/acts/id/162/labour-act>
- National Health Insurance Authority Act, 2012 (Act 852) (Part II sections 12-13 defines employer responsibility for worker's registration on the National Health Insurance Scheme (NHIS)). Available at: <https://s3.amazonaws.com/ndpc-static/CACHES/NEWS/2015/07/22//NHIS+Act+2012+Act+852.pdf>
- Pesticides Control and Management Act 1996 (Act 528) (Section 21 defines safeguards for use of pesticides). Available at: <http://laws.ghanalegal.com/acts/id/192/pesticides-control-and-management-act>
- The workmen's compensation Law (PNDC law 187) (outlines compensation procedures for injury, accident or death of persons under employment). Available at: <http://laws.ghanalegal.com/acts/id/569/workmens-compensation-act>
- Labour regulations 2007 (LI 1833). Available at: <http://www.ilo.org/dyn/travail/docs/1198/Labour%20Regulations%202007.pdf>

1.11.2. Legal authority

- Ministry of Employment and Labour Relations (MELR) (mandated to formulate policies on Labour and Employment issues, develop sector plans, coordinate Employment and Labour related interventions across sectors, promote harmonious labour relations and workplace safety, monitor & evaluate policies). Website available at: <http://melr.gov.gh/>
- Department of Factories Inspectorate (under MELR promotes measures that would safeguard the health and safety of persons employed in premises, which fall within the purview of the Factories, Offices, and Shops Act, 1970 (Act 328)). Website available at: <http://melr.gov.gh/department-of-factories-inspectorate/>
- National Health Insurance Authority (NHIA) (provides financial risk protection against the cost of quality basic health care for all residents in Ghana). Website available at: <http://www.nhis.gov.gh/nhia.aspx>
- Forestry Commission (FC) (the principal authority overseeing forest management in Ghana). Website available at: <http://fcghana.org/>

1.11.3. Legally required documents or records

- Certificate of Registration and Renewal from the Department of Factory Inspectorate
- Industrial Hygiene survey report (From Department of Factory Inspectorate or their sub-contracted agencies)
- Workers Registration on the National Health Insurance Scheme (NHIS)
- Operators Health and Safety policy and procedures
- Records of Purchase and Provision of Personal protective equipment
- Records of Health and Safety Training
- Records of Payment of work related injury compensation

1.11.4. Sources of information

Government sources

- Forestry laws and Regulations provided by the Forestry Commission. (<http://fcghana.org/library.php?id=15>)

Non-Government sources

- Summary of FSC audit reports:
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000003zKMDEA2>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000007OnUkEAK>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000008EJIQEA4>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000005cYQCEA2>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000byIMmEAM>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4000000UZgJBEA1>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000cVDAgEAO>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000Zu06vEAB>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000bxAL5EAM>
- Abeney, E. A. (2012). *Title Empowering forest stakeholders to monitor implementation and compliance of the VPA in Ghana*. [online]. ACP FLEGT support Programme. Available at: <http://www.workinggroupgh.org/images/WorkingGroupMediaFiles/ResourceCentre/Reports/FINAL%20REPORT%20WG-RUDEYA%20ACP%20PROJECT%20FINAL%20REPORT%20rev.pdf>

1.11.5. Risk determination

Overview of Legal Requirements

Labour regulations, 2007 (LI 1833), Sections 18 to 20 and Sections 25 to 28; Labour Act, 2003 (Act 651): Part XV: 118-121; and 30 of Act 328 (factories, offices and shops act, 1970) provides for occupational safety and health and medical examination of workers at work and section 10 provides for collective bargaining agreement for workers. Section 75 of Act 328 provides the powers of inspectors to enter and inspect a factory at any time. As part of requirements (Section 118 to 121 of the Labour Act), the employer is responsible to ensure that workers work under satisfactory, safe and healthy conditions. Workers are obliged to use safety appliances, fire-fighting equipment and PPEs provided by the employer; and report imminent hazards to employer. Employers are required to report occupational accidents and diseases to the appropriate government authority. Supply of personnel protection equipment (PPE) and training of workers on safe felling practice, and observation of safety requirements in the timber industry.

The Ghana's legal timber requirements set Table 1 (page 37) of the ILO Code of Practice on Safety and Health in Forestry Work as the minimum requirement for Health and Safety. Employers are required by the National Health Insurance Authority Act, 2012 (Act 852: Part II sections 12-13) to register their employees on the National Health Insurance Scheme (NHIS).

Employers are required by the Pesticides Control and Management Act, 1996 (Act 528: Section 21) to provide workers with the means to protect themselves from injury or hazards when handling pesticides. In case of injury, accident or death of employees, the Workmen's Compensation Law (PNDC law 187) provides the procedure for compensation.

Description of risk

Companies in Ghana have improved in terms of health and safety; especially following the pursuit of forest certification and the implementation of VPA FLEGT licensing. However, for some companies' safety requirements are not fully observed. In some cases, PPEs are not supplied to workers whereas in other instances employers provide workers with PPEs but the use of these PPEs are not enforced. Workers in most companies belong to trade unions and have collective bargaining agreement (CBA) with their employers but in some cases all the terms in the CBA are not met (Expert consultation conducted by NEPCon, 2016). Review of a sample of FSC audit summaries in the last five years did not show any risks with this category (FSC audit reports 2008-2015).

Risk conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld by most companies. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities (i.e. for certified companies or those pursuing certification). Factory inspectors help other companies to meet safety requirements in the factories but not forest operations.

1.11.6. Risk designation and specification

Specified risk

1.11.7. Control measures and verifiers

- The timber operator should hold a valid certificate of registration from the Department of Factory Inspectorate for its timber processing activities
- Periodic industrial hygiene inspection reports issued by the Department of Factory Inspectorate must be available. The timber operator must have evidence to demonstrate that observations raised in these reports are addressed
- Employers are required to ensure that all their employees are registered on the National Health Insurance Scheme. The NHIA issues Identity cards for registered persons on the NHIS. Records must be available from the timber operator to demonstrate that all employees are registered under the NHIS
- Training records must be available and demonstrate that adequate health and safety training have been given to employees and contractors consistent with the risk associated with their responsibilities.
- Evidence should be available and demonstrate that employees are provided safe working environment and Personal Protective Equipment
- Appropriate health facilities must be available to employees and contractors
- Records on compensations should be available to demonstrate the workmen compensation law is consistently implemented in events of accident, death or injury of an employee arising from work

1.12. Legal employment

Legal requirements for employment of personnel involved in harvesting activities including requirement for contracts and working permits, requirements for obligatory insurances, requirements for competence certificates and other training requirements, and payment of social and income taxes withhold by employer. Furthermore, the points cover observance of minimum working age and minimum age for personnel involved in hazardous work, legislation against forced and compulsory labour, and discrimination and freedom of association. Risk relates to situations/areas where systematic or large scale noncompliance with labour and/or employment laws. The objective is to identify where serious violations of the legal rights of workers take place, such as forced, underage or illegal labour.

1.12.1. Applicable laws and regulations

- Labour Act 2003 (Act 651). Available at: <http://laws.ghanalegal.com/acts/id/162/labour-act>
- The National Pension Act 2008 (Act 766). Available at: <http://www.ssnit.org.gh/resource/pension-act-766/attachment/law-pension-act-766/>
- Factories, offices and shops act (Act 328). Available at: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/5120/101273/F1855108748/GHA5120.pdf>
- Labour regulations (LI 1833). Available at: <http://www.ilo.org/dyn/travail/docs/1198/Labour%20Regulations%202007.pdf>
- Security and intelligence agencies act (Act 526). Available at: <http://laws.ghanalegal.com/acts/id/209/security-and-intelligence-agencies-act>
- National Health Insurance Authority Act, 2012 (Act 852) (Part II sections 12-13 defines employer responsibility for worker's registration on the National Health Insurance Scheme (NHIS)). Available at: <https://s3.amazonaws.com/ndpc-static/CACHES/NEWS/2015/07/22//NHIS+Act+2012+Act+852.pdf>
- Pesticides Control and Management Act 1996 (Act 528) (Section 21 defines safeguards for use of pesticides). Available at: <http://laws.ghanalegal.com/acts/id/192/pesticides-control-and-management-act>

1.12.2. Legal authority

- Ministry of Employment and Labour Relations (MELR) (mandated to formulate policies on Labour and Employment issues, develop sector plans, coordinate Employment and Labour related interventions across sectors, promote harmonious labour relations and workplace safety, monitor & evaluate policies). Website available at: <http://melr.gov.gh/>
- Department of Factories Inspectorate (under MELR promotes measures that would safeguard the health and safety of persons employed in premises, which fall within the purview of the Factories, Offices, and Shops Act, 1970 (Act 328)). Website available at: <http://melr.gov.gh/department-of-factories-inspectorate/>
- Social Security and National Insurance Trust (SSNIT) (legal authority for social tax registration and payment). Website available at: <http://www.ssnit.org.gh/>

1.12.3. Legally required documents or records

- Workers Employment Contract
- SSNIT Registration numbers of staff
- SSNIT Contribution payment receipts
- Signed Collective Bargaining Agreement (CBA)

1.12.4. Sources of information

Government sources

- Forestry Laws and Regulations made available by the Forestry Commission of Ghana. Available at: <http://fcghana.org/library.php?id=15> [Accessed 23 March 2016]

Non-Government sources

- Client Earth (2013). *A short legal briefing on "Understanding the legality of rights, permits and certificates to harvest naturally occurring timber in Ghana"*. [online]. Available at: <http://www.clientearth.org/external-resources/ghana/other-ressources/Timber%20Rights%20and%20Felling%20Permits%20in%20Ghana-2013.pdf>
- Hoare, A. (2014). *Illegal Logging and Related Trade; The Response in Ghana*. A Chatham House Assessment. [online]. Available at: <https://www.chathamhouse.org/publication/illegal-logging-and-related-trade-response-ghana>
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 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000007OnUkEAK;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000008EJIQEA4;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000005cYQCEA2;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000byIMmEAM;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4000000UZgJBEA1;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000cVDAgEAO;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000Zu06vEAB;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000bxAL5EAM>

1.12.5. Risk determination

Overview of Legal Requirements

Labour Act, 2003 (Act 651) applies to all workers and to all employers except the Armed Forces, the Police Service, the Prison Service and the Security and Intelligence Agencies specified under the Security and Intelligence Agencies Act 1996 (Act 526). Section 10 and 79 of Act 651 provides the rights of a worker to form or join a trade union. Section 12 requires that workers are given employment contract whereas section 20 provides for leave entitlement; among others.

Section 12 to 17 of the Labour Act prescribes the conditions for legal employment. It provides that a written contract is required for workers engaged for 6 months or more or a number of working days equivalent to 6 months or more within a year. The employer is required to provide the newly employed worker with written particulars of the contract of employment between the employer and worker; subject to the terms of the contract and within two months following the commencement of the employment. Employers are prohibited from using restrictive employment conditions to discriminate against persons, and prevent or require workers to form or take part in activities of trade union. Section 15 provides the grounds for the termination of employment; Section 16 prescribes the types of employment contract; and Section 17 describes the conditions for terminating

employment contract. Part XII provides conditions for collective bargain.

Description of risk

Companies in Ghana have improved in terms of health and safety; especially following the pursuit of forest certification and the implementation of VPA FLEGT licencing. Even so, some companies have expired collective bargaining agreement and some others do not implement some of the agreements such as leave entitlement etc. Some workers work without a contract and requirements for the obligatory insurances. This violates the legal rights of workers (Expert consultation conducted by NEPCon, 2016).

Risk conclusion

This indicator has been evaluated as specified risk. Identified laws are often ignored, and/or are not enforced by relevant authorities.

1.12.6. Risk designation and specification

Specified risk

1.12.7. Control measures and verifiers

- Employers are required to give formal employment contracts to their employees or contractors. Employment contract of employees should be maintained by the timber operator
- Timber operator must maintain records to demonstrate that casual workers who have worked for more than 6 months continuously are made permanent staff and are given a formal contract
- Permanent employees are required to be registered with SSNIT and given Social security numbers. Employers must maintain records of payment of SSNIT contributions for their employees and receipts for such payments issued by SSNIT
- A binding Collective Bargaining Agreement (CBA) signed between the employer and the local workers' union must be available. The CBA specifies the condition of employment (including employer and employee responsibilities, wages, leave, etc.) and serves as the basis of employer-employee relations. Employees' contract and condition of service should be consistent with the regulations of the CBA

THIRD PARTIES' RIGHTS

1.13 Customary rights

Legislation covering customary rights relevant to forest harvesting activities including requirements covering sharing of benefits and indigenous rights.

1.13.1. Applicable laws and regulations

- Timber Resources Management Act 1997 (Act 547) (Section 4 provides general framework for third party right in forest management in Ghana (Lands Subject to Timber right)). Available at: http://fcghana.org/library_info.php?doc=45&publication:Timber%20Resource%20Management%20Act,%201997%20-%20Act%20%20547&id=15
- Timber Resources Management Regulations LI 1649 (part 1 sections 11d-1, 13-1b and 14k-1 make provision for customary rights particularly in relation to the SRA). Available at: http://fcghana.org/library_info.php?doc=46&publication:L.I.%201649%20-%20Timber%20Resources%20Management%20Regulations,%201998&id=15
- Logging manual (section 3.3 makes customary right provision in relations to 1. SRA, 2. Use and Access Rights of forest resources by local communities, 3. dispute and conflict resolution in respect of forest or timber harvesting activities, and 4. consent of landowners regarding grant of timber harvesting rights). Available at: [http://fcghana.org/library_info.php?doc=52&publication:Timber%20Resources%20Management%20Act%20617%20\(Amendment\)%20Act,%202002&id=15](http://fcghana.org/library_info.php?doc=52&publication:Timber%20Resources%20Management%20Act%20617%20(Amendment)%20Act,%202002&id=15)

1.13.2. Legal authority

- Forestry Commission (FC) (the principal authority overseeing forest management in Ghana). Website available at: <http://fcghana.org/>
- Forest Services Division (FSD) (They support the Commission in the preservation and management of forest reserves in Ghana). Website available at: <http://fcghana.org/>

1.13.3. Legally required documents or records

- Social Responsibility Agreement (SRA) with local communities
- Proof of payment of SRA proceeds and adherence to signed SRA agreement
- Proof of payment of compensations for damaged farms and crops

1.13.4. Sources of information

Government sources

- The Forestry Commission of Ghana (n.d.). *New Procedures for Stumpage Collection and Disbursement*. [online]. fcghana.org (Forestry Commission in Association with the Office of Administrator of Stool Lands). Available at: [http://fcghana.org/library_info.php?doc=55&publication:New%20Procedure%20for%](http://fcghana.org/library_info.php?doc=55&publication:New%20Procedure%20for%20)

[20Stumpage%20Disbursement%20&id=18](#) [Accessed 22 November 2016]

- The Forestry Commission of Ghana (n.d.). *Quarterly stumpage disbursement published by the Forestry Commission*. [online]. Available at: <http://fcghana.org/> [Accessed 22 November 2016]
- The Forestry Commission of Ghana (n.d.). *Forest Laws and Regulations (Publications)*. [online]. fcghana.org. Available at: <http://fcghana.org/library.php?id=15> [Accessed 23. March 2016]
- Timber Resources Management Amendment Regulations 2003 (LI 1721) (minor amendment of regulation 21 of LI 1649). Available at: [http://fcghana.org/library_info.php?doc=48&publication:L.I.%201721%20Timber%20Resources%20Management%20\(Amendment\)%20&id=15](http://fcghana.org/library_info.php?doc=48&publication:L.I.%201721%20Timber%20Resources%20Management%20(Amendment)%20&id=15)

Non-Government sources

- Hoare, A. (2014). *Illegal Logging and Related Trade; The Response in Ghana*. [online]. A Chatham House Assessment. Available at: <https://www.chathamhouse.org/publication/illegal-logging-and-related-trade-response-ghana> [Accessed 16. November 2016]
- CIKOD (2012) *Annual Transparency Report Card for Forest Sector Ghana*. A report prepared by Centre for Indigenous Knowledge and Organization Development (CIKOD) under the Governance Initiative for Rights and Accountability in Forest (GIRAF). [online]. Available at: <http://www.foresttransparency.info/ghana/2012/> [Accessed 16. November 2016]
- Forest Watch Ghana (2010). *Synthesis of political economy and fiscal studies on Ghana's Forest Sector*. [online]. Ghana: Forest Watch Ghana. Available at: <http://www.forestwatchghana.org/assets/synthesis-of-political-economy-and-fiscal-studies-on-ghana-s-forest-sector2.pdf> [Accessed 22 November 2016]
- Forest Governance Learning Group (FGLG)/CIVIC Response (2013). *Real loss in stumpage values in Ghana's Forest Sector 2003-2012 (Research on Forest stumpage Value)*. [online]. Available at: http://www.illegal-logging.info/sites/files/chlogging/Real_Loss_Stumpage_Values_Ghana%27s_Forest_Sector.pdf [Accessed 22 November 2016]
- Ayine, D. M. (2008). *Social Responsibility Agreements in Ghana's Forestry Sector - Developing legal tools for citizen empowerment series*. [online]. London: International Institute for Environment and Development (IIED), pp. 1-46. Available at: <http://www.participatorymethods.org/sites/participatorymethods.org/files/Social%20responsibility%20in%20Ghana's%20forestry%20sector.pdf> [Accessed 22 November 2016]
- Summary of FSC audit reports:
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000003zKMDEA2;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000007OnUkEAK;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000008EJIQEA4;>

- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000005cYQCEA2;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000byIMmEAM;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4000000UZgJBEA1;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000cVDAgEAO;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000Zu06vEAB;>
- Client Earth (2013). *Understanding the distribution of Benefits Derived from timber production in Ghana, Legal Learning tools*. [online]. Ghana: Client Earth, pp. 1-12. Available at: <http://www.clientearth.org/external-resources/ghana/other-ressources/LLT%20benefit%20sharing%20in%20the%20timber%20sector.pdf> [Accessed 22. November 2016]
- Mayers, J., & Vermeulen, S. (2002). *Company-community Forestry Partnerships: From Raw Deals to Mutual Gains?*. [online]. London, International Institute for Environment and Development (IIED). Available at: <http://pubs.iied.org/pdfs/9132IIED.pdf> [Accessed 22 November 2016]
- The Forestry Commission of Ghana (n.d.). *Service Charter – Introduction & Function*. [online]. fcghana.org. Available at: <http://www.fcghana.org/page.php?page=199§ion=22&typ=1&subs=258> [Accessed 22 November 2016]

1.13.5. Risk determination

Overview of Legal Requirements

Royalties: The 1992 constitution stipulates that the District Assembly is entitled to 55% of the of forest revenue, the Stool chief is entitled to 25%, whereas the Traditional authority's share is 20%.

Social Responsibility Agreement: Direct benefit sharing arrangements between communities and logging companies are in the form of Social Responsibility Agreements (SRAs). According to law, the monetary value of the SRA should be 5% of the stumpage paid in respect of trees harvested within a defined forest area (LI 1721 (12) b). This agreement is arrived at through a consultation process facilitated by the FSD (Instruction Sheet C3.2 of MOP Section C). The District Manager of the FSD defines the boundaries of a TUC area, in consultation with land-owning communities. During the consultation, the purpose of SRA as part of TUC is explained and the community proposes their priorities for local development and particular conditions for a future logging company's operations. These development priorities and conditions are incorporated into a preliminary document called the Timber Operational Specifications (TOS). The TOS, which is included in the advertisement for TUC tenders, forms the basis for negotiations of SRA terms between the timber company that wins the TUC and the appropriate land-owning community or communities.

Compensation: Farmers and land owners who have property on a land in off forest reserve areas suitable for TUC qualifies for compensation under the forestry laws. The consent of these land owners must be sought before timber right or TUC is awarded.

Description of risk

The first joint assessment of Ghana's Legality Assurance System found that implementation of SRAs is not consistent with the law. SRA agreements are sometimes violated by timber contractors (Expert consultation conducted by NEPCon, 2016); though most contractors pay more than the legally required 5% of stumpage fee (Expert consultation conducted by NEPCon, 2016). Communities could ensure that they get what is due them if they have information on stumpage value. However, information on the actual volumes of timber extracted is kept within the FC, though it is the basis for calculating royalties and SRAs. As a result, it is difficult for land owners to independently verify the appropriate revenue due them. The Service Charter of the Forestry Commission identifies reports and publication of materials as the main tool for communicating with the public. However, the official redistribution figures are usually published a year in arrears. SRA and stumpage information delivery to local communities have improved with the involvement of civil society organisations in awareness creation and establishment of SRA committees in some of the forest fringe communities. Activities and programmes on the implementation of the VPA have also contributed to increase the awareness of communities and improved access to information. The Resource Management Support Centre of the Forestry Commission prepares estimates of potential stumpage and corresponding SRAs before logging begins. These estimates are available at the Forest Services Division offices and are accessible to communities and other stakeholders. Continuous audits carried out by the Timber Validation Division will improve the system. Royalty disbursement has improved (Expert consultation conducted by NEPCon, 2016).

Compensation paid to farmers or landowners in off reserve areas is usually inadequate. The Ministry of Food and Agriculture determines the rates payable per type of crop but the rates are usually not followed (Expert consultation conducted by NEPCon, 2016). These rates vary from region to region and this makes it complex. Usually, there is a bargain between the property owner and timber contractor; either party could lose (Expert consultation conducted by NEPCon, 2016).

Risk conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities.

1.13.6. Risk designation and specification

Specified risk

1.13.7. Control measures and verifiers

- Timber operators are required to sign social responsibility agreement (SRA) with eligible forest fringed communities.
- Copies of this agreement should be available from timber operator, forest fringe community and the relevant FSD
- Through the SRA, timber operators are required to assist local development efforts. The value of this support should not be less than 5% of the stumpage value of timber harvested from the defined forest area.
- Records of SRA payments should be maintained by the timber operator and should

also be available to the community

- The timber operator is required to compensate damaged farms, crops or local infrastructure. Records of such compensations should be maintained by the operator.
- The timber contractor is required to be aware and respect cultural norms (such as taboo days), right of access to forest product use for domestic purpose and local infrastructure of local communities.

1.14. Free prior and informed consent

Legislation covering "free prior and informed consent" in connection with transfer of forest management rights and customary rights to the organisation in charge of the harvesting operation.

1.14.1. Applicable laws and regulations

- Timber Resources Management Act 1997 (Act 547) (Section 4 contains requirements for seeking landowners consent in grant of timber rights). Available at: http://fcghana.org/library_info.php?doc=45&publication:Timber%20Resource%20Management%20Act,%201997%20-%20Act%20%20547&id=15
- Timber Resources Management Amendment Act 2002 (Act 617) (Section 1A contains requirements for seeking landowners consent in grant of timber rights). Available at: [http://fcghana.org/library_info.php?doc=52&publication:Timber%20Resources%20Management%20Act%20617%20\(Amendment\)%20Act,%202002&id=15](http://fcghana.org/library_info.php?doc=52&publication:Timber%20Resources%20Management%20Act%20617%20(Amendment)%20Act,%202002&id=15)
- Timber Resources Management Regulations (LI 1649) (subpart II of Part I contains requirements for seeking landowners consent in grant of timber rights). Available at: http://fcghana.org/library_info.php?doc=46&publication:L.I.%201649%20-%20Timber%20Resources%20Management%20Regulations,%201998&id=15

1.14.2. Legal authority

- Forestry Commission (FC) (the principal authority overseeing forest management in Ghana). Website available at: <http://fcghana.org/>

1.14.3. Legally required documents or records

- Land Owners written consent
- For already reserved lands: Forest Reservation Settlement Commissioner's report
- Timber Operational Specifications (TOS)

1.14.4. Sources of information

Government sources

- The Forestry Commission of Ghana (n.d.). *Forest Laws and Regulations (Publications)*. [online]. Available at: <http://fcghana.org/library.php?id=15> [Accessed 23 March 2016]
- Forestry Commission of Ghana (n.d.). *List of Concession Holders in Ghana and their permit category provided by the Forestry Commission of Ghana*. [Excel sheet].

Available at: https://docs.google.com/spreadsheets/d/1Isn8DsUclq8F5xyVlqA-8tBfvkPxluSnCeyWworOI_E/edit?pref=2&pli=1#gid=0

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- Summary of FSC audit reports:
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000003zKMDEA2;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000007OnUkEAK;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000008EJIQEA4;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000005cYQCEA2;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000byIMmEAM;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4000000UZgJBEA1;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000cVDAgEAO;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000Zu06vEAB;>
- Client Earth (2013). *Understanding the distribution of Benefits Derived from timber production in Ghana, Legal Learning tools*. [online]. Ghana: Client Earth, pp. 1-12. Available at: <http://www.clientearth.org/external-resources/ghana/other-ressources/LLT%20benefit%20sharing%20in%20the%20timber%20sector.pdf> [Accessed 22 November 2016]
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[abuse-shadow-permits-evade-forest-sector-reforms/](#) [Accessed 16 November 2016]

1.14.5. Risk determination

Overview of Legal Requirements

Section 4(2) of TRM Act 547 (and Section 1(A) of amendment Act 617) provides that timber right shall not be granted for logging on lands subject to alienation holding or farmlands without the written authorisation of the landowner(s).

Regulations 3 and 4 of the Timber Resources Management Regulation LI 1649 (Subpart II of Part I) require that the Forestry Commission must seek the written consent and agreement of land owners before lands (public lands and forest reserves) identified as suitable for timber rights can be given out. Regulation 5 provides the procedure for resolving conflicts and objections by land owners on the grant of timber rights. Manual of Procedures (MOP) C Section 4.2 (forest reserves) and MOP F Section 2.1 (off forest reserves) provides the procedures for the involvement of landowners.

Description of risk

The Forestry Commission usually seeks the consent of landowners before timber rights can be granted. The landowners are part of the timber rights granting process (Expert consultation conducted by NEPCon, 2016). These processes are provided in MOP C Section 4.2 for forest reserves and MOP F Section 2.1 for off forest reserves. In off forest reserve areas, the consent of some farmers is not usually sought (Expert consultation conducted by NEPCon, 2016). According to Gyimah (Expert consultation conducted by NEPCon, 2016), farmers' consent is usually sought and farmers or their representatives are also involved in the pre-felling survey to identify the trees in off forest reserve areas. The farmer must agree before a tree can be marked and given out to a timber contractor. The farmers reach an agreement with the timber contractors on the necessary compensation for crops that may be damaged. Farmers report to the Forestry Commission if the timber contractor fails to honour the agreement. These harvesting operations involve single trees and reported cases are very low.

Risk conclusion

This indicator has been evaluated as low risk. Identified laws are upheld consistently by all entities.

1.14.6. Risk designation and specification

Low risk

1.14.7. Control measures and verifiers

- Timber operators are required to sign social responsibility agreement (SRA) with eligible forest fringed communities.
- Copies of this agreement should be available from timber operator, forest fringe community and the relevant FSD
- Through the SRA, timber operators are required to assist local development efforts. The value of this support should not be less than 5% of the stumpage value of timber harvested from the defined forest area.

- Records of SRA payments should be maintained by the timber operator and should also be available to the community
- The timber operator is required to compensate damaged farms, crops or local infrastructure. Records of such compensations should be maintained by the operator.
- The timber contractor is required to be aware and respect cultural norms (such as taboo days), right of access to forest product use for domestic purpose and local infrastructure of local communities.
- Owners written consent is required for lands with private forest or plantation, lands subject to alienation holding or lands with farms prior to issuance of timber harvesting rights. Owners' written consent should be available from the FC
- The owners' written consent and related agreement is between the Forestry Commission and the owners. The timber contractor is not party to this consent

1.15. Indigenous/traditional peoples' rights

Legislation that regulates the rights of indigenous/traditional people as far as it's related to forestry activities. Possible aspects to consider are land tenure, right to use certain forest related resources or practice traditional activities, which may involve forest lands.

1.15.1. Applicable laws and regulations

- The Forest Protection (Amendment) Act 2002 (Act 624) [Section 1]. Available at: <http://www.clientearth.org/external-resources/ghana/forests-and-wildlife/2002%20THE%20FOREST%20PROTECTION%20AMENDMENT%20ACT.pdf>
- Timber Resources Management Act 1997 (Act 547) (Section 4 provides general framework for third party right in forest management in Ghana (Lands Subject to Timber right)). Available at: http://fcghana.org/library_info.php?doc=45&publication:Timber%20Resource%20Management%20Act,%201997%20-%20Act%20%20547&id=15
- Timber Resources Management Regulations LI 1649 (part 1 sections 11d-1, 13-1b and 14k-1 make provision for customary rights particularly in relation to the SRA). Available at: http://fcghana.org/library_info.php?doc=46&publication:L.I.%201649%20-%20Timber%20Resources%20Management%20Regulations,%201998&id=15
- Logging manual (section 3.3 makes customary right provision in relations to 1. SRA, 2. Use and Access Rights of forest resources by local communities, 3. dispute and conflict resolution in respect of forest or timber harvesting activities, and 4. consent of landowners regarding grant of timber harvesting rights).
- Timber Resources Management Regulation 1998 (LI 1649) part V, sections 21-27 (Regulations on stumping, management and ground rent fees payable by loggers in Ghana). Available at: http://fcghana.org/library_info.php?doc=46&publication:L.I.%201649%20-%20Timber%20Resources%20Management%20Regulations,%201998&id=15
- Logging manual
- Timber Resources Management Amendment Regulations 2003 (LI 1721) (minor

amendment of regulation 21 of LI 1649). Available at:
[http://fcghana.org/library_info.php?doc=48&publication:L.I.%201721%20Timber%20Resources%20Management%20\(Amendment\)%20&id=15](http://fcghana.org/library_info.php?doc=48&publication:L.I.%201721%20Timber%20Resources%20Management%20(Amendment)%20&id=15)

- Timber Resources Management Regulation 1998 (LI 1649) Part II, section 13 1B (specifies the nature of the Social Responsibility Agreement (SRA)). Available at:
http://fcghana.org/library_info.php?doc=46&publication:L.I.%201649%20-%20Timber%20Resources%20Management%20Regulations,%201998&id=15

1.15.2. Legal authority

- Forestry Commission (FC) (the principal authority overseeing forest management in Ghana). Website available at: <http://fcghana.org/>
- Forest Services Division (FSD) (They support the Commission in the preservation and management of forest reserves in Ghana). Website available at: <http://fcghana.org/>

1.15.3. Legally required documents or records

- Social Responsibility Agreement (SRA) with local communities
- Proof of payment of SRA proceeds and adherence to signed SRA agreement
- Proof of payment of compensations for damaged farms and crops
- Approved Yield/ Markings
- Tree Information Form (TIF)
- Log Information Form (LIF)
- FC Stumpage/Services Bills
- FC receipts of stumpage/Bill payment
- Operator FC Statement Account
- SRA payment records

1.15.4. Sources of information

Government sources

- The Forestry Commission of Ghana (n.d.). *New Procedures for Stumpage Collection and Disbursement*. [online]. fcghana.org (Forestry Commission in Association with the Office of Administrator of Stool Lands). Available at:
http://fcghana.org/library_info.php?doc=55&publication:New%20Procedure%20for%20Stumpage%20Disbursement%20&id=18 [Accessed 22 November 2016]
- The Forestry Commission of Ghana (n.d.). *Quarterly stumpage disbursement published by the Forestry Commission*. [online]. Available at: <http://fcghana.org/> [Accessed 22 November 2016]
- The Forestry Commission of Ghana (n.d.). *Forest Laws and Regulations (Publications)*. [online]. fcghana.org. Available at:
<http://fcghana.org/library.php?id=15> [Accessed 23 March 2016]

Non-Government sources

- Client Earth (2013). *Briefing - Ownership and use rights of Forest Natural Resources*. [online]. Ghana: Client Earth. Available at: <http://www.clientearth.org/external-resources/ghana/other-ressources/Ownership-and-use-rights-of-Forest-Natural-Resources-janv2014.pdf> [Accessed 22 November 2016]
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- CIKOD (2012) *Annual Transparency Report Card for Forest Sector Ghana*. A report prepared by Centre for Indigenous Knowledge and Organization Development (CIKOD) under the Governance Initiative for Rights and Accountability in Forest (GIRAF). [online]. Available at: <http://www.foresttransparency.info/ghana/2012/> [Accessed 16 November 2016]
- Forest Watch Ghana (2010). *Synthesis of political economy and fiscal studies on Ghana's Forest Sector*. [online]. Ghana: Forest Watch Ghana. Available at: <http://www.forestwatchghana.org/assets/synthesis-of-political-economy-and-fiscal-studies-on-ghana-s-forest-sector2.pdf> [Accessed 22 November 2016]
- Forest Governance Learning Group (FGLG)/CIVIC Response (2013). *Real loss in stumpage values in Ghana's Forest Sector 2003-2012 (Research on Forest stumpage Value)*. [online]. Available at: http://www.illegal-logging.info/sites/files/chlogging/Real_Loss_Stumpage_Values_Ghana%27s_Forest_Sector.pdf [Accessed 22 November 2016]
- Ayine, D. M. (2008). *Social Responsibility Agreements in Ghana's Forestry Sector - Developing legal tools for citizen empowerment series*. [online]. London: International Institute for Environment and Development (IIED), pp. 1-46. Available at: <http://www.participatorymethods.org/sites/participatorymethods.org/files/Social%20responsibility%20in%20Ghana's%20forestry%20sector.pdf> [Accessed 22 November 2016]
- Summary of FSC audit reports:
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000003zKMDEA2;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000007OnUkEAK;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000008EJIQEA4;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000005cYQCEA2;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000byIMmEAM;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4000000UZgJBEA1;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000cVDAqEAO;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000Zu06vEAB;>
- Client Earth (2013). *Understanding the distribution of Benefits Derived from timber production in Ghana, Legal Learning tools*. [online]. Ghana: Client Earth, pp. 1-12. Available at: <http://www.clientearth.org/external-resources/ghana/other->

[ressources/LLT%20benefit%20sharing%20in%20the%20timber%20sector.pdf](#)
[Accessed 22. November 2016]

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1.15.5. Risk determination

Overview of Legal Requirements

In Ghana, there are no indigenous people recognised in the laws. The laws recognise traditional people who are accorded some rights. Forest Reserves (FRs), plantations on FRs, and PAs are on traditional or community lands and under the custody of chiefs (The Constitution 1992, article 267 (1)) but vested in Ghana's president with the state acting as 'trustee' on behalf of the stool; and managed by the Forestry Commission (FC). Forest reservation in Ghana (which gave management rights to the State) required prior informed consent of the FC before developing portions of the reserves and harvesting of forest resources for commercial purposes [Act 624]. Off-Forest Reserves, Submerged Forests, and private plantations on OFRs are on lands owned mainly by chiefs; families, individuals, and public institutions. Timber production/extraction right for natural forests in FRs and OFRs is granted through the award of Timber Utilization Contracts (TUC) by the sector Minister [Acts 547 and 617] and ratified by Ghana's Parliament [ACT 547; LI 1649]. Private plantations in FRs are under special benefit sharing arrangements with investors whereas plantations in OFRs are leased.

Regulations 3 and 4 of TRM Regulation LI 1649 (Subpart II of Part I) require that the Forestry Commission must seek the written consent and agreement of land owners before lands (public lands and forest reserves) identified as suitable for timber rights can be given out. Regulation 5 provides the procedure for resolving conflicts and objections by land owners on the grant of timber rights. Section 4(2) of TRM Act 547 (and Section 1(A) of amendment Act 617) provides that timber right shall not be granted for logging on lands subject to alienation holding or farmlands without the written authorisation of the individual, group or owners concerned.

The traditional authority is entitled to royalties; land owning communities are entitled to Social Responsibility Agreements (SRAs); traditional people are entitled to subsistence use right; and farmers are entitled to compensation.

Royalties: The 1992 constitution stipulates that the District Assembly is entitled to 55% of the of forest revenue for community development, the Stool chief is entitled to 25%, whereas the Traditional authority's share is 20%.

Social Responsibility Agreement: Direct benefit sharing arrangements between communities and logging companies are in the form of Social Responsibility Agreements (SRAs). According to law, the monetary value of the SRA should be equal to 5% of the

stumpage paid in respect of trees harvested within a defined forest area. This agreement is arrived at through a consultation process. The District Manager of the FSD defines the boundaries of a TUC area, in consultation with land-owning communities. During the consultation, the purpose of SRA as part of TUC is explained and the community proposes their priorities for local development and particular conditions for a future logging company's operations. These development priorities and conditions are incorporated into a preliminary document called the Timber Operational Specifications (TOS). The TOS, which is included in the advertisement for TUC tenders, forms the basis for negotiations of SRA terms between the timber company that wins the TUC and the appropriate land-owning community or communities. The TUC holder is required to respect and honour the SRA, customs and local taboos.

Subsistence use rights: Land owners are entitled to harvest forest products and non-timber forest products in forest reserve and off-reserve areas for domestic use (MOP Section C; 3.3).

Compensation: Farmers and land owners who have property on a land in off forest reserve areas suitable for TUC qualifies for compensation under the forestry laws. The consent of these land owners must be sought before timber right or TUC is awarded.

Description of risk

Some companies do not honour the SRA agreements with the forest fringe communities by not paying the 5% equivalent of the stumpage fees. Communities could ensure that they get what is due them if they have information on stumpage value. However, information on the actual volumes of timber extracted is kept within the FC, though it is the basis for calculating royalties and SRAs. As a result, it is difficult for land owners to independently verify the appropriate revenue due them. The Service Charter of the Forestry Commission identifies reports and publication of materials as the main tool for communicating with the public. However, the official redistribution figures are usually published a year in arrears. Compensation paid to farmers or landowners in off reserve areas is usually inadequate.

There is generally improvement in the fiscal regime in the forestry sector due to introduction of computer-based revenue management programs used by The FC (Hoare 2014). The FC publishes quarterly disbursement of revenue and indicates that it achieves over 95% of revenue collection rates. However, a report produced by the Forest Governance Learning Group and Civic Response in 2013 concluded that within the period of 2003-2012, a total loss in real revenue of \$16 million was recorded. This is probably mainly because the stumpage rates were not periodically reviewed as required by LI 1649 and inflation was not accounted for (even though this was not envisaged by the relevant regulations). A wood-balance analysis carried out by Hoare (2014) on Ghana's timber which compared the legal supply of timber (from official records of harvest and imports) with consumption (based on domestic consumption and exports) shows a gap between supply and consumption. This gap could be due to under reporting of harvested tree volumes captured on the TIFs as FSD Range Supervisors may have left the capturing of TIFs to timber contractors or colluded with them. Stock numbers of approved trees can be repeated in order to harvest more trees outside the yield. Under reporting of harvested volumes and harvesting outside the approved yield reduces the stumpage fee paid by companies and hence the SRA to forest traditional people.

Risk conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.15.6. Risk designation and specification

Specified risk

1.15.7. Control measures and verifiers

For each felling operation:

- Felled trees are measured (using TIF=Tree Information Form) and their volume determined by Forestry staff
- Logs obtained from felled trees are recorded (log dimensions) by staff of the FME using the Log Information Form (LIF) for natural forest or Plantation Production Certificate (PPC) for plantations
- Before logs are conveyed from forest of origin, a Log measurement and Conveyance Certificate (LMCC) is prepared and endorsed by the FSD staff as well as a staff from the Timber Industry Development Division (TIDD).
- Stumpage rate for each felled tree is calculated by the FSD (based on the TIFs) and billed to the timber company
- Once stumpage is paid by timber company, the FSD issues receipts to cover the paid stumpage to the timber company (Copies of the receipt kept by the FSD)
- The timber company is required to pay concession rent, calculated on per hectare basis, for the defined forest area for which it holds harvesting rights. Receipts are issued by the FSD in respect of payment of concession rent.
- Property marks are renewed every 6 months and renewal required clearance (i.e., indication that the timber company is up-to-date with forest fees payment) from applicable FSD districts. The FSD issued such clearance with an attachment of the timber company's forestry related fees statement. Copies of these are kept by the various FSD offices as well as the timber company.
- For TUC, Salvage or Other permits, the timber company is required to support development of local communities (through the signed Social Responsibility Agreement). The monetary value of the support should not be less than 5% of the stumpage paid in respect of trees harvested within a defined forest area. Timber Company keeps records (in terms of receipts or invoices) of SRA payments.
- Owners written consent is required for lands with private forest or plantation, lands subject to alienation holding or lands with farms prior to issuance of timber harvesting rights. Owners' written consent should be available from the FC
- The owners' written consent and related agreement is between the Forestry Commission and the owners. The timber contractor is not party to this consent
- Timber operators are required to sign social responsibility agreement (SRA) with

eligible forest fringed communities.

- Copies of this agreement should be available from timber operator, forest fringe community and the relevant FSD
- Through the SRA, timber operators are required to assist local development efforts. The value of this support should not be less than 5% of the stumpage value of timber harvested from the defined forest area.
- Records of SRA payments should be maintained by the timber operator and should also be available to the community
- The timber operator is required to compensate damaged farms, crops or local infrastructure. Records of such compensations should be maintained by the operator.
- The timber contractor is required to be aware and respect cultural norms (such as taboo days), right of access to forest product use for domestic purpose and local infrastructure of local communities.

TRADE AND TRANSPORT

1.16. Classification of species, quantities, qualities

Legislation regulating how harvested material is classified in terms of species, volumes and qualities in connection with trade and transport. Incorrect classification of harvested material is a well-known method to reduce/avoid payment of legality prescribed taxes and fees. Risk relates to material traded under illegal false statements of species, quantities or qualities. This could cover cases where this type of false classification is done to avoid payment of royalties or taxes or where trade bans on product types or species are implemented locally, nationally or internationally. This is mainly an issue in countries with high levels of corruption (CPI<50).

1.16.1. Applicable laws and regulations

- Timber Resources Management Regulations (LI 1649) (regulation 21(1) of Schedule 2 classifies tree species into classes (class 1-3) for stumpage rate applications). Available at: http://fcghana.org/library_info.php?doc=46&publication:L.I.%201649%20-%20Timber%20Resources%20Management%20Regulations,%201998&id=15
- Timber Resources Management Regulations (LI 1649) (regulation 40(1) of Schedule 6 outlines the restricted species that requires special permit for harvesting). Available at: http://fcghana.org/library_info.php?doc=46&publication:L.I.%201649%20-%20Timber%20Resources%20Management%20Regulations,%201998&id=15
- Trees and Timber Amendment Act 493 (schedule 1 and 2 defines export levies applicable to processed and unprocessed timber of certain species). Available at: [http://fcghana.org/library_info.php?doc=49&publication:The%20Trees%20&%20Timber%20\(Amendment\)%20Act,%201994&id=15](http://fcghana.org/library_info.php?doc=49&publication:The%20Trees%20&%20Timber%20(Amendment)%20Act,%201994&id=15)
- Manual of Procedures (MoP) (section D, sections 7.3 list of black star species-wholly protected, 7.4 list of scarlet star species for which the reduced yield formulae is used in allocation yield and Table D2.1 specified felling limit for FIP Class 1 species). Available at: <http://www.clientearth.org/reports/130819-climate-and-forests-MOP-D.pdf>

1.16.2. Legal authority

- Forestry Commission (FC) (the principal authority overseeing forest management in Ghana). Website available at: <http://fcghana.org/>
- Forest Services Division (FSD) (They support the Commission in the preservation and management of forest reserves in Ghana). Website available at: <http://fcghana.org/>

1.16.3. Legally required documents or records

- Approved Yield/ Markings
- Tree Information Form (TIF)
- Log Information Form (LIF)

- Plantation Production Certificate (PPC)
- FC Stumpage Bills
- FC receipts of stumpage/Bill payment
- Approved Export Contract
- Approved Export Permit
- Contract parking list

1.16.4. Sources of information

Government sources

- The Forestry Commission (2013). *Draft Ghana Forest Plantation Strategy: 2015-2040*. [online]. Available at: <http://www.fcghana.org/userfiles/files/Plantation%20Annual%20Report/Ghana%20Forest%20Plantation%20Strategy%202015-%202040.pdf>
- Timber Resource Management Regulations (1998). Available at: <http://www.clientearth.org/external-resources/ghana/forests-and-wildlife/1998-timber-resources-management-regulations.pdf>
- Ministry of Lands and Natural Resources (2012). Ghana Forest and Wildlife Policy. Available at: <http://www.clientearth.org/external-resources/ghana/forests-and-wildlife/2012-Forest-and-wildlife-policy-GHANA.pdf>

Non-Government sources

- Client Earth (2013). *A short legal briefing on "Understanding the legality of rights, permits and certificates to harvest naturally occurring timber in Ghana"*. Available at: <http://www.clientearth.org/external-resources/ghana/other-resources/Timber%20Rights%20and%20Felling%20Permits%20in%20Ghana-2013.pdf> [Accessed 16. November 2016]
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EAK

- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4000008EJIQEA4>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4000005cYQCEA2>
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- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4000000UZgJBEA1>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000cVDAgEAO>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000Zu06vEAB>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000bxAL5EAM>

1.16.5. Risk determination

Overview of Legal Requirements

Regulation 21(1) of Schedule 2 of the Timber Resource Management (Amendment) Regulations (1998), LI 1649, classifies tree species into classes (class 1-3) for stumpage rate applications. High demand and depleted species are classified as Class 1; species in moderate demand and available are classified as Class 2; and species in low demand and abundant are classified as Class 3. Regulation 40(1) of Schedule 6 of the Timber Resource Management (Amendment) Regulations (1998), LI 1649, restricts the felling of some timber species. These species can only be felled under a special permit issued by the Chief Conservator of Forests with the approval of the Forestry Commission.

Prior to harvesting in any Forest Reserve compartment or Off-forest Reserve area, the Forest Services Division conducts inventory or enumeration of all trees. MOP Section D prescribes the procedures for the inventory and subsequent selection of trees (yield) for harvesting. During the stock survey enumeration, every tree species of diameter more than 50 centimetres and belonging to FIP Class I is identified and recorded. Other FIP Class I species which have a minimum felling limit of 50 centimetres and trees in the 30-50 centimetre class are identified and measured. FIP Class 2 species are not enumerated, unless specially requested by the TUC holder. The identified and recorded trees are given species code and stock survey number. The stock survey number is marked on each tree with the scribing knife, in a position (low down the bole or stump) that will not be disturbed if the tree is felled.

Within a month after the stock survey, the FSD conducts a 10% check survey of each compartment to confirm the accuracy of field work and hence the validity of subsequent yield allocation. The Resource Management Support Centre of the FC also carries out random check surveys from time to time. Once stock survey has been completed and

checked, the FSD prepares a stock map showing the location of all trees assessed (i.e. summary of stock survey). A yield which details individual species in various diameter classes is prepared and approved. The TUC holder or contractor uses the approved yield for harvesting.

FSD Range Supervisor captures the details of each tree felled on a Tree information form (TIF). The TIF contains information such as the stock survey number, harvested species, and quantity (volume).

The Contractor completes a Log information form (LIF) to cover logs produced from each tree based on the TIF. The LIF contains the stock number, species and volumes of logs recovered from the tree. A Log measurement and conveyance certificate (LMCC) is prepared by the FSD Range Supervisor before logs are trucked from the forest to the processing site or point of sale. The LMCC contains the stock number, species and volumes of logs; among others. For forest plantations, TIF and LIF are replaced by the Plantation production certificate. Transported logs are checked at the various check points along highways or mills through species identification, re-measurement of each log volume and quality grading by the Timber Industry Development Division (TIDD). The TIDD also issues various timber products inspection certificates for all processed logs based on species classification, qualities and volumes (TIDD Timber Trade Procedures and Guidelines).

Description of risk

There can be misclassification or identification of species during enumeration. High value species may be misclassified as low value species and vice versa. Some merchantable trees may not be captured during enumeration and therefore without stock numbers. Timber contractors could swap lower value species with closely related high value species. Under measurement of log volumes is also possible during TIF and LIF preparation stage (Expert consultation conducted by NEPCon, 2016) but not frequent. However, enforcement of enumeration check surveys and TIDD volume measurements ensure that the risk is minimal.

A wood-balance analysis carried out by Hoare (2014) on Ghana's timber which compared the legal supply of timber (from official records of harvest and imports) with consumption (based on domestic consumption and exports) shows a gap between supply and consumption. This gap could be due to under reporting of harvested tree volumes captured on the TIFs as FSD Range Supervisors may have left the capturing of TIFs to timber contractors or colluded with them. Stock numbers of approved trees can be repeated in order to harvest more trees outside the yield. This contradicts the procedures in the MOP Section D.

Risk conclusion

This indicator has been evaluated as specified risk. Identified laws are upheld consistently by all entities.

1.16.6. Risk designation and specification

Specified risk

1.16.7. Control measures and verifiers

- Stock summaries that classify species quantity and diameter at breast height (DbH) must be available from the FSD. For underwater harvesting pre-harvest inspection summaries, instead of stock summaries, must be available from logger and FSD.
- A yield summary that classify species quantities and DBH and approved by the FC should be available to the logger. Species-specific felling diameter limits as given in the yield is required to be with Table D2.1 of the MoP Section D: Stock survey and yield allocation.
- Yield formulae applied to each species based on the species star rating (Reduced formulae used for scarlet star species) should be available from the FC.
- The Timber operator should be in possession of TIF, LIF or PPC for each tree or log harvested.
- For each tree harvested, a stumpage fee calculated based on the species stumpage rate as specified by Schedule 6 of LI 1649, must be available to the logger and the FC.

1.17. Trade and transport

All required trading permits shall exist as well as legally required transport document which accompany transport of wood from forest operation. Risk relates to the issuing of documents permitting the removal of timber from the harvesting site (e.g., legally required removal passes, waybills, timber tags, etc.). In countries with high levels of corruption, these documents are often falsified or obtained by using bribery. In cases of illegal logging, transport documents from sites other than the actual harvesting site are often provided as a fake proof of legality with the harvested material.

1.17.1. Applicable laws and regulations

- Timber Resources Management Regulation (LI 1649) (section 18 and 24 set out the allowed time for timber transport and required transport documents respectively). Available at: http://fcghana.org/library_info.php?doc=46&publication:L.I.%201649%20-%20Timber%20Resources%20Management%20Regulations,%201998&id=15
- The Forestry Commission Act (Act 571) (section 2(I) and (II) defines the FC's responsibility in registering and regulating timber traders) and TIDD Timber Trade Procedures and Guidelines which makes specific provisions for registration of exporters of timber and timber products the conveyance and haulage of timber and timber products. Available at: http://fcghana.org/library_info.php?doc=46&publication:L.I.%201649%20-%20Timber%20Resources%20Management%20Regulations,%201998&id=15
- Logging manual (1998) (section 3 defines the regulations for marking and transport of logs)

1.17.2. Legal authority

- Forestry Commission (FC) (the principal authority overseeing forest management in Ghana). Website available at: <http://fcghana.org/>
- Forest Services Division (FSD) (They support the Commission in the preservation and

management of forest reserves in Ghana). Website available at: <http://fcghana.org/>

- Timber Industry Development Division (TIDD) (main legal authority for Export Levy Tax). Website available at: <http://www.fcghana.org/page.php?page=46§ion=22&typ=1&subs=253>, issuance of export permit, Lumber inspection certificate and lumber conveyance certificates (LICs)

1.17.3. Legally required documents or records

- Log Measurement and Conveyance Certificate (LMCC)
- Plantation Production Certificate (PPC)
- Certificate of Registration with TIDD
- Approved Export Contract
- Approved Export Permit
- Approved Parking List/ Product Inspection Report (Lumber Inspection Certificate - LIC)

1.17.4. Sources of information

Government sources

- The Forestry Commission of Ghana (n.d.). *Forest Laws and Regulations (Publications)*. [online]. fcghana.org. Available at: <http://fcghana.org/library.php?id=15> [Accessed 23. March 2016]
- Manuals of Procedures (Section A-F) available in hard copies from the Forestry Commission offices (but also available from Client Earth website: <http://www.clientearth.org/resources/clientearth-resources/resources-ghana-2521>)
- TIDD Timber Trade Procedures and Guidelines (Available in hard copies from the TIDD)

Non-Government sources

- Client Earth (2013). *A short legal briefing on "Understanding the legality of rights, permits and certificates to harvest naturally occurring timber in Ghana"*. Available at: <http://www.clientearth.org/external-resources/ghana/other-resources/Timber%20Rights%20and%20Felling%20Permits%20in%20Ghana-2013.pdf> [Accessed 16. November 2016]
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- Bosu, D. (2014). *Rosewood: Most expensive, fastest selling commodity in Ghana today*. Ghana Web (Article 313635). [online]. Available at: <http://www.ghanaweb.com/GhanaHomePage/features/Rosewood-Most-expensive-fastest-selling-commodity-in-Ghana-today-313635>
- Global Witness (2013). *Three quarters of Ghana's logging permits could break Europe's new timber law*. Global witness analysis of official Ghana logging permits list. [online]. Available at: <https://www.globalwitness.org/en/archive/ghanapermits/> [Accessed 16. November 2016]
- Global Witness (2013). *Logging in the shadows - How vested interest abuse shadow permits to evade forest sector reforms*. An analysis of recent trends in Cameroon, Ghana, The Democratic Republic of Congo and Liberia. [online]. Available at: <https://www.globalwitness.org/en/archive/logging-shadows-how-vested-interests-abuse-shadow-permits-evade-forest-sector-reforms/> [Accessed 16. November 2016]
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 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000007OnUkEAK>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000008EJIQEA4>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000005cYQCEA2>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000byIMmEAM>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4000000UZqJBEA1>
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 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000Zu06vEAB>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000bxAL5EAM>

1.17.5. Risk determination

Overview of Legal Requirements

Section 3 in the Logging manual (1998) defines the regulations for marking and transport of logs. Regulation 18 of TRM Regulation LI 1649 sets out the approved periods for timber operation and transport of forest produce. For instance, timber operations and transport of wood before 6am and after 6pm is prohibited under section 1. Regulation 24 of LI 1649 requires that timber is transferred or moved from the forest only under conveyance certificate issued only by the officials of the Forestry Commission. Section 2(I) and (II) of Act 571 (The Forestry Commission Act) and the TIDD's Timber Trade Procedures and Guidelines require the registration of timber and timber product vendors and exporters; and vetting of export contracts, inspection of timber products and issuance of timber products (lumber, veneer etc.) conveyance certificates and timber export permits. Companies are also required to obtain weekend permits issued by the Forestry Commission for transporting wood on weekends. Other issues relating to timber operation and transport on taboo days in the forest fringe communities are usually captured in the Timber Operation Specification (TOS) and SRAs during the consultation process.

Description of risk

Log Measurement Conveyance Certificates (LMCCs) are mostly not issued in the forest as required by law as the Forest Services Division (FSD) is unable to provide personnel at all the operational sites of timber right holders. The FSD has mounted LMCC issuing points at the converging points of the forest roads to ensure that all transported logs are covered with LMCCs (Expert consultation conducted by NEPCon, 2016). The TIDD checkpoints along the major highways ensure that the risk of lumber (at least those for export) or forest products gaining access to the port without the necessary documentations is low. Also, there is a double check because exporters need an inspection and conveyance certificates to further process their products for export permits. Therefore, the risk of violation of trade and transport requirements for forest products for export is low. The same cannot be said of lumber for sale on the domestic market which mostly do not meet trade and transport requirements. A review of a sample of FSC Controlled Wood audit summaries of various companies in Ghana from 2008 to 2015 and other reports (such as Hoare, A., 2014; CIKOD, 2012; Mayers, J., and Vermeulen, S., 2002; Ayine 2008) did not show any risks with transport of wood.

Risk conclusion

This indicator has been evaluated as low risk. Identified laws are to a large extent upheld consistently by the Forestry Commission and other authorities.

1.17.6. Risk designation and specification

Low risk

1.17.7. Control measures and verifiers

- Felled logs must be covered by TIF, LIF or PPCs. Copies of these documents should be available to both the logger and the FC
- An LMCC or a PLMCC Logs issued by the FSD and covering each single truck carrying logs from point of harvest must be available to the logger. Information on LMCC, TIF, LIF or PPCs must be consistent with each other.
- Logs are required to be transported between the hours of 6am-6pm during week days.
- Waybills specifying travel date and time as well as log origin should be available from the logger.
- All wood exporters/importers are required to register with the Timber Industry Development Division (TIDD) and obtain a TIDD Certificate of Registration (Renewable every year).
- An agreed contract (agreed between the buyer and seller) has to be forwarded to the TIDD for vetting.
- TIDD must verify submitted contracts to ensure that the contract prices conform to their minimum pricing categories.
- Exporters are required to obtain a TIDD export permit issued in respect of the contract.

1.18. Offshore trading and transfer pricing

Legislation regulating offshore trading. Offshore trading with related companies placed in tax havens combined with artificial transfer prices is a well-known way to avoid payment of legally prescribed taxes and fees to the country of harvest and considered as an important generator of funds that can be used for payment of bribery and black money to the forest operation and personnel involved in the harvesting operation. Many countries have established legislation covering transfer pricing and offshore trading. It should be noted that only transfer pricing and offshore trading as far as it is legally prohibited in the country, can be included here. Risk relates to situations when products are sold out of the country for prices that are significantly lower than market value and then sold to the next link in the supply chain for market prices, which is often a clear indicator of tax laundry. Commonly, the products are not physically transferred to the trading company.

1.18.1. Applicable laws and regulations

- Transfer Pricing regulation 2012 (LI 2188) (is the main regulation on off-shore trading and transfer pricing).
- The Forestry Commission Act (Act 571) (section 2(I) and (II) defines the FC's responsibility in registering and regulating timber traders). Available at: <http://www.clientearth.org/external-resources/ghana/forests-and-wildlife/1999-forestry-commission-act-act-571.pdf>

1.18.2. Legal authority

- Timber Industry Development Division (TIDD) (main legal authority for Export Levy Tax). Website available at: <http://www.fcghana.org/page.php?page=46§ion=22&typ=1&subs=253>
- Ghana Revenue Authority (GRA) (Legal authority for Corporate, Income and VAT tax). Website available at: <http://www.gra.gov.gh/>

1.18.3. Legally required documents or records

- TIDD Export minimum pricing categories
- Approved TIDD Export contract
- Approved TIDD Export permit

1.18.4. Sources of information

Government sources

- The Forestry Commission of Ghana (n.d.). *Forest Laws and Regulations (Publications)*. [online]. Available at: <http://fcghana.org/library.php?id=15> [Accessed 23 March 2016]
- The Forestry Commission of Ghana (n.d.). *List of Concession Holders in Ghana and their permit category provided by the Forestry Commission of Ghana*. [Excel sheet]. Available at: <https://docs.google.com/spreadsheets/d/1Isn8DsUclq8F5xyVlqA-8tBfvkPxluSnCeyWwor0I E/edit?pref=2&pli=1#gid=0>
- The Forestry Commission of Ghana (n.d.). *TIDD Timber Trade Procedures and*

Guidelines (Available in hard copies from the TIDD).

Non-Government sources

- kpmg.com (2015). Global Transfer Pricing Review – Ghana. [online]. KPMG in Ghana. Available at: <https://home.kpmg.com/content/dam/kpmg/pdf/2015/10/tp-review-ghana-v2.pdf> [Accessed 22 November 2016]

1.18.5. Risk determination

Overview of Legal Requirements

The Transfer Pricing regulation 2012 (LI 2188), is the main regulation on off-shore trading and transfer pricing by the Ghana Revenue Authority. The Internal Revenue Act, 2000 (Act 592), became effective from 2000. This act had a general transfer pricing rule. However, the transfer regulations became effective from 2012 following the passing of LI 2188. Act 571 (The Forestry Commission Act): Section 2(I) and (II) defines the FC's responsibility in registering and regulating timber traders and the TIDD, guided by the Timber Trade Procedures and Guidelines, makes provisions for approval of export contract. Contract price for forest products should not be less than the minimum FOB prices published from time to time by the TIDD as a way of checking transfer pricing. The TIDDs minimum Guiding Selling Prices (GSP) is reviewed every quarter by a Pricing Committee in order to maintain an up-to-date price list. The GSP has been prepared according to species, specification, quality and destination. The GSP is available at the TIDD offices for timber contractors to obtain and use in negotiating contracts with their buyers. The TIDD staff assesses the quality of the wood products and determines the price based on their quality.

Description of risk

The Ghana Revenue Authority (GRA) is responsible for implementing the provisions made in the LI 2188. The GRA has been effective in undertaking desk and field transfer pricing audits in Ghana. The GRA conducted over 250 reviews, mainly desk audits, by January 2015. This is followed by field audits or visits to company premises.

The TIDD implements an export system to control prices and prevent tax laundry. Companies registered with the TIDD negotiate contracts with buyers based on the TIDD Guiding Selling Prices (GSP). The TIDD receives vets and approves the contract and relevant documents on raw materials. The TIDD inspects the wood products after production and issues Wood Products Inspection Certificates. The timber company prepares an input/output list for the contract (Packing list) and the Summary Factory Specification Sheets. Before shipment, the timber contractor submits Permit Invoice Form, Permit Issue Form, Packing List, Summary Factory Specification Sheets, valid Ghana Exchange Control Form A2/Bank of Ghana Foreign Exchange Form 4A (FEX 4A), and approved payment receipts to the TIDD for approval.

This arrangement ensures that exported products are not sold at prices that are significantly lower than market value of products and then sold to the next link in the supply chain at market prices, and thus avoids tax laundry.

Risk conclusion

This indicator has been evaluated as low risk. Identified laws are upheld. Cases where

law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.18.6. Risk designation and specification

Low risk

1.18.7. Control measures and verifiers

- Export contract (between the exporter and importer) must be forwarded to the Timber Industry Development Division (TIDD) for vetting before products can be exported.
- Export contract should provide information on (i) contract number, (ii) species, products, quality, quantity, and specification, (iii) prices and terms of payment, (iv) destination, (v) signatures of sellers and buyers, and (vi) terms and conditions.
- TIDD endorses the contract (TIDD Approved Contract). An approved contract must be completed and shipped within 6 months.
- When a contract is ready for shipment, the exporter must prepare an input/output list for the contract (Packing list). A TIDD Inspection report (Product Inspection Certificate) prepared and endorsed by TIDD staff who supervises the container loading must be made available to the TIDD.
- A TIDD export permit issued in respect of the contract must be available to the exporter.
- Supporting documents to the export permit must be available from the exporter, namely; 1) approved TIDD contract of sale, 2) Approved Bank of Ghana Exchange Control Form A2,3) TIDD inspection report endorsed by grader, 4) Packing list from the exporter, 5) Evidence of payment or letter of credit in respect of 1.5% export levy

1.19. Custom regulations

Custom legislation covering areas such as export/import licenses, product classification (codes, quantities, qualities and species).

1.19.1. Applicable laws and regulations

- The Forestry Commission Act (Act 571) (section 2(I) and (II) defines the FC's responsibility in registering and regulating timber traders). Available at: <http://www.clientearth.org/external-resources/ghana/forests-and-wildlife/1999-forestry-commission-act-act-571.pdf>
- Plants and Fertilizer Act 2010 (Act 803) (requirement for registration and annual renewal of exporters and issuance of Phytosanitary Certificate for wood exports). Available at https://piorin.gov.pl/files/userfiles/wnf/przepisy/ghana/act_803.pdf
- Customs, Excise and Preventive Service Management Law 1993 (P.N.D.C Law 330) (defines the authority and responsibilities of the Customs, Excise and Preventive Service (CEPS)). Available at: <http://laws.ghanalegal.com/acts/id/509/customs,-excise-and-preventive-service-management-act>

1.19.2. Legal authority

- Timber Industry Development Division (TIDD) (responsible for issuing permit and approvals for all wood export and sales). Website available at: <http://www.fcghana.org/page.php?page=46§ion=22&typ=1&subs=253>
- Ministry of Food and Agriculture (MoFA) (issues Phytosanitary certificates). Website available at: <http://mofa.gov.gh/site/>
- Ghana Revenue Authority (GRA) (Legal authority for Corporate, Income and VAT tax). Website available at: <http://www.gra.gov.gh/>
- Customs, Excise and Preventive Service (CEPS) (agency responsible for the monitoring, regulation and inspection of exports into Ghana).

1.19.3. Legally required documents or records

- Phytosanitary Certificate
- Approved Export Contract
- Approved Export Permit
- TIDD Certificate of Registration
- Inspection Certificate (Lumber, Veneer, etc.)

1.19.4. Sources of information

Government sources

- The Forestry Commission of Ghana (n.d.). *Forest Laws and Regulations (Publications)*. [online]. Available at: <http://fcghana.org/library.php?id=15> [Accessed 23. March 2016]
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- The Ministry of Food and Agriculture (n.d.). *Plant Protection and Regulatory Services*. [online]. mofa.gov.gh. Available at: http://mofa.gov.gh/site/?page_id=85 [Accessed 22 November 2016]
- Ghana Export Promotion Authority. (n.d.). *FAQ on Ghanaian Export*. [online]. gepaghana.org. Available at: <http://www.gepaghana.org/exporters/index.php?ct=1&page=64§ion=27&typ=2> [Accessed 22 November 2016]
- The Forestry Commission of Ghana (n.d.). *Timber Industry Development Division (TIDD)*. [online]. Available at: <http://www.fcghana.org/page.php?page=46§ion=22&typ=1&subs=253> [Accessed 22 November 2016]

Non-Government sources

- Client Earth (2013). *A short legal briefing on "Understanding the legality of rights,*

permits and certificates to harvest naturally occurring timber in Ghana". [online]. Available at: <http://www.clientearth.org/external-resources/ghana/other-ressources/Timber%20Rights%20and%20Felling%20Permits%20in%20Ghana-2013.pdf>

- Hoare, A. (2014). *Illegal Logging and Related Trade; The Response in Ghana*. A Chatham House Assessment. [online]. Available at: <https://www.chathamhouse.org/publication/illegal-logging-and-related-trade-response-ghana>
- CIKOD, (2012) *Annual Transparency Report Card for Forest Sector Ghana*. A report prepared by Centre for Indigenous Knowledge and Organization Development (CIKOD) under the Governance Initiative for Rights and Accountability in Forest (GIRAF). [online]. Available at: <http://www.foresttransparency.info/ghana/2012/>
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 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000cVDAgEAO;>
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 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000bxAL5EAM>

1.19.5. Risk determination

Overview of Legal Requirements

Act 571 (The Forestry Commission Act): Section 2(I) and (II) defines the FC's responsibility in registering and regulating timber traders. The Ministry of Food and Agriculture is mandated by Act 803 (Plants and Fertilizer Act, 2010) to issue Phytosanitary Certificates at exit points. All imported timber and timber products are declared by CEPS through GCNet platform to TIDD which ensures that all imported wood are legally sourced from the country of origin and have appropriate documentation. P.N.D.C Law 330: Customs, Excise and Preventive Service Management Law, 1993 defines the authority and responsibilities of the Customs, Excise and Preventive Service (CEPS). The object and function of the CEPS is to collect and account for all duties, taxes, revenue and penalties payable under this Act.

Description of risk

The Forestry Commission maintains a register of all timber companies licensed to operate in Ghana as required by law.

The TIDD implements an export system to control prices and prevent tax laundry. Companies registered with the TIDD negotiate contracts with buyers based on the TIDD Guiding Selling Prices (GSP). The TIDD receives vets and approves the contract and relevant documents on raw materials. The TIDD inspects the wood products after production and issues Wood Products Inspection Certificates. The timber company prepares an input/output list for the contract (Packing list) and the Summary Factory Specification Sheets. Before shipment, the timber contractor submits Permit Invoice Form, Permit Issue Form, Packing List, Summary Factory Specification Sheets, valid Ghana Exchange Control Form A2/Bank of Ghana Foreign Exchange Form 4A (FEX 4A), and approved payment receipts to the TIDD for approval.

The TIDD maintains checkpoints on the highways to ensure that all transported wood products to the ports have the required and approved documents. The approved documents (including packing list which contains information on species type, volume etc.) are submitted to the CEPS officials. The CEPS officials use the chart on tax rate per species to check the taxes payable per consignment. This arrangement ensures that the appropriate taxes are paid.

A review of a sample of FSC Controlled Wood audit summaries of various companies in Ghana from 2008 to 2015 did not show any risks with this category. Other reports on the forestry sector of Ghana (such as Hoare, A., 2014; CIKOD, 2012; Client Earth 2013) did not show any risks with this category.

Risk conclusion

This indicator has been evaluated as low risk. Identified laws are upheld.

1.19.6. Risk designation and specification

Low risk

1.19.7. Control measures and verifiers

- A loading inspection report (FORM C31 supplemented with information on the container mark, seal numbers, contract number, Inspection Certificate, etc.) prepared and signed by the CEPS official that supervised the loading of the container should be made available to CEPs.
- A clearance from CEPS is required before goods can be exported. The exporter must make a custom declaration using the GCNet system and submit 1) Bank of Ghana approved A2 exchange control form, 2) TIDD approved export permit, 3) Packing list (Inspection certificate).
- Each export is required to be covered by a phytosanitary certificate.

1.20. CITES

CITES permits (the Convention on International Trade in Endangered Species of Wild Fauna and Flora, also known as the Washington Convention). Note that the indicator relates to legislation existing for the area under assessment (and not e.g., the area from which CITES species are

imported).

1.20.1. Applicable laws and regulations

- Timber Resources Management Regulation (LI 1649) (schedule 6 gives information on restricted timber species). Available at: http://fcghana.org/library_info.php?doc=46&publication:L.I.%201649%20-%20Timber%20Resources%20Management%20Regulations,%201998&id=15

1.20.2. Legal authority

- Forestry Commission (FC) (CITES management Authority in Ghana). Website available at: <http://fcghana.org/>
- Wildlife Department (manage wildlife protected areas in particular within representative ecological zones of the country). Website available at: <http://www.fcghana.org/page.php?page=46§ion=22&typ=1&subs=254>
- Timber Industry Development Division (TIDD) (monitoring flow or transport of wood) Website available at: <http://www.fcghana.org/page.php?page=46§ion=22&typ=1&subs=253>
- Faculty of Renewable Natural Resources (Kwame Nkrumah University of Science and Technology, Kumasi) (scientific authority of CITES). Website available at: <http://fnr.knust.edu.gh/>

1.20.3. Legally required documents or records

- CITES Export permit
- TIDD Export Permit

1.20.4. Sources of information

Government sources

- The Forestry Commission (2013). *Draft Ghana Forest Plantation Strategy: 2015-2040*. [online]. Available at: <http://www.fcghana.org/userfiles/files/Plantation%20Annual%20Report/Ghana%20Forest%20Plantation%20Strategy%202015-%202040.pdf>
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- Global Witness (2013). *Three quarters of Ghana's logging permits could break Europe's new timber law*. Global witness analysis of official Ghana logging permits list. Available at: <https://www.globalwitness.org/en/archive/ghanapermits/> [Accessed 18. November 2016]
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 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000008EJIQEA4;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000005cYQCEA2;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000byIMmEAM;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4000000UZgJBEA1;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000cVDAgEAO;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000Zu06vEAB;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000bxAL5EAM>

1.20.5. Risk determination

Overview of Legal Requirements

Ghana has ratified the CITIES Convention. *Pericopsis elata* and *Pterocarpus erinaceus* (rosewood) are the species in Ghana found in Appendix II.

Pericopsis elata is classified as Scarlet star species (threatened in Ghana by over-exploitation) under Ghana's species conservation star ratings and therefore protected. Regulation 40(1) of Schedule 6 of the Timber Resource Management (Amendment) Regulations (1998), LI 1649, restricts the felling of some timber species. These species can only be felled under a special permit issued by the Chief Conservator of Forests with the approval of the Forestry Commission. Regulation 41 of the Timber Resource Management (Amendment) Regulations (1998), LI 1649, prescribes penalties for offences. Monitoring requirement specified in Section 3 (6) of MOP F prescribes that the FSD should ensure that no black star species or restricted species are felled. *Pericopsis elata* is endemic specific areas in Ghana including the concession of Ayum Forest Products Limited. Consequently, Ayum Forest Products Limited has been given permit to fell limited quantities of *Pericopsis elata* in their concession.

Ghana's Cabinet directed that harvesting and export of *Pterocarpus erinaceus* (rosewood) is banned effective 1st January 2014 until further notice. Following the ban on rosewood harvest and trade, Salvage permits were issued by the Ministry to 13 companies to salvage already felled and confiscated rosewood in northern Ghana and other parts of the country (Expert consultation conducted by NEPCon, 2016).

Cedrela odorata is included in appendix III. *Cedrela odorata* is an introduced plantation species in Ghana. It is found in both plantations in forest reserve areas and private plantations in off forest reserve areas. Even so, exporters are required to obtain permit from the Forestry Commission before export.

Description of risk

Essentially CITES regulations are integrated in the forest management framework in Ghana. In essence CITES species are not harvested as part of the normal yield process (selection of tree species for harvesting by the Forestry Commission) in Ghana. However,

the Salvage permits granted to 13 companies to salvage already felled rosewood are abused to harvest more (Expert consultation conducted by NEPCon, 2016). A study conducted by Nature and Development Foundation revealed that there are trades of *Pericopsis elata* (also known as *Afromosia*) on the local market without accompanied documentation (FLEGT Newsletter, 2016). The risk in plantations in both forest reserve and off forest reserve areas is low.

Risk conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities.

1.20.6. Risk designation and specification

Specified risk

1.20.7. Control measures and verifiers

- A TIDD approved contract covering products produced from all species (including CITES species) to be shipped is required.
- To export CITES species, in addition to the TIDD approved contract, an exporter should hold a TIDD Export permit and a CITES export permit approved by the Wildlife Department of the FC.

1.21. Legislation requiring due diligence/due care procedures

Legislation covering due diligence/due care procedures, including e.g. due diligence/due care systems, declaration obligations, and /or the keeping of trade related documents, legislation establishing procedures to prevent trade in illegally harvested timber and products derived from such timber, etc.

1.21.1. Applicable laws and regulations

- Timber Resources Management Legality Licensing Regulation 2012 (LI 2184) (Regulations 3-4 identifies the functions of the Timber Validation Committee, TVE; Regulations 9-16 outlines the requirements for obtaining export license; 11(2a and b) and the Second Schedule defines what constitutes legal timber in Ghana). Available at: <http://www.clientearth.org/external-resources/ghana/forests-and-wildlife/2012-timber-resources-management-legality-licencing-regulations-li-2184.pdf>

1.21.2. Legal authority

- Ministry of Lands and Natural Resources. Information on what constitutes legal timber in Ghana is available at: <http://www.clientearth.org/external-resources/ghana/forests-and-wildlife/2012-timber-resources-management-legality-licencing-regulations-li-2184.pdf>

1.21.3. Legally required documents or records

- Valid Certificate of Registration with the FC
- Approved Export Contract
- Approved Export Permit

1.21.4. Sources of information

Government sources

- The Ministry of Lands and Natural Resources (2012). *Timber Resources (Legality Licensing) Regulations, 2012*. [online]. Available at: <http://www.clientearth.org/external-resources/ghana/forests-and-wildlife/2012-timber-resources-management-legality-licencing-regulations-li-2184.pdf> [Accessed 22 November 2016]

Non-Government sources

- Euflegt.efi.int (n.d.). *VPA Countries: Ghana*. [online]. EU FLEGT Facility. Available at: <http://www.euflegt.efi.int/ghana> [Accessed 22 November 2016]

1.21.5. Risk determination

Overview of Legal Requirements

Timber Resources Management Legality Licensing Regulation, 2012 (LI 2184) provides a licensing scheme for regulating the import and export of timber products to and from Ghana. This regulation controls the international trade of illegally harvested timber products and illegal logging.

Regulation 3 of LI 2184 establishes the Timber Validation Committee. Regulation 4 defines the functions of the Timber Validation Committee which includes; monitoring and ensuring that the Commission responsible for verification and validation of applications for licenses performs its functions independently; establish measures to ensure process verification and validation under these Regulations are not interfered with, among others. Regulations 9-16 outlines the requirements for obtaining export license; 11(2a and b) and the Second Schedule defines what constitutes legal timber in Ghana.

Description of risk

The Voluntary Partnership Agreement (VPA) entered into force in Ghana on 1st December 2009. The VPA is a legally binding agreement between the EU and individual timber producing countries. In summary VPA seeks to enhance the prevention of illegal timber production and good forest governance through ensuring that imported tropical timber into the European market complies with all legal requirements of the forest laws of the producing country.

The Ghana VPA applies for both domestic and international markets. Under the VPA, Ghana has developed a Legality Assurance System (GLAS) comprising Legality standard, verification protocols, wood tracking system (WTS) and licensing system. Design of three modules of the WTS (electronic and paper based) has been completed, tested and training carried out on (i) TVD/Administrative module, (ii) forest module, and (iii) transport module. The processing (mill) module has been designed and piloted (data input and report generated). The trade module has been designed and contract data uploaded. Verification protocols, which provide guidance on processes and procedures for verifying legal compliance, have been field tested. Ten selected companies (large, medium, small) have been trained on the WTS. 75% of FSD forest districts have received GLAS training. The TVD and Civil Society Organisations are training auditors.

Ghana is yet to issue a FLEGT licence. FLEGT/VPA implementation in Ghana has been a big challenge especially for small scale producers of timber in terms of additional cost of

training and resources.

Risk conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities.

1.21.6. Risk designation and specification

Specified risk

1.21.7. Control measures and verifiers

Note: All the above verifiers feed into this section. As such all verifiers stated above has to be considered in meeting the intent of LI 2184

Annex I. Timber source types

The table Timber Source Types in Ghana identifies the different types of sources of timber it is possible to find in the country of origin.

'Timber Source Type' is a term used to describe the different legal sources of timber in a country, in order to allow a more detailed specification of risk. The Timber Source Type is used to clarify:

- which forest types timber can be sourced from legally;
- what the legal requirements are for each source type, and
- if there are risks related to certain source types and not others.

Timber Source Type can be defined by several different characteristics. It may be based on the actual type of forest (e.g. plantation or natural), or other attributes of forests such as ownership, management regime or legal land classification. In this context Timber Source Types are defined and discerned using the following characteristics:

- **Forest type** - refers to the type of forest such as plantation or natural tropical forest, or mixed temperate forest. Often the clearest differentiation is between natural forest and plantations.
- **Spatial scale (Region/Area)** - relating to meaningful divisions of a nation. However, in some cases the assessment may be carried out at national level where that allows the risk assessment to establish risk at a meaningful level. E.g. a small country with uniform legislation and a uniform level of risk in all areas of the country, as national level assessment may be enough. In case there are significant differences in the legal framework or legality risks between different types of ownership (e.g. public forest, private forest, industrial forest), between different type of forest (e.g. natural forest and plantations) and/or between different geographical regions the conformance risk evaluation shall specify these differences when specifying the risk and apply the appropriate control measures.
- **Legal land/forest classification** - refers to the legal classification of land. Focus is on land from where timber can be sourced, and this could entail a number of different legal categories such as e.g. permanent production forest, farm land, protected areas, etc.
- **Ownership** - Ownership of land may differ in a country and could be state, private, communal etc. Ownership of land obviously have impacts on how land can be managed and controlled.
- **Management regime** - Independently of the ownership of the land, the management of forest resources may differ between areas. Management may also be differentiated as private, state, communal or other relevant type.
- **License type** - Licenses may be issues to different entities with a range of underlying requirements for the licensee. A license might be issued on a limited area, limited period of time and have other restrictions and obligations. Examples could be a concession license, harvest permit, community forestry permit etc.

TIMBER SOURCE TYPES IN GHANA

Forest type	Region/Area	Legal Land Classification	Ownership	Management regime	License / Permit Type	Description of source type
Natural forest	Two main vegetation types: A. High Forest Zone B. Savanna Woodlands	Forest reserves (Permanent forest estates)	Stool (or community) lands under the custody of the chiefs but vested in the president with the state acting as "trustee" of behalf of the stool	Forestry Commission of Ghana (FC) or private	<ul style="list-style-type: none"> • Timber Utilisation Contract (TUC) • Special or salvage permit • Certificate of purchase (seized or abandoned timber – not a felling permit) • Concession or lease (Issuance of permit has ceased) 	Forest reserve timber
		Off forest reserves (OFR)	Stool (or community) lands with chief as custodian, Family lands (Family head as custodian), Individual lands and public lands		<ul style="list-style-type: none"> • Timber Utilisation Contract (TUC) • Special or salvage permit • Certificate of purchase (seized or abandoned) 	Off reserve timber

					<p>timber – not a felling permit)</p> <ul style="list-style-type: none"> • Concession or lease (Issuance of permit has ceased) 	
		Submerged forests (located on off-reserved)	Stool lands (community) and family lands	Timber harvesting rights are granted by the FC	<ul style="list-style-type: none"> • Underwater use rights • Salvage permit 	Underwater timber
Plantation forest		Plantation forest (reserves)	Plantations located on Forest reserves are on stool lands vested in the president (same as natural forest on Forest reserves);	<p>1) Plantations on Forest reserves established by the FC are managed by the FC</p> <p>2) Management of plantations located on Forest reserves established by individuals or investors are determined by the 'memorandum of understanding' made with the FC.</p>		Timber plantation (reserves)
		Plantation forest (off reserves)	Plantations located on Off-reserves are on lands which	Private plantations established by individuals or		Timber plantation (off reserves)

			may be owned by stool (community), family, individuals or public institutions	investors on off forest reserves are managed privately with the FC's involvement being monitoring and issuance of Plantation Production Certificate.		
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About

Supporting Legal Timber Trade

Supporting Legal Timber Trade is a joint project run by NEPCon with the aim of supporting timber-related companies in Europe with knowledge, tools and training in the requirements of the EU Timber Regulation. Knowing your timber's origin is not only good for the forests, but good for business. The joint project is funded by the LIFE programme of the European Union and UK aid from the UK government.



NEPCon (Nature Economy and People Connected) is an international, non-profit organisation that builds commitment and capacity for mainstreaming sustainability. Together with our partners, we foster solutions for safeguarding our natural resources and protecting our climate.

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